

SME CAPABILITY TO MANAGE REGULATION

Final Report

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BACKGROUND

The capability of Small Medium Enterprises (SMEs) to effectively manage government regulation is an important issue for New Zealand and for economies worldwide. It is accepted that regulation is required to develop institutional trust and to ensure SMEs can trade fairly and with stability (Welter and Smallbone 2006), however, there has been concern raised by representatives of SMEs in developed economies that SMEs are being over stretched by increased regulation.

This has been referred to as the paradox of SME management of regulation as identified in the literature review undertaken by Kingston University, United Kingdom to inform this research (Kitching & Smallbone, 2009). For example, the World Bank 2010 report on Doing Business¹ ranks New Zealand as one of the easiest nations to start a new business (World Bank 2010), yet the Small Business Advisory Group's 2008 report called for exemptions for small businesses from some regulations (SBAG 2008, p.4).

It may be argued that in New Zealand, over 97% of all firms employing fewer than 19 employees (Ministry of Economic Development 2010) that have limited resources, given that understanding the capability of SMEs to deal with the impact of government regulation is particularly important.

The continued development of the SME sector is pivotal to New Zealand's economic well being this underlines the importance of understanding where support measures can have beneficial effects for SME management capability.

It is known that regulation is necessary to provide stable trading conditions and develop levels of business trust which can benefit SME development (Atherton, et al 2008), yet the nature of the regulatory burden may affect SME competitiveness and productivity (Kingston University 2005). Accepting the need for increased regulation to prevent market failure, for promoting fairness and trust and ensuring public safety; attention has been paid to designing 'better regulation'; that is, designing regulations that SMEs can manage (EU 2006, former UK's Small Business Service 2004).

The overall aim of the project is to understand the factors and processes that influence and affect SMEs capability to manage regulation.

STRUCTURE OF THE REPORT

The report comprises five sections starting with a summary of the literature review undertaken by Kingston University, the research question and outline of the context of the research. In the second section called "Methodology", the research design and process is presented followed by a description of the sample. The third section presents the results in eight thematic topic areas. In the fourth section the findings are drawn together into a conceptual framework of SME capability to manage regulation. The report closes with the final section on conclusions and implications of the research.

¹ The Doing Business report compares business regulation across 183 economies. The annual report provides benchmarks for regulations that enhance business activity and those that constrain it.

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A special acknowledgement is offered to the small business owners and key informants that participated in the research by allowing us to visit them and their willingness to provide their valuable time. Without their cooperation we would not have been able to gain the rich, in-depth insights reported in this study.

Summary of literature review

Much of the empirical evidence on the impact of regulation on businesses is based on quantitative data on business owners' perception of regulation as a burden or on compliance cost studies that aim to quantify the administrative cost of regulation for businesses and their owners. As a result, it has been argued that regulation is mostly a cost or constraint for businesses, particularly for those small businesses for whom the burden of regulatory compliance is perceived to be too high given their limited resources (Kitching 2006, Baldwin 2004).

However, the literature review undertaken by Kingston University, identified the important role of regulation in ensuring that businesses, especially SMEs, have confidence and trust, enabling trading to take place (Kitching and Smallbone, 2010). For example, at a basic level this might mean ensuring property and contract rights are upheld. Regulation may go further, where there is perceived market failure, for example in regulating financial providers.

SME owner-manager behaviour and approach to managing regulation needs to be seen in the wider socio-economic context. Smallbone and Kitching (2010) have illustrated the potential impact of regulation on the capability of SMEs by a 'stakeholder model' which indicates that regulation will affect SMEs both directly, through dealing with regulations such as tax returns and, more indirectly, through the impact of regulation on other businesses, agencies and organisations that the SME owner-manager deals with, including suppliers, customers and infrastructure providers. These direct and indirect impacts of regulation are illustrated in Figure 1.

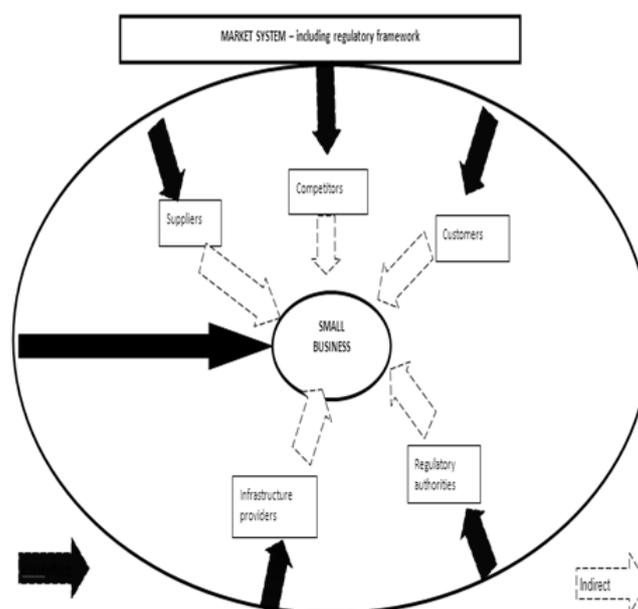


Figure 1: Direct and Indirect Regulatory Influences on Business Performance (Kitching and Smallbone, 2010)

It can be argued that the cost or impact of regulation is not determined solely by the regulation itself. It is mediated by the capability of business owners to manage regulation. The capability to manage regulation does not appear to be homogeneous across all small businesses. For example, where case studies have been undertaken, they have revealed that some small business owners are better able to manage regulation than others (Ram et al 2003). This could be because of differences in a business owner's awareness of regulation (Yapp and Fairman 2005),

different attitudes towards regulation (Vickers et al 2005) or a business owner's capacity to discover, interpret and adapt to regulation (Small Business Research Centre 2008). Further research has revealed that small business owners may have some discretion to adapt to or comply with regulation depending on business resources and market contexts (Blackburn et al 2005, Edwards et al 2003) and that they also have variation in motivation to comply and adapt (Amodu, 2008).

Conceptually, the management learning literature suggests that a small business owner's capability will be influenced by their learning orientation (Dragoni et al, 2009). Higher positive degrees of learning orientation result in willingness to participate in external sources of learning and build capacity and hence capability to manage regulation. Of course, for a small business owner to benefit it requires an ability to absorb and apply learning within the context of the small business owner's specific environment, which may require knowledge and capacity related to sector-specific regulation (for example, in primary production or manufacturing). A number of factors, theoretically, will influence this absorptive capacity (Zahara and George 2002).

For example, a theoretical proposition that the degree of owner manager's self-belief in improvement (Dweck 2000) has been supported by empirical work undertaken by colleagues on management development in SMEs (Deakins et al, 2011). These factors combined, suggest that the degree of learning orientation of the business, through factors such as internal communication of knowledge gained, participation in external networks and participation in management development activities will influence the extent of SME capability to manage regulation, irrespective of size, sector and location.

RESEARCH OBJECTIVES

The overall aim of the project is to understand the factors and processes that influence and affect SMEs capability to manage regulation. More specifically, the research objectives are to investigate:

- the effectiveness of SME management of regulations; in particular which regulations are managed and which are more difficult;
- the process of SME management of regulations, including the process of communication, sources of information, sources of advice and how managers learn to cope with regulation;
- the differences in SME management practices with respect to those who manage regulation well and/or comply with regulatory requirement and those who struggle to manage and/or comply with regulatory requirements. The effectiveness of the management of regulation will be examined in relation to characteristics of the business and business owner (such as managerial attitudes, culture, experience of the firm and of the owner manager, age of the entrepreneur, ethnic group, willingness to seek advice and support, work practices) as well as external conditions, such as types of customer and types of relationship with them;
- the ways that different regulation design, communication and timing affect SME managerial capability and SME responses to differing design and timing;
- the influence of external factors, such as membership of business networks, use of professional advisers and availability and access to information and training, on management capacity, including factors that affect the use of external advice and support.

As mentioned previously, the capability to manage regulation does not appear to be homogeneous across all SMEs. This could be because some SME owner-managers are more willing to seek support and advice, some may have more appropriate

organisational and managerial systems and others may have more experience and specific knowledge and skills which allows them to manage regulation more easily.

RESEARCH CONTEXT AND PURPOSE OF THE REPORT

This report forms part of a Cross-Departmental Research Pool² project on SME capability to manage regulation. The mixed-method design of the project combines secondary data from a comprehensive literature review with quantitative data from Inland Revenue Department (IRD) administrative information of IRD registered businesses and qualitative data obtained through face-to-face, in-depth interviews. The methodological approach involves four distinctive stages.

➤ Stage 1: Literature review

The literature review has been completed by Kingston University, United Kingdom and has provided a review of national and international literature to ground the subsequent stages of the project in the relevant existing knowledge base.

➤ Stage 2: Profiling of SMEs in New Zealand

Inland Revenue Department (IRD) has undertaken a quantitative profiling based on internal administrative data of IRD registered SMEs in New Zealand. The profiling covered demographic information (for example, location, legal structure, sector), business information (e.g. firm age, size, turnover), tax behaviour information (for example, usage of tax agent) and tax compliance information (for example, compliance with filing and payment). The profiling informed sampling size and design of the next stage in the research process.

➤ Stage 3: Qualitative Interviews

This stage was undertaken by the New Zealand Centre for SME Research (NZSMERC) at Massey University. It comprised 101 face-to-face interviews with small business owners using a semi-structured interview approach that was informed by the literature review and the profiling information. The 101 interviews were completed in two separate sets of 50 and 51 interviews to allow refining the research focus and responding to emerging themes. Further, this stage allowed the development of about 20 'rich data' case studies to explore selected themes in depth.

➤ Stage 4: Key Informant and Start-up Interviews

This stage was completed after an interim review and comprised 22 interviews, consisting of 10 interviews with start-up business owners in selected sectors and localities and 12 interviews with key informants from business member associations. This stage was undertaken by NZSMERC at Massey University.

Three interim reports were prepared to provide preliminary results after conducting the first second set of 50 interviews, the second set of 51 interviews and the third set of 22 interviews. This report incorporates the three interim reports into a final report for stage 3 of the Cross-Departmental Research Pool project on SME capability to manage regulation.

² The Cross Departmental Research Pool supports policy-related research in government departments, and is administered by The Royal Society of New Zealand.

Methodology

A qualitative research approach was considered to be appropriate given the limited theoretical understanding of small business owners' capability to manage regulation. We wished to understand the process of knowledge acquisition and how different influences could affect SME capability to manage regulation. Therefore, a qualitative approach allowed us to explore the business context and the dynamic nature of the business owners' responses to regulation which were considered crucial in understanding how small business owners manage regulation.

The research comprises face-to-face, in-depth interviews with 111 small business owners, employing fewer than 100 staff and a further twelve face-to-face interviews with key informants. A staged approach was undertaken with regard to the completion of the interviews. The approach comprised three stages, in which data collection and analysis was an iterative and reflective process to progressively refine the research focus and to verify emerging themes (Srivastava & Hopwood, 2009).

The research design followed the guidelines of Massey University's Ethical Committee, was peer reviewed and consequently judged to be low risk.

SAMPLE SELECTION

The small business sample arose from New Zealand IRD administrative data of IRD registered small business. As a first step, the IRD has completed a quantitative profiling of the administrative data to inform sampling size and design. The resulting sampling frame included categorising compliance by the IRD, but at the time of the interviews, researchers were 'blind' as to which business were tax compliant or not; that is the categorisation was not revealed until after all the interviews had been completed. This ensured that the researchers did not introduce any bias that might have been acquired from prior knowledge of tax compliance

From this sampling frame, a random sample of small business owners was initially contacted by mail to inform them about the research and the possibility that they might be contacted to seek their participation in the study. The letter provided recipients with an opportunity to opt out of being potentially contacted.

There were 117 opt outs in total, which was 5% of the original sample of 2,200. When comparing the 117 businesses who informed us that they did not wish to participate in the research with the 2,083 entities in the sample who did not take the opportunity to opt out, we noted that businesses from rural areas, those in business for longer than 10 years, and businesses with good tax filing and paying compliance were more likely to decline the invitation to participate.

Following a small number of pilot interviews and refinement of questions, the first stage involved 50 respondents from a cross section of industrial sectors and locations. Including business owners with a range of characteristics, experiences and practices allowed for significant patterns to emerge as they cut across heterogeneous cases (Patton 2002). This stage was completed between March and July 2010. Those emerging patterns were explored more in-depth in the second set of 51 interviews. We purposefully selected businesses from three contrasting sectors i.e. creative industries, traditional manufacturing and primary production given the diversity of small business owners' experiences with managing regulation that we encountered in the first set of interviews when we selected businesses from a wide range of industries. This stage was completed between August and October 2010. A further review was undertaken before completing interviews with 12 key informants and ten start-up businesses for the third phase. Key informants were purposefully selected to represent the sectors in which small business owners in our sample were

operating in i.e. industry or business associations. Further, providers of management software packages that emerged as affecting capability to manage regulation were included as respondents. This stage was completed between November 2010 and March 2011.

All participants were initially contacted by phone to seek their participation in the research. While the recruitment of small business owners was done by a third party due to confidentiality restrictions, the recruitment of key informants was done by the individual researchers.

DATA COLLECTION

Data was collected through face-to-face interviews using a semi-structured interview approach.

In keeping with our philosophical approach of seeking to understand the phenomenon of managing regulation, we carefully designed the interview structure to avoid bias via introducing specific government regulation. Rather we allowed the significance and nature of regulation to emerge during the course of the interview so that we could situate the nature of regulation and its importance in terms of everyday management of the respondent's business. Data collection was designed to be non-threatening in the belief that this was most likely to reveal actual feelings and to minimise the risk of socially desirable responses. Consequently, the focus was on encouraging responses that were not guided by any judgment of expected behaviour.

The interview structure for the small business owners covered the following broad themes: business background and general environment; the owner-manager, their objective and background; experience and impact of regulation; finding out and responding to regulation; networks, role of peers and sources of advice and learning; attitudes to regulation. The interview structure was constantly reviewed and refined to reflect emerging issues.

Due to the diverse nature of the key informants, the interview structure was more informal and open-ended and sometimes tailored to individual respondents. It was important to allow respondents to talk through issues that were important to their sector and membership. This meant that a wide range of issues were covered and reliance was placed on the skills and experience of the researcher to obtain relevant and meaningful data.

In all cases, notes were made during and immediately after the interview to capture issues raised at the time and to record immediate thoughts and ideas of the researcher.

Interviews took place on the organisation's premises and averaged around one hour. Informed consent was obtained and, with the permission of the interviewees the interviews were recorded and transcribed. The transcript was shared with the interviewees to give opportunity to amend and augment the initial responses or to withdraw the transcript completely.

DATA ANALYSIS

The first step in the data analysis was to write up a descriptive case summary for each interview to 'allow for the unique pattern of each case to emerge' (Eisenhardt 2002, p18) and to capture the diversity of experiences of small business owners with regard to managing regulation. Subsequently all interviews were coded using an open coding approach (Strauss and Corbin 1990) to identify common themes. Axial coding was used to identify relationships between the themes and to build a theoretical framework. Finally, selective coding was used to support the emerging framework.

REPORTING

Although interviews were undertaken as a staged approach, the findings in this report are reported as cross-cutting themes in eight thematic chapters. These are:

- Importance of regulation as a critical business incident
- Managing regulation: taxation, employment and workplace health and safety
- Factors influencing SME capability to manage regulation
- Learning about regulation
- Attitude towards regulation
- Sector perspectives
- Start-up perspectives
- Key informant perspectives

Sample description

Before presenting the results, some notes on the demographics of the sample are useful. Table 1 provides an overview of characteristics of the business owners in the sample. Three quarters of the respondents were male. The average age of all participants was 50 years. The majority of participants (62 percent) have started their firms up, but about one sixth of participants have bought the firm going concern or via management buy-out respectively. One quarter of respondents had previous business experience. The majority of respondents were of New Zealand European descent.

Respondent characteristics		N	Percent
Gender	Male	83	75
	Female	28	25
Age	35 or younger	11	11
	36 to 45	33	30
	46 to 55	29	27
	56 or older	36	33
Ethnicity	New Zealand European	88	81
	European	6	6
	Chinese	3	3
	Maori	5	4
	Pacific Islander	2	2
Highest formal education	Other	5	4
	School certificate or less	30	28
	University entrance, technical or trade certificate	44	40
	Diploma, bachelor, graduate or postgraduate degree	35	32
Previous business experience	No	82	75
	Yes	28	25
Entry mode	Bought going concern	18	17
	Inherited	6	6
	Management buy-out	17	16
	Started-up	66	62

Table 1: Respondent characteristics

Table 2 provides an overview of characteristics of the firms in our sample. Fifty-nine percent of firms were micro in size i.e. employing five or fewer staff, with the remaining firms being small in size i.e. employing six to 49 staff. About one third of firms generated an annual turnover of NZD500k or less, one quarter of firms between NZD1.1m and NZD5m. Ten percent reported an annual turnover of NZD5m or more. The majority of firms were limited liability companies. About 40 percent were owned by family members (most likely husband and wife) or a wider shareholder group respectively, with the remaining fifth of the firms being operated under sole ownership. The businesses operated in six main industries: 16 percent primary production, 27 percent traditional manufacturing, 17 percent construction and trade, 19 percent creative industries, 13 percent professional services and eight percent in other services. The average age of the business was 17 years. To account for regional differences, seven different regions across New Zealand were chosen, with about one quarter of respondents being located in rural areas.

Firm characteristics		N	Percent
Firm age (years)	5 or younger	26	24
	6 to 10	21	19
	11 to 15	17	16
	16 to 20	10	9
	21 to 25	12	11
	26 or older	24	22
Legal structure	Limited liability company	96	86
	Partnership	4	4
	Sole Trader	11	10
Ownership	Family owned	43	40
	Sole ownership	22	21
	Wider shareholder group	42	39
Firm size (No of employees)	Micro (0-5)	65	59
	Small (6-49)	45	41
	Medium (50-99)	1	1
Annual turnover (NZD)	<500k	38	34
	501k – 1m	19	17
	1.1m – 5m	28	25
	>5m	11	10
	Undisclosed or unknown	15	14
Export	No	95	86
	Yes	16	14
Location	Rural	26	23
	Urban	85	77
Sector	Primary Production	18	16
	Traditional Manufacturing	30	27
	Construction and Trade	19	17
	Creative Industry	21	19
	Professional Services	14	13
	Other Services	9	8

Table 2: Firm characteristics

When designing the research, tax compliance was used as a proxy for capability to manage regulation. For the sample, businesses were chosen with a varying degree of tax compliance (filing on time). They were categorised as the top 25% compliance, second 25% compliance, third 25% compliance, and the bottom (or poor) fourth 25% compliance. The recruiters and interviewers were blind to the participants' compliance categories to minimise interviewer effect.

Note:

The sample composition is not representative of the SME population in New Zealand. With regard to firm size, the business population in New Zealand consists of 90 percent micro (0-5 staff) firms, nine percent small (5-49 staff) firms and one percent medium (50-99) sized firms. This clearly indicates that small firms are overrepresented in our study. Small firms, however, were important for understanding the regulatory issues and the management of regulation as the complexity tends to increase with size. With regard to industry sector, a comparison with the SME population is more difficult due to different definitions of industry sector used. While Statistics New Zealand uses the Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006, IRD (from which the sample was drawn) uses a different classification. Data from Statistics New Zealand indicates that SMEs are most common in Rental, Hiring and Real Estate Services, Financial and Insurance Services, Agriculture, Fishing and Forestry, Construction and Other Services. The sectoral composition is not reflected in our sample. Instead of achieving an industry representation that reflects the SME population in New Zealand, we have focused on selected industries that were either characterised by their dynamic or complex environment (e.g. regulatory complexity).

12 key informants were interviewed of which six were trade associations; one was a combined trade association and industry training provider, two members' associations and three providers of management software (see Table 3)

Key Informant Organisation	Role	Estab. year	No of members	Percentage of small firms
Baking Industry Association of New Zealand	TA	1967	300	98
Certified Builders Association (CBANZ)	TA	1998	1600	100
Chemical Industry Council (NZCIC)	TA	1986	145	70
Hospitality Association of New Zealand (HANZ)	TA	1902	2400	>90
Motor Trade Association (MTA)	TA			
Printers Association of New Zealand (PrintNZ)	TA & ITO		650	
Restaurants Association of New Zealand	TA	1961	1700	98
Federated Farmers	MA	1902	30000	60-70
Employers' Central Chamber of Commerce (ECCC)	MA		3000-4000	
iPayroll	SP	1991	n/a	80
Xero	SP	2006	n/a	
MYOB	SP	1990	n/a	

Ta=Trade Association, ITO=Training Organisation, MA=Members' Association, SP=Software provider

Table 3: Key informant interviews: the organisations

Importance of regulation as a critical business incident

To assess the extent of which the operation of small firms is affected by government regulations compared to non-regulatory factors, respondents were asked to identify the biggest problem and the biggest opportunity that has affected the business in the last two years. This critical incident approach (Flanagan 1954) allowed a more differentiated understanding of the importance of regulation compared to other factors influencing the business operation. It goes beyond the conceptualisation of regulation as a cost or constraint, but serves to place the role of regulation within the wider business context,

Biggest problems faced by small firms in the last two years

Overall, regulation didn't feature very prominently as a critical business incident in our sample. Three respondents, however, did mention regulation as the biggest problem the business has faced in the last two years. Other than those three respondents, none of the other respondents considered regulation a critical incident for their business operations. This does not mean that their business is not affected by regulation or that they have no problem managing or complying with regulation, it just means that, within the wider context the business operates in there are factors that impact more significantly on their operation than regulations.

For two respondents increased competition from China has been the biggest problem which both respondents attributed to the deregulation of the New Zealand market. Despite facing the same problem (i.e. the increased competition from China), the two respondents reacted quite differently, illustrating the complex and sometimes contradictory influences generated by regulation. These two different reactions are worth illustrating in more detail:

Case study 1:

The first respondent operates a small foundry that employs nine full-time staff and generates an annual turnover of \$1m, which hasn't changed over the last two years. The owner experiences fierce competition from China and believes that the cheap imports are crippling his business and blames the government for reducing trade barriers and not sufficiently protecting the manufacturing sector. Investing into new technology to stay competitive would cost the business \$4-5m which is beyond his financial resources. As alternative strategies he started advertising, emphasising the high quality of his products and reducing costs where possible. Overall, his perception is that complying with regulation contributes to the rising costs of operating his business and therefore making him less competitive with imported goods from China. As an example he mentions recently introduced environmental regulations i.e. the cost of disposing sand to negatively impact on his business by costing him an additional \$14,000 per annum.

Case study 2:

The second respondent provides electronic security systems, employs five full-time staff and turns over \$650k, with employment and sales growing in the last two years. Cheap security equipment from China that is sold online has wiped out his residential market, forcing him to change his business focus and targeting the larger commercial market. He now considers the opening of the market for free trade with China as an opportunity as it allows him, for example, to import cheaper cable. The respondent explains that trade liberalisation has forced him to “think bigger” and focus on the global market rather than the Auckland or New Zealand market that he has originally targeted.

A third respondent is worth illustrating because it shows the ambiguous effects regulations can have on businesses. While regulations might initially be perceived as restrictive, they might turn into a competitive advantage if well managed.

Case study 3:

One respondent, who operates a rest home for Chinese residents with her husband, considers health care regulations and the changes in regulations as the biggest problem she faced in business in the last two years. The rest home relies on state funding for patient care which is at a fixed level and has not increased, but her operating costs have, at the same time government has tightened the criteria for assessing patients’ eligibility for care which makes it more difficult for her to fill the beds. She has to comply with a range of standards related to care and is assessed on a regular basis to maintain her license to operate. While she considers the licensing to be an increasing cost for the business, she also recognised that it benefits the business.

Results showed that managing and adjusting to economic trends appears to impact more significantly on businesses than any one individual regulation, although the cumulative effect of regulation might be more significant. As such it was not surprising that the critical incident that affected the businesses in our sample most in the last two years was the recession. In particular, the recession impacted on businesses through reduced customer demand and fluctuating workload, increased competition and price cutting and as a result constrained cash flow.

However, the effects of the recession also significantly impacted on respondents’ ability to comply with regulation. The biggest concerns were to keep up tax obligations and to manage employment matters i.e. cutting staff hours or making staff redundant.

This finding indicates that a differentiation has to be made between the capability to manage regulation and actual compliance. While small business owners might have a high level of capability to manage regulation, they might not be compliant with regulation due to temporary changes in the business or the business environment as in the case of the recession. This suggests that it is best to avoid static classifications because the stance a business takes is sensitive to external conditions. This will be discussed in more detail in the next chapter.

Only eight respondents mentioned critical incidents that were not related to the recession. They all operated in areas that haven’t been strongly affected by the economic downturn and the critical incidents they faced were grouped into three categories:

➤ Changing business environment

Three respondents have mentioned changing market conditions as the most critical business problem they faced in the last two years. One respondent operates a cafe on a farm sale yard and struggles with declining number of

customers due to decreased sales activity on the yard and increased competition from cafes outside the yard. Another respondent operates as a consultant for government agencies and the change in government has meant that new project work was on hold or has been cut as a result of changing policies. A third respondent, a distributor of scientific products faces constant changing of suppliers reflecting the competitive environment he operates in.

➤ Lack of internal resources

Three respondents considered lack of internal resources as their biggest problem. For one respondent who operates a bakery and cafe this meant human resources i.e. finding qualified staff, as baking is apparently no longer considered an attractive career option. The second respondent, a woman who does predominantly alterations and repairs to clothing for bulk orders, struggled to find enough financial resources to advertise her business. The third respondent operates a child day care and her operation is significantly restricted by the small size of the premise, meaning that she can't cope with the increasing demand.

➤ Skills of owner-manager

For two respondents the biggest constraint in their business was related to their own lack of skills. One respondent was recently forced to take over his father's business after he fell ill and lacked the capability to manage the business. The other respondent, a part-time singer, felt that her lack of self-esteem has been the biggest hurdle in her business.

Biggest opportunity faced by small firms in the last two years

The majority of respondents struggled to identify a significant business opportunity in the last two years. It has to be noted, however, that the interviews were conducted during the global economic crisis when New Zealand was still in recession. It can be argued that these macroeconomic conditions have reduced opportunities for businesses.

Of those respondents who did identify a business opportunity two incidents emerged from the data that participants considered to have positively impacted on their business: change in business focus and building new or strengthening existing customer relationships. As expected none of the respondents mentioned regulation or a change in regulation to have provided a business opportunity, as opportunities are more likely to be driven by market forces.

Managing regulation: taxation, employment and workplace health and safety

This chapter focuses on the respondents experience with regulation or changes in regulation and how it affected their business. Compared to the previous chapter where respondents were not prompted to talk about regulation, this chapter is based on respondents' answers to the question of which regulation or changes in regulation affected their business. The three types of regulation that were most frequently mentioned by respondents to affect their business operation were taxation, employment and workplace health and safety.

TAXATION

Three themes emerged from the data that respondents find difficult to manage with regard to taxation: KiwiSaver, GST and provisional tax

KiwiSaver

About one quarter of respondents commented on the impact KiwiSaver has on their business operation. These responses can be categorised into two themes

➤ Administrative cost

It takes more administration to care for that, and the initial setting up was quite time consuming and did cost a lot of time. (#10)

The only issue I have with KiwiSaver is that you've got to join them up and they've got 8 weeks to pull out and so instead of not paying that for 8 weeks you've got to pay it and then get it refunded. I don't think there's a need for that. I think if there's an employee turns up and says, "No, I don't want to do it" from day one then go from there not put it in, pull it out, refund it etc. so to try and keep your head around all that side of things, that's not a concern but it's a lot of issues you've got to try and keep on top of. (#40)

In a few cases the increased administrative cost was related to a lack of information or uncertainty about how to handle the new regulation.

I sort of had trouble like you know with the KiwiSaver sort of thing, you know, how it's calculated and what not sort of thing. (#25)

➤ Financial cost

How has the introduction of KiwiSaver affected your business? Well it's just more money out of the business really. You know, when your employees opt into the scheme you don't account for that. (#9)

GST and provisional tax

GST and provisional tax impacts on business owners in predominantly three ways: as a perceived administrative cost, as a financial cost and as a perceived psychological cost.

The administrative cost of tax regulation has been widely researched in compliance cost type studies and the results are well documented³. In line with previous

³ Inland Revenue Department undertakes longitudinal research to measure and benchmark the tax compliance costs of small and medium-sized businesses. For more information:

research, some respondents perceived tax regulation to be too time consuming to manage. Their perception is that small businesses are resource constrained and, therefore, managing tax regulation disproportionately impacts on their business operation. Generally respondents seemed to have a good understanding of their tax obligations, and only a few mentioned difficulties understanding tax regulation which they attributed to the complexity of the tax system itself or the complexity of how it is communicated.

On top of all that you've got all this paper work battle which is pretty predominantly the tax system which is beyond me and it takes someone 5 years to study at University to a degree so you are expected as a business owner to know exactly how the tax system works and if you don't know, you can't plead ignorant, you are still going to get your knuckles rapped. (#21)

And it's not easy English you know, it's not simplistic English. [...] I sit there and go over, and over, and over it and think "okay, alright now I understand what they want us to do". (#46)

The financial cost seemed to affect businesses far more than the administrative cost. About half of the respondents reported that they have difficulties meeting their payment obligations with regard to GST and provisional income tax which negatively impacted on the business through late payment penalties and interest rates on outstanding payments.

But yes so everyone has got to pay tax that's understandable. Inland Revenue though they can be, if you don't, if you're late their debt penalties bills can be horrendous, in fact they can be crippling. (#33)

The factors that impact on respondents' capability to meet their payment obligations are complex and often interrelated, so that cause-effect relationships are quite difficult to establish.

The main constraining factor that emerged from the data was associated with managing cash flow. This illustrates the sensitivity to the external and market environment of managing regulation; it might be a temporary situation, as in the case of the recession, or a change of business focus or as in the case of an unforeseen family or health related event.

I think that's the most stressful time when you haven't got, the work drops off, but you've still got the same taxable income from the previous year. (#36)

Before my illness / stroke I used to have everything set up on the MYOB the computer accountancy and that was brilliant. It used to come in, I did it, whatever I had to do, and it told me how much GST, and I used to send a cheque in, and that was done I must admit that was easy to do. [...] After I had the stroke my son had come over from [...] and [...] had to sit there showing him how to do and he'd come home, because I was in the hospital for 3 months, and he had to come home. (#31)

Tight cash flow, however, might be an ongoing situation. In this case; tight cash flow is most likely related to late customer payments which seem to be particularly relevant for businesses that have a subcontractor relationship as it is common practice within the construction and trades industry. Ongoing cash flow constraints,

Colmar Brunton. (2005). Measuring the tax compliance costs of small and medium-sized businesses: A benchmark survey. Wellington, New Zealand: Colmar Brunton.

Inland Revenue. (2010). SME tax compliance costs 2009. Evaluation report 1. Wellington, New Zealand: Inland Revenue.

Inland Revenue. (2010). Changes in SME compliance costs 2004 to 2009. Evaluation report 2. Wellington, New Zealand: Inland Revenue.

however, imply that financial management might be a relevant factor that impacts on the capability to manage regulation particularly tax. Related to financial management, but still a separate factor, is the availability and conditions of a bank overdraft that might make it difficult for small business owners to meet tax payment obligations.

Sometimes it's quite tight with money but I've never had an overdraft per se, although once or twice I've had a big tax bill and I've just sent the cheque away hoping that some money will come in the next couple of days and the bank because it's a tax bill the bank have just given me a temporary overdraft for a couple of days until things equalised. (#15)

What was the problem? Oh just cash flow. People not paying me, yes, that's basically it. They get you to do the work and then late payment. I've got someone at the moment that's sort of owes me six three, just about two months over. Which means I don't pay the other people I owe money to. (#33)

Cash flow problems and a lack of financial planning and management skills might result in some uncertainty over the amount of tax that is owed. This seemed to be particularly true for business income tax and provisional tax respectively.

It's not clear until your profit is known what your tax is going to be so that throughout the year you are operating with some uncertainties as to precisely what your income at the end of the day is going to be and that is something which is troubling. (#1)

However, the same uncertainty was encountered for GST returns. Although technically GST is cost neutral to the business, it was often seen as a financial cost especially in cases where all of the tax matters were delegated to an accountant because of the owner-manager's lack of understanding and/or capability to manage his/her tax return. Using an accountant to compensate for the owner-manager's lack of financial managing capability is generally considered positive as it indicates general awareness and an ability to access assistance. The nature of this relationship and the shift of responsibility and control over the business' financial matters to the accountant might constrain the owner-manager's ability to manage and comply with tax regulation. In cases where the accountant was seen to be in charge of the financial management of the business, GST returns were often perceived as unpredictable.

I won't harp on too much about GST but that has been one of the big struggles because you think oh yeah we are making inroads and then suddenly the GST bill turns up. (#41)

The accountant tells us what we pay each month. We take everything for that month over to them and then they just calculate what we've done, what we haven't done and then they say right you've got to pay x amount of dollars this month, I drop a cheque into them and they send it in for us. (#31)

The cost of using the professional services of an accountant was another issue that emerged from the data. In theory it could be argued that the benefits of using an accountant should outweigh the financial costs to the business. A number of respondents, however, were not convinced that the net outcome of using an accountant would be positive for their business. This indicates that some small business owners might not see the added value an accountant can provide. They see the time an accountant charges as a financial cost to the business rather than viewing the use of an accountant as a means of managing regulation. Their own time spent on dealing with tax regulation is rather seen as a psychological cost rather than a financial cost.

So what you have to do is you have to employ the services of professionals to do your paperwork for you, not to actually do move it around the desk and

shuffle and file it but actually to code it all to file your return, 'cos at the end of the day if I started doing that a, it pulls my hair out because its complete bullshit and the secondly I don't have that time. [...] So what I've found is that accountants are the worst people to take it to because they are extremely expensive, they are like around \$150 – 200 an hour, so therefore for you to offset that you'd have to be extremely busy.

Some respondents felt that there is a lack of communication about the penalties and interest rates IRD charges for late payment. Again in these cases, the heavy reliance on the accountant was a key characteristic.

They don't tell you, so they let it build up, yeah, so you're not always told about late fees and, um, they'll just let it sit and um, snowball and I think I found out through the accountant that he said "there's a late fee growing in the system". They don't actually, they don't always stipulate that [...] I think it's just more communication needed. (#26)

For a few respondents managing tax regulation was a psychological cost, in the sense that it puts pressure on them and they feel stressed and overstrained by trying to keep the compliance up. Psychological costs were predominantly mentioned by female respondents who had a director role in a husband and wife business and were in charge of "doing the books".

You have to be a bit more adaptable in your thinking and not try to take it so heavily on your shoulders all the time. It's almost like a burden because you don't want to fail, but you don't want to also feel like everything's going to swamp you all at once. (#46)

As mentioned previously, these factors that have been identified are interrelated and sometimes overlapping. Instead of trying to reduce this complexity, the qualitative and rich nature of this research aims to understand this complexity by trying to differentiate and identify as many influences as possible.

WORKPLACE HEALTH AND SAFETY & ACC

Respondents' comments about workplace health and safety regulation produced a complex and sometimes ambiguous picture of the effects of the regulation on small businesses and the factors that affect the owner-managers' capability to manage the regulation.

Similar to taxation regulation, for most respondents, workplace health and safety regulation was an administrative, a financial or a psychological cost or a combination of these.

Can you name a regulation that does affect your business? Things like being up to speed with health and safety. Making sure there's an accident book, that there's first aid, that we've got fire extinguishers all through the factory, they're serviced every six months and replaced when they're out of date. That's probably the first one I can think of. (#49)

Exceptions were most likely to operate in sectors that are not strongly regulated, for example, the consulting or IT services sector. Despite workplace health and safety being in some ways a cost to the business, for the majority of respondents compliance is not problematic, but rather important or even a necessity, as in the case of commercial building sites.

We have standard operating procedures for all the machines and we are continually looking for ways to improve what we do. I don't find it onerous, it's important and a vital part of the business and we just do it. Like I said, after working on the oil rigs, I've got a good understanding of how important it is (#17).

But I haven't fallen foul of anything and its all sensible stuff any way, you've got to take into account your own physical safety, is something I'm doing can it hurt me, that's the first question, and can it hurt anybody else and they are good things anyway so just because these places are becoming more strict about everything I've had to look at it more closely and spend a bit of money getting certification, go to a course and all that sort of thing. I don't mind that it's just part of how it is. (#15)

The factors that impact on respondents' capability to manage and comply with regulation are discussed as follows:

➤ Importance of owner-manager's health to the business

The awareness that the owner-manager's health and safety is crucially important to the business is a major driver of compliance. Protecting their own health was clearly a priority for some respondents as without them their business and in turn their livelihood would be threatened, especially with micro-sized businesses.

We can't afford for him to be off work for any accidents so he is quite strict with health and safety regs. So it's in your best interest? Most definitely. If I fall over now we are history. (#14)

And I know that the safety side of it is huge, but let's face it if you came off somewhere and landed 10 metres down a track it's not only health and safety, you are out of work yourself. [...] One of our biggest worries though is that now that I am the sole income earner [...] if I fall over now we basically lose everything. (#31)

➤ Responsibility as an employer

For some respondents their responsibility for employees is a major driver for compliance. Given that small firms are usually strongly dependent on their staff for the operation of their business, an employee's accident can be a major disruption – in financial and non-financial terms. Other than the (temporary) loss of an employee, issues around the legal liability of the business owner can act as drivers of compliance, although this does not necessarily indicate a strong capability to actively manage regulation.

As an employer it is your responsibility to make sure the guards are up to scratch. I learnt that when I was an apprentice at the other place, I'd seen a guy chop his fingers off and the company actually got fined because although they had guards for the machines they weren't up to scratch, so they received a fine. So I did learn a lot but it's your responsibility to make sure the guards are being used. (#48)

I've been a health and safety officer in many roles in various sized corporations over the years, so I've always had an awareness of what our responsibilities are throughout that, which is carried over into this business. (#49)

Some respondents were driven by the fear of heavy fines or even legal consequences that, an employee's accident could incur. As a result ensuring that employees comply with regulation was a major concern for respondents. In this case regulation might result in ambiguous responses. While on the one hand, reliance on staff might act as a positive driver to compliance, the legal responsibility might on the other hand be perceived as a burden because of the difficulty to ensure an employee's compliance.

If anything happens, OSH are on you like a ton of bricks. So you have to be very careful about yourself and you have to be careful about your employees, so we have in place all the safety procedures. We have our policies and

procedure books, etc., that we have in place but of course, you know, having people who are out there working doesn't necessarily mean that they are going to be complying to what you have inside your little booklet, because a lot of the time, they don't. (#46)

I've got to protect everything because there's always someone out there can come along and take it off you. One of my employees could be electrocuted because he decided he thought it was a good thing for him to grind in the rain after I told him not to, but because I failed to write it on a bit of paper there's no proof and next minute he gets electrocuted and next minute OSH come along and shut the operation down. (#21)

Some respondents felt that people who have been in the trade for a long time are more likely to resist changes to their current work practices and procedures, illustrating that the ability to manage regulation is partly dependent on employees.

Most people who work in the earthmoving or the drainage game have been working there for quite a long period of time – they don't seem to be quite a young breed – but they seem to be an older breed – so of course we've always done it this way, and we keep doing what we're doing. (#46)

➤ Requirement for certification

A number of respondents – predominantly in construction and trades – commented on the need to have workplace health and safety certification to be able to work, for example, on commercial sites or to become a council approved contractor. Despite the cost of the certification for the business, most respondents were positive about it as it creates a level playing field amongst competitors and helps them manage regulation by providing the necessary information and procedures covering the legal aspects of compliance.

It's also becoming abundantly clear that there are a lot of construction companies that won't accept sub contractors unless they are site safe. And that's fair and reasonable too. (#45)

Health and safety I believe is quite easy nowadays, because there are so many companies dedicated to it as in I am involved with two of them actually. One because of the housing company, their preferred health and safety provider as such is [...], so I'm a member of [...]. Costs me \$200 a year. They send out all the information, they give you site packs and pretty much everything I need to have. (#19)

A few respondents, in this sector, felt that while certification is generally a good thing, there is a risk of overregulation in the sense that the certification has to be renewed within a too short time period, although there have been no changes in circumstances or technology.

Particularly in our type of work where it's not really changing that much. A muddy site is still a muddy site today as it will be in 2012 and the safety issues and the health risks and stuff like that that come about from that kind of thing, they're not going to change in two years' time. (#45)

➤ Perception that regulation is restrictive

Some respondents felt that regulation is too restrictive because of the way it influenced how they do their work, when they have been doing it the same way for many years. They felt that they know best how to do their work and did not need to be told by someone else.

You know, so it makes you feel so, so let down. Humiliated, when you have to go through all this sort of stuff. We've been here doing this forty years now, we don't need you to tell us how to do it, you know. (#35)

So your health and safety regulations, a lot of the job sites that we go to you spend like we went to one job where we spent 6 hours induction and I came out of that induction fed and done up than when I was when I went into. The regulations are so insane that there's a bunch of tools that we need to do the job, we weren't allowed to use those tools even though we've been using them for, I've been using for the entire length I've been running the business and people prior to me. We weren't allowed to use them because of regulation. (#21)

The guy that visits us is an ex-forklift driver from Freight Lace. Now I ask him what his qualifications are to tell me what's dangerous and what's not and he says 'I have got a Diploma in Occupational Safety and Health'. He hasn't got a clue. (#37)

For some respondents, the perceived restrictions led them to adapt their business strategic approach and enter areas that they felt are less strictly controlled. An example is a 51 year old tiler who considered workplace health and safety regulation to be a burden for his business which led him to focus on residential rather than commercial work. Although the same regulation applies in both areas, he felt that controls are less strict in the residential area.

I tend to stay away from that too again bureaucracy, OSH requirements, site laws [...] A lot less, it's a lot less casual. For the residential side of it? Yes. So what's different with OSH for example on a commercial site? They are there, yes, there is always the chance that they will come in and go through, start looking at the tools and, some of the building sites I've been on the power box that you're going to use costs \$400. Just for a simple power box. Rather than a \$3.80 one which doesn't give any problems. And mainly cause it's got a trip cut out switch on but then all the building sites have got cut out switches anyway so. Yes it's just more hassle, its more, I just want to get on and get the job done. (#33)

One explanation that was offered is that the resistance to comply with workplace health and safety or to change current practices and procedures is age-related.

Its mainly the really old tradesmen who have been in the trade for a long time who are very slack in those areas because 20 years ago it wasn't an issue where the younger guys who haven't been doing it for so long have been brought up that that's the way that it's done and I'm the same. I always use my guards and everything on the machines. That's just the way that I've been taught. (#48)

Accident Compensation Corporation (ACC) has often been mentioned in the same context as workplace health and safety regulation. The biggest concerns respondents mentioned were the financial cost of ACC, particularly in the construction and trades industry.

Because of the nature of our game, being in earthworks and drainage, we are one of the highest ones that are up and so of course we pay HUGE.... you know, it's almost like a mortgage... paying that. (#46)

The dissatisfaction about the high levies is spurred by the perception that the ACC system is unfair to those who follow best practice with regard to workplace health and safety as they pay the same premium as businesses that are less diligent. While

some respondents suggest introducing rebates similar to a non-claim bonus, others would prefer to revert back to private insurance.

There are a lot of stupid accidents happening in the building trade, and it's people not being careful, obviously, but it's affecting everybody, my premiums have skyrocketed because of people, you know, doing stuff off ladders they shouldn't be doing, um, they're shooting themselves with nail guns, they're not wearing eye protection, they're not wearing ear protection. Because of those, the minority, I'd have to say, it's affecting everyone and our premiums are just ridiculous and that's why I think going back to a private insurer. (#30)

I think really they should have some sort of, like if you don't make claims over years I think you should get some sort of rebates for it. I think they should reward the people who are not using the ACC system all the time. If your records are that good then they should give you some sort of reward for it I think. (#31)

One respondent had a serious accident that didn't allow him to continue working for the company he was employed by. While he received accident compensation, ACC encouraged him to purchase a going concern to assist him getting back into the labour-force. The respondent still operates the business 14 years later. While he is grateful for the support he received at the time by ACC, his view has now changed. As a self-employed person he feels ACC is not worth it as he wouldn't be able to claim compensation.

ACC premiums, they are going up and I can't even claim on it. I'm paying it for nothing. See if I ever got sick, cause no one can do my job, I just can't go to hospital. (#35)

This view is shared by a number of respondents who feel that the accident compensation that they would receive would be too small as it only covers 80% of wages, but would not compensate the loss of business income. This view contributes to the dissatisfaction about the high levies that was mentioned earlier.

Related to the concern over high levies, some respondents commented on the negative impact the classification of their business can have.

ACC is taking me to court for a whole heap of money at the moment because I haven't paid it because my interpretation is that from my previous job I'm a window tinter not a window glazier, and they said I was a window glazier which is \$2.40 per \$100 and a sign writer is 0.25 cents per \$100 at the time, and I do exactly the same thing as a sign writer, there's no difference between me and a sign writer, but they see it as a glazier which is a trade certified job which takes years to learn and its handling glass which I don't do any of that, but they said that's what I am because that's what the law says so I'm facing a major court battle with them so that's just one avenue of what regulations done to me as a business owner. (#21)

A further concern was the lack of information received from ACC and the lack of transparency regarding the basis on which payments are paid and the levels of compensation that might be obtained resulting in some uncertainty.

Any health and safety from ACC would be of use to us too, we hardly get any information from ACC in spite of paying ACC levies. (#24)

Overall it seemed that managing ACC was not a significant issue for businesses other than ensuring enough cash flow to meet the payment obligations. The construction sector is certainly different from other sectors with regard to workplace health and safety and ACC since this is more strongly regulated, more strongly enforced and attracts higher levies.

EMPLOYMENT REGULATION

Employment emerged as one of the top three factors that respondents considered impacted on their business. Results in this section are structured along the employment cycle i.e. recruiting staff, retaining, managing and training staff and laying off staff and how regulation impacts on those different stages.

Recruiting staff

One quarter of respondents do currently not employ staff or only use contracted staff as need arises. Using self-employed sub-contractors was particularly dominant in construction and trades, but as well in consulting and IT industry as they are characterised by a fluctuating workload and in turn cash flow. Amongst this group who do not employ staff or use self-employed contractors, there was a perception that the financial and administrative costs of employing staff are too high. However, this perception was in most cases unspecified i.e. related to “paperwork” in general rather than to a specific regulation.

If I grow then I will probably have to hire people which I think I don't like the paperwork side so that's why I don't want to grow to be honest with you. It's just a lot of hassles you know, I just want to stay clear of the paperwork sort of so I thought if it's me then it's just me I don't have to look after anyone else. (#25)

Just whenever I need a bit of extra hand or labour that I can't sort of do the job I just been grabbing them in so. It's been good, it's been, we've been making some good money and it's keeping the costs down in the business. (#50)

The following quote from a respondent who operates within the IT/media industry summarises the attitude of this group of non-employing businesses towards taking on employees quite well:

I try to remain as footloose and fancy free as possible. (#44)

Finding qualified/experienced staff and finding staff with good work ethics was a big issue for business owners across all sectors.

Yes, it is difficult to find people, especially experienced people. (#46)

How do you find recruiting employees? Biggest headache of the whole business. (#40)

I have had a few lads through on, um, work schemes, um, I would sort of say 80% of them have attitude issues. (#36)

I think because also the environment they're going into, they're going into, bit like you guys, you're going into people's homes everyday and quite often people aren't home. So they have to also be extremely honest and trustworthy. Um cause the last thing you want to be doing is employing staff that steal. (#32)

Retaining, managing and training staff

Some respondents who had difficulties finding and retaining staff, felt that employees are generally favoured by current employment regulation. An example is a husband and wife operated local bakery and cafe, where staff turnover is higher than they would like. Because of the relative high dependence on staff, she feels that the right of employees to just walk away from a job without giving notice is unfair as it might potentially impact as negatively on the business as her being able to fire staff without notice might have on the employee. The respondent perceives the rights of the employees to be better protected than those of employers.

“They can do just as much damage to you by just saying, ‘Oh I’m not coming back any more’ as to me saying, ‘I don’t need you any more’.” (#40)

Of the respondents who were currently employing staff, five mentioned that the Holiday Act negatively impacted on their business. One respondent had difficulties calculating the amount of holiday pay his employees were entitled to at the end of their employment.

I had to pay my staff off ‘cause they got transferred and um, it took me three days I think it was, to actually work out back pays and holiday pays and all of that sort of stuff. (#27)

The Holiday Act was an increased financial cost to the business (for the other five respondents). Two respondents had to increase their rates or prices as a result and one respondent has additional costs as he needs to employ another person to cover for staff who are on leave, or cover them by working for himself. Another respondent mentioned the difficulty of paying all of the holiday pay a person is entitled to as one lump sum if that person leaves employment.

We found that to be a major hurdle this year. Took every one of our resources to pay everyone out and in fact we’ve just had to implement price increases and I would say the four weeks holiday was one of the major reasons. (#40)

You know maybe small businesses could have the option of paying out holiday pay that’s approved in small stages over a period of time, so at least by X date or one month after the employees left, you have to pay them out their holiday pay. It could be hundreds of dollars and you can be a small business where it can be quite impossible and affects the whole of the balance, it is quite a delicate balance in a small business that suddenly that going out you think how are we going to manage. (#41)

In line with previous research (Ram, et al 2001; 2003), changes to minimum wage didn’t appear to be problematic for respondents, most respondents said that they are paying over minimum wage anyway. Only one respondent was concerned that minimum wages were constantly increasing which adds to the financial cost of employing staff.

For our business its okay because we expecting that so that’s fine and we calculate for that per year so its fine. (#11)

The fact that the minimum wage does not seem to be problematic for the small firms in our sample might be related to the more widely perceived problem of retaining staff. A number of small business owners across all sectors mentioned how difficult it was to retain staff and the necessity to pay them well.

And we offer them a permanent job and I offer them a very good wage. I don’t employ anyone at the minimum wage, I always offer a good couple of dollars well above that. (#40)

Parental leave regulation was only mentioned once by a respondent who thought that it was not right for staff on parental leave to accrue annual leave.

They take 12 months parental leave and they come to work and they’ve got 4 weeks leave, and they think oh I’ll take some leave – you’ve only been back 2 weeks, what do you think you are doing, applying for leave because they are still been on staff so they are entitled to their 4 weeks annual leave and I just think that’s not right. To me you should be only entitled to the parental leave for the portion that maybe you were on paid parental leave and I just find that bizarre. (#16)

Two respondents expressed their concern over the fact that they have to deal with outstanding fines of employees e.g. court fines. Respondents perceive that the

responsibility to comply is shifted from the employee to the employer which does not only results in additional administrative costs, but in the perception that now the employer can be held accountable for not complying rather than the employee.

If one of my employees has court fines or owes money to a government agency, they don't pay it, the agency then comes to me and says, right we want you to deduct such and such from so and so's wages each week payable to us, blah blah blah. Although it's reasonably straight forward to do there's still time involved in me doing that and I don't feel that it's right for the simple fact that the employee's not having to get off their backside and do it themselves. ----and so each time I sit down to do the payroll I've got to remember, right, that guy, I've got it noted down so I know that it's there each week but it's just another exercise that I've got to go through and then the exercise of actually paying it to the agency or the courts or whatever and like I say, it's taking the responsibility off of them and putting it on me and I'm the one then liable if it doesn't get paid, you know. (#47)

Besides the regulations mentioned so far, the biggest concern for respondents was to retain staff. The reasons included problems paying staff due to insufficient or fluctuating workloads, labour market conditions and the lack of developmental opportunities for staff in small firms.

Laying staff off

Making staff redundant was the part of the employment cycle where regulation was perceived to have the strongest negative impact on the business compared to finding or managing staff. Respondents perceived that the legal actions employers can take against their staff were limited and that the law favours the rights of employees. Three case studies are presented to illustrate the problems small business owners faced with regard to making staff redundant and strategies they developed to better manage the situation in future.

Three cases to illustrate contrasting experience of the impact of regulation on managing employees:

Case study 1:

The first case study is a husband and wife operating as vegetable seedling growers. The biggest problem they faced in the business was that they lost a big customer that accounted for 80 percent of their turnover. Together with the decreased demand due to the recession, the interviewees had to make their only employee redundant. They initially tried to retain her by getting government support (i.e. nine day fortnight scheme), but were told that they were too small and hence did not qualify for assistance. They sought advice from the Department of Labour (DoL) regarding the redundancy process, but the employee still sued them because they hadn't provided her with an independent adviser. They lost the case and had to pay \$8,000 which negatively impacted on the already struggling business. Based on this experience they are not willing to take on any more staff and decided to run it as a family business only by taking their son on board.

Case study 2:

The second case study is a husband and wife operating as a residential carpet installation business that employs one full-time staff member. There was no formal employment agreement with their previous employee which caused them some trouble when the employee “abandoned” work. The respondents made him sign a piece of paper stating that he has left voluntarily, but later on the employee came back to claim wages and compensation for unfair dismissal. The respondent’s lawyer advised them to go to an employment court, but the respondents feared the costs that could incur and instead decided to go for mediation. Both parties were satisfied with the outcome, but for the respondents it was still a time consuming and stressful process. With the new employee they have set up a formal employment agreement which the respondents think has actually benefited the business by protecting their interests better. The interviewees found it a bit difficult to set up an employment agreement as they couldn’t find any templates. They received advice from her lawyer as well as from business peers.

Case study 3:

The third case study is a husband and wife operating a plumbing business that employs one full-time staff member. They had an apprentice last year, but experienced severe behavioural and performance problems. For example, he got two weeks off (paid) to do his apprenticeship block course from where he was expelled and stayed at home instead going back to work. After the respondent has already given two warnings to the apprentice, he decided that he wanted to get rid of him. With the feeling that this could be problematic, he tried to find him another job instead of making him redundant. While this has worked out fine for the respondent, he thought he was very lucky and would never take another apprentice on board.

Although the three case studies illustrate how negative experience with employees might change a small business owner’s behaviour, they also illustrate that behaviour is influenced by employment regulation. These two factors are interrelated. While in one case it has resulted in the respondent using regulation to benefit and protect the business by setting up formal employment agreements, in the other two cases it has led respondents to change their business practices in the way that they sought to avoid employing staff i.e. through seeking assistance from family members or contracting employees. Some respondents took a deliberate decision to keep their business small in size, i.e. not employing staff to avoid employment related problems.

Changes to probationary period

Four respondents mentioned the changes to the probationary period that have been introduced as being positive for their business. None of these respondents have reported any negative employment related issues and generally seemed to manage staff well.

There was a new regulation the 90 day trial period which hasn’t affected me yet but I think it’s very helpful because you can read a lot from the CV but how they then work and if it works out for your business is not always the same. (#11)

One comment from a respondent was interesting in the way that he has always used a probationary period, even before it was introduced by government, by only offering a three months contract to a new employee. He has learned that practice from a business peer and thinks it provides him with more flexibility in the business. This is another example of how a small business owner configures his business practices to avoid potentially perceived negative impacts of regulation.

We use a three month contract here for a start um find that quite useful. [...]well within the three month period, yeah, without suffering fines and penalties and, yeah. And to be honest, one of the guys that I know does that, isn't happy with that, but in the rules and regulations and everything it's there, that's basically the way he's found he can have an out clause without being hammered. (#11)

Overall it seems that finding, managing and retaining staff was by far the bigger problem for small businesses compared to the regulation that governs employment practices. Labour market conditions, lack of qualified/experienced people, managing staff performance and overall financial management emerged as the most critical factors with regard to employment. It is suggested that the problems with regulation that were mentioned by respondents, were more likely to be related to one of these factors rather than to the regulation itself.

Factors influencing SME capability to manage regulation

From the analysis, two key factors emerged as being common amongst the firms in our sample: the firms' resource capacity and the individuals' ability to manage. These two factors tend to influence the general approach to managing regulation and need to be distinguished from managing specific types of regulation or one-off regulatory requirements (i.e. a single event such as a change in regulation) rather than a day-to-day regulatory requirement.

FIRMS' RESOURCE CAPACITY

Being resource constrained is a key characteristic of SMEs (Storey, 2004) that is frequently cited as one of the main barriers for business owners to engage in developmental activities at the firm as well as at the individual level. The firms' resource capacity was predominantly influenced by its human and financial resources and the systems and processes that were in place.

Human and financial resources:

The importance of financial resources was already discussed in the previous chapter. Results indicated that the majority of businesses in our sample ran on their operating cash flow and a bank overdraft with only limited additional financial resources. Tight cash flow, therefore, emerged as major constraint on the firm's capacity to manage regulation. In the second set of interviews, human resources emerged as being equally important for the firms' overall resource capacity.

The smaller the firm, the more likely it is that the owner-manager is responsible to deal with all aspects of the business, this was described as "debilitating" and "tiring" by a respondent that operates a small manufacturing firm that makes products for the leisure industry.

I have had to do one head a lot for a long time and it can get a little bit debilitating, if you're the be all and end all sort of thing. Sometimes it's a bit tiring (#63).

With businesses that were able to grow, however, this issue reduced in importance. In this case, as the business grew, and their resource capacity grew, the two directors deliberately diversified their roles by employing a general manager and an administrator; this allowed the two directors to focus on sales, marketing and financial management.

Robert does the sales and marketing and I do the financial control, if you like, that's the roles we sort of play now. John is our general manager. Michelle does the reception and lots of other things (#63)

From the analysis, there is a critical firm size threshold of approximately 6 to 10 staff (depending on the nature of the business) above which the firm's resource capacity allows the owner-manager to employ staff that are designated to manage the administrative, regulatory and/or financial side of the business. Below this threshold it is often 'silent' personnel such as the wife or other family members who assist with those tasks, but are often not suitably qualified as the following respondent of a growing printing business that employs 40 staff explained.

It used to be my brother who did it, but he wasn't very good at it. (#86).

Businesses that employed an office person dedicated to administrative, regulatory and/or financial matters were generally positive in the way that they felt that it helped them better manage regulation.

We talked about taxation before, most of it is routine and I have a really good office manager who works on MYOB and does all of that for me, she does the GST returns etc and I check things at the end of each month. She has made a huge difference to the business because before that my wife (she's a school teacher) and I would do it and we are both novices at accounting, we would be here at 11pm at night doing accounts etc and we said "this is stupid", so we hired Linda and it's one of the best things that I have done. (#17)

Management systems and processes

The second factor that emerged from the analysis is the extent to which the owner-manager is able to implement management systems and processes in the business. While established processes and systems are likely to be related to the firm size i.e. with increased firm size comes increased complexity, it seems that the business owner's approach to management is likewise important. This means that even in micro firm's well-established systems and processes were found because of the owner-manager(s) managerial capability and/or proactive and longer-term approach to business planning. For example, the following respondent operates an architectural office and has a long-term relationship with a business coach to help him develop his business. Setting up systems and processes was an important step in the development of the business as they provide 'stability' to the business. Further, this example illustrates that setting up systems and processes might not be necessarily driven by regulatory requirements, but by the goal to improve business performance.

Systems and process creates stability within the company, it ensures that we produce a high level of standard and quality designs and documentation to our clients so just like McDonalds you go and buy a Big Mac and fries here in New Zealand, Australia, Tokyo, LA then you get exactly what you want, the reason for that is there's systems and processes that everyone follows and that's the same thing within our company we've set up and that's come from the business coaching and reading books (#99).

Managing regulations, however, tends to become a routine task if appropriate systems and processes are in place as the following two respondents explain:

So there is quite a bit of work, but once you've got a system going, you just do it (#93).

Yeah, if you have your system in place to meet the requirements, you meet the requirements – it's not an issue (#65).

More importantly, businesses with well-established processes and systems find it easier to manage and adapt to changes in regulation. The following respondent was asked how she manages changes in regulation such as the introduction of Kiwi Saver:

It wouldn't make any difference, because once again the systems' set up and it's easy (#85).

Some respondents attributed the systems and processes they had in place to their personal preference as the director of a printing business describes:

Yeah, I love systems (#86).

Examples of systems and processes that businesses used were accounting software package such as *MYOB*, *Quickbook* or *Xero* and/or payroll software such as *iPayroll*. These technology-based systems did not only assist in managing regulation, it also

helped in adapting to changes in regulation such as the recently introduced increase in GST.

I've got a procedure to change our computer system on the 1st October, that's going to be relatively easy (#51).

Another benefit of using software packages is that the software providers tend to provide free courses for their clients which some of the respondents attended such as the manager of a film production company.

The girls and I have been on a couple of courses and we've got all of our instruction and have got a lot of help from our software supplier (#92).

For many small businesses the starting point for setting up technology-based systems is to better manage and control their financials, which in turn helps them comply with other regulatory requirements.

We have systems you know, we have to control the income and expenditure its really good, it's a good discipline for businesses, you know small businesses, no journals or things written in and rubbed out and all that (#55).

For some respondents, investing in technology helps manage and control their finances, and actually reduces costs by doing the basic accounting in-house rather than paying an external accountant. This seemed to be difficult to achieve in some remote locations where business owners had no access to broadband and relied on comparably expensive satellite internet access. The following respondent operates a dairy farm in the Otago high country.

It'll hopefully save me money on my accountant fees (#68).

Well, I couldn't get it [broadband] so I had to go to satellite, [...] Well, it's at a cost. [...] I paid three grand for 30 months. Like that was installation only. [...] And now it would be \$60 a month depending how much you download or upload (#68).

Not all business owners, however, are able to see the return of their investment into technology. For some respondents, investment in technology was simply another cost for the business and they could not see the added value technology could provide to their business. It seems that in these cases the owner-managers underestimate the cost of their own time to the business.

Well, I, no, I wouldn't go there, it's just too much expense. But I have a spreadsheet which I use and it works okay (#61)

In a few cases the respondents were simply not comfortable with using technology and preferred to do it the "old way" as one vegetable grower explains:

Things are changing more to online now. Yes, well, I don't mind change, if there's a really good reason for it, but just change for change's sake annoys me. A lot of people are geared up, you know, they do everything like that, but it's just that we're only just a small business and it suits us the way we do it really. [...] I have a fax here too. [...] They'd probably email me if I gave them an email address, but it suits me to fax. [...] In fact, I just replaced my fax and I'm not really happy with my new one, but I don't suppose people are even using them to much extent today. But I find it quite handy (#69).

INDIVIDUALS' ABILITY TO MANAGE

Another characteristic of businesses that appeared to manage regulation well was the managerial capability and experience of the owner-manager. Managerial experience and capability particularly assists with establishing systems and processes and fosters the use of technology, as discussed in the previous section.

The following main sources of managerial learning and experiences emerged from the analysis:

- (Senior) management positions within large corporations:

I set up [...] And as I said, I'd won some awards and I was able to bring a couple of clients to them, you know. And it was the commercial division of the company that was making money and the others weren't, which I kind of recognised and I thought, well, I'm bringing all this work in, I can do it myself now (#59).

- Previous business experience:

I've always been on the other side of the fence, so I run businesses for other people, I'd been in the hairdressing industry, I'd run laboratories in Australia and New Zealand I've run [business] and [business] in South Africa and generally worked in the sales and marketing arena (#54).

The following respondent operates a printing firm and attributes her management experience to the lessons she has learned with her first business that has failed.

I had another business in a similar area that went into liquidation. [...] Similar field, young and naive and if anything the previous business was way too successful to begin with so rapid growth. [...] Too fast and everything was financed, overcapitalised because of the demand and probably naively overcapitalised (#95).

- Business mentoring/coaching:

We had them involved for about five years of the business on and off, we went through two different business coaches because they have strengths in different areas and we sort of outgrew the first one and then we spent probably another 2 ½ years with the second one until we felt that we've outgrown them (#99).

- Formal qualifications:

But with engineers part of the training is, if you like, in management. Not specific business management but in project management. So, I mean, there are management skills there. Engineers are well regarded for their analytical skills and that's what we do. Analyse things (#84).

- Internal communication and staff feedback:

We have just processes and checklists so if something changes then our team is accountable, whoever finds the change they will make everybody hey just to let you know that this here's happening and so we work together (#99).

Learning about regulation

Learning about regulation and changes in regulation is an important factor that impacts on how SMEs manage regulation.

Three themes emerged from the analysis in relation to learning: sources of information and advice, the level of engagement with these sources and the capability to implement and act upon the information and advice obtained.

SOURCES OF INFORMATION AND ADVICE

Practice-based learning (i.e. learning that is embedded in everyday managerial practice) is a key source of learning in SMEs and has been well documented. This chapter focuses on so-called proximal and distal sources of learning. Proximal sources of learning⁴ include for example family, friends, peers and trusted advisers such as accountants and bank managers. Distal sources of learning include for example management training programmes, university courses and seminars run by chambers of commerce. With a few exceptions it seemed that availability of, and access to, information and advice in relation to regulation and changes of regulation were not perceived to be a problem for the SMEs in our sample. The majority of business owners felt that there was enough information available and they described themselves as capable of accessing information and advice using a variety of channels – at least with regard to general business regulation. There might, however, be specific areas of regulation (i.e. regulation specific to an industry sector), where information and advice is more difficult to obtain. Some of these rather specific areas of regulation will be discussed in a later chapter which focuses on sectoral issues

The main sources of information and advice that emerged from the analysis were:

- Trade associations, industry bodies, chambers of commerce and employers' associations
I joined them for one reason only, and that was to ensure that I was kept up to date with regulations (#86).
- Professional advisors such as accountants, lawyers and bank manager
Yeah Ernst and Young are our accountants so we've had one of their people looking after us for quite a few years, she knows our business reasonably well and she advises of any changes that are important they know about so (#58).
- Government departments via their website or hotline
I do find the IRD website is huge and there's a lot in it but it seems to be in chunks in different places (#92).
- Trusted business owners (peers):
When we made the last person redundant I spoke to, cause I knew one of the other firms I knew had been through the process. [...] Yeah so I said look what were the good points and what did you do wrong and he told me and you know that's good yeah (#95)
I might ask a friend or neighbour that I thought might know (#67)
- Media
Oh you find that out through the media (#66)

⁴ Proximal learning is regarded as a source of untapped potential that requires a trusted source, such as mentor, to fulfil and demonstrate potential

Most respondents were able to name at least one source of information and advice in relation to regulation. Similarly important to availability of, and access to, information and advice, however, was the respondents' capability to implement or translate the obtained information or advice into business practice.

With the GST increase in October 2010 for example, a few respondents said that they received enough information from the IRD or their accountant, but they struggled to implement this information into their business practice. Two common characteristics of these businesses were that they relied on a limited number of sources (e.g. information sent by IRD), and that they had limited access to or affordability of professional advice.

An example is a bespoke producer of leather goods, whose business was hit hard by the economic downturn and currently struggles to survive. The respondent is not a member of an industry body and seems to have limited access to sources of learning although he has many years of experience in the retail and apparel sectors in Australia and New Zealand. The respondent has received information from IRD about the forthcoming changes to GST, but he is unsure about how to handle the change and is afraid that the increase in GST will destroy his profit margin.

I should belong to the Manufacturers Association or the Chamber of Commerce or something. But they're all hundreds of dollars a year and that's on top of, you know, registering domains and websites and it's just a huge drain (#61).

Well, on occasions. I mean, if I need some help, I ring around two or three places. I don't often need it. It's just when you need it, where do you go? (#61)

But yes, I'm worried. I don't know how I'm going to handle it, because I don't know how I'll be told to handle it. And the rules do not allow me to change the invoice. I can't say, "Okay, hey, you haven't paid your bill, here's the new invoice at 15%." The rules don't allow me to do that and I can't take a 2.5% hit, which is effectively, it's 2.2 something, you know, that's just another hit. I can't afford that (#61).

LEVEL OF ENGAGEMENT

The level of engagement with the sources of learning - particularly industry bodies - was another factor that differentiated businesses. Engagement ranged from a "keeping up to date" approach by reading through the newsletters etc. to "providing a voice to government" approach.

- Relying on information provided

They do send us regular updates with what's happening in fact. So, we're able to have a look at it and see if it actually applies to us (#56).

- Actively seeking information and advice through engaging with advisors and participating in seminars

I can ring the Employers' Association because they give us \$100 voucher each year that we can have that advice free (#65).

We're members of EMA as well, employers manufacturers association, that's a good source too of information, always got a lot of training sessions and that available (#99)

- Networking with business peers

So, you're a member of... Oh, yes for the drinks. No, networking. Networking and the odd conference or something (#92).

One thing I've learnt as I've got older is that you know you have a group of friends and people who are talented. [...] In the beginning I did everything myself and made you know lots of good decisions but just as many bad ones because of that. Now I tend to try and get advice from those people, whether it be friends and I can get it for nothing or it be you know advisors (#54).

- Influencing the industry and providing a voice to government

We're members of the lobby group, for want of a better word. You know, the industry representative of producers, I'm on the Board of that (#92).

I'm involved at international level with what's called FIDEG, the International Federation of Engineers. [...] And I've been quite involved with a number of those because I've done quite a lot for the industry association but it's something that our association's do and so we have two, there's the IPENZ which is the Institute of Professional Engineers, that's about registration or individual engineers and engineering standards. The sort of technical side. And then we have the Association of Consulting Engineers which is more about the business side of running a professional practice (#84).

The EMA are worth supporting. They are worth our 7 or 8 hundred dollars a year, because they act as a consolidated voice to government for small businesses (#64)

CAPABILITY TO TRANSLATE INFORMATION AND ADVICE INTO BUSINESS PRACTICE

The interviews revealed that an owner-manager's capability to translate information and advice into business practice can be more important than their availability and access to information. Businesses that seemed to manage regulation well were characterised by:

- access to a range of different sources of learning
- well embedded in a network of trusted advisors
- proactive approach to learning
- active involvement with their industry
- internal systems that could translate into action e.g. staff meetings.

The following case study is an example of a business that struggles to manage regulation and only has limited access to information and advice which raised some issues around coping with and learning about regulation.

Case Study 1:

Firm #52 operates within the construction industry as a subcontractor to a large road maintenance company. The firm's primary work involves repair and maintenance work for footpath pavements for a local authority. The business is a husband and wife operated business that employs 15 staff and generates an annual turnover of \$600k. Both owners are from Tonga, but have been in New Zealand for more than 30 years. The wife works from home doing the paperwork and effectively dealing with regulation and her husband is managing the 'boys' who do the construction, repair and maintenance activities in the firm. The respondent admitted to struggling to meet tax payments required by IRD and confessed to incurring late payment penalties. Further, the respondent mentioned problems with managing GST and PAYE and the business could not afford to pay KiwiSaver. The systems appeared to be rather chaotic and financial returns were dependent on the firm's accountant. Overall this business had very limited networks and was virtually self-reliant, besides using the Pacific Business Trust during their start-up phase in 2003. When asked who they approach for advice the respondent answered: *Only with the Malaysian guy [person from whom respondent took over the sub-contract], he still talks to him and also some of the people he worked with, but not to outside people who he hasn't worked with before, but mostly just small circle, small circle (#52).*

Attitude towards regulation

In the second set of interviews, respondents were asked to indicate which of the following three statements best summarises their attitude towards regulation:

➤ Positive:

“Regulation is largely beneficial to my business since it raises standards in the industry, creates more certainty of trading and creates a level playing field for competing business.”

➤ Negative:

“Regulation is largely detrimental to my business because it adds costs to my operation and it makes it more difficult for me to manage the business.”

➤ Neutral:

“Regulation makes little difference to managing my business operation and to my business environment.”

Of the 51 respondents about half (53 percent) expressed a neutral attitude i.e. that regulation makes little difference to their business. One third of respondents (33 percent) believed regulation to be largely beneficial to their business and only 14 percent thought regulation to be largely detrimental to their business. Table 4 shows the detailed breakdown of responses. Due to the nature of the research, however, these numbers need to be treated with caution and should not be generalised. A comparison with results from a quantitative survey undertaken by Kingston University (2008) indicates that in the UK 11 percent of respondents perceived regulation to be beneficial for their business compared to 31 percent of respondents in our study. Similarly, 32 percent of UK respondents perceived regulation to be detrimental, compared to 14 percent of respondents in our sample. While it can be argued that the regulatory environment in the UK is different, as well as the research method that was used, social desirability bias or sampling bias might need to be considered.

	N	Percent
Neutral	27	53
Positive	17	33
Negative	7	14
Total	51	100

Table 4: Attitude towards regulation

Given the purpose of the research and the nature of our methodological approach in this chapter explores the relationship between individual attitudes towards regulation and how business owners approach and manage regulation rather than the relative frequency of responses for each attitude category.

NEGATIVE ATTITUDE TOWARDS REGULATION

Seven respondents expressed a negative attitude towards regulation. The following quotes exemplify the negative attitudes expressed by the respondents.

And so the ‘sword of Damocles’ that I’m referring to, it’s an axe that sits above you and you don’t know quite when it’s going to fall, whether you answer rightly or wrongly and this is what I see as to be the issue of dealing with the governmental bureaucracy that we have to deal with. Issues such as

employment law, occupational safety and health, human resources. [...] We're over regulated. (#62).

Well, the thing that frustrates me is, well, not all government departments, but I mean, all these departments who, to me, are very inefficient. I mean, you can ring a department and ask a question and ring a couple of hours later and get somebody else and you get a completely different answer (#69).

Regulations are a pain in the arse. Right. Tell me more about that then. Oh, this country has become so bureaucratic. In what area? Regulations on all aspects have got increasingly complex, no complicated. Complicated? Complicated. And there is a difference between complicated and complex. Complicated means they defy common sense (#83).

The seven businesses that expressed a negative attitude towards regulation are briefly portrayed next. The key characteristic that all of the seven businesses had in common were that they were surviving rather than thriving. These firms were struggling to survive, but for different reasons, including the recession, competitive environment, declining industry, lack of innovation and lack of business planning. Further, all of the firms were struggling to comply with at least one set of regulation. The following examples will illustrate these key characteristics.

#52: Business number 52 is operated by a husband and wife from Tonga. They are contracted to a large roading company to repair and maintain footpath pavements for the local authority. They currently employ 15 staff and generate revenue of \$600k. The respondent mentioned that they experience cash flow constraints and that the financial management of the business relies predominantly on the accountant, who was mostly the couple's only source of advice. Overall the business seemed to be quite vulnerable and they were struggling to cope with tax requirements.

#61: The next firm, business number 61 is a bespoke producer of leather goods that currently employs 11 staff and generates revenue of \$650k. The business struggles to survive and the respondent mentioned taxation, employment and workplace health and safety as areas that he finds difficult to comply with.

#62: Business number 62 operates in the printing and corporate apparel area, employs 15 employees and generates a turnover of about \$1m. The business relies on a few key accounts and it has been vulnerable to employees letting down key customers, who then take their business away. Difficulties with making disaffected staff redundant took him almost into bankruptcy.

#67: Business 67 is a sheep farm that employs casual staff if needed. The business generates a turnover of about \$400k. Working with rather laborious, paper-based systems, he struggled to cope with regulation but was well integrated in a network of sources of advice. He was particularly negatively affected by the tenure review system and environmental regulations imposed by ECAN which he believes were too rigid and bureaucratic.

#69: The next firm, number 69, was a traditional vegetable (mainly potatoes) growing business that was operated by mother, son and daughter-in-law with the help of three casual staff. The business was still very reliant on manual labour with little mechanical equipment other than a tractor. The business generated revenue of \$1m. The respondent was the mother who was well past retirement age (73), but still took an active part in managing the business and dealing with regulation. She used rather laborious paper-based systems and seemed to struggle to cope with regulation. She found it difficult to source information from government and regards their operation as inefficient.

#73: Number 73, a sheep and beef farm business is operated by 69 year old sole owner, who employs 4 FTE plus seasonal workers and generates a revenue of \$1.2m. Cashflow issues were apparent and business planning was reduced to keep surviving. The respondent was negatively affected by the employment law and the Resource Management Act, particularly in regard to water rights and ability to construct tracks and culverts on the property.

#83: Firm 83 is an architectural business that has a second operation in Sydney. The respondent employs 18 staff and generates revenue of about \$1m per office. Although the business seemed to be very well managed, the business is struggling in the current economic climate. The respondent was negatively affected by the Resource Management and Building Act that he believed defied common sense and made his business unprofitable.

Attitudinal differences were examined in relation to owner and business demographic characteristics, but no robust relationship was found. The evidence suggests that there are negative attitudes towards regulation across businesses in all sectors.

Table 5 provides an overview of a systematic analysis of the relationship between negative attitudes toward regulation and the four factors that have been identified in the previous chapter to impact on the capability to manage regulation: resource capacity, systems and processes, use of technology and managerial experience. In four of the seven cases, owner-managers with negative attitudes lacked resources and well established management systems and processes, they did not use technology to assist with managing regulation and their managerial experience was limited. The direction of the relationship between negative attitudes towards regulation, limited resources and a lack of systematic approach to management, however, is difficult to establish.

	Resource capacity	Well established systems & processes	Use of Technology	Managerial experience
#52	Low	No	No	Limited
#61	Low	No	Yes	Limited
#62	Medium	Partly	Yes	Limited
#67	Low	No	No	No
#69	Low	No	No	No
#73	Low	No	No	No
#83	Medium	Yes	Yes	Limited

Table 5: Relationship between negative attitudes and capability to manage regulation

Respondent number 62 who operates a printing business and number 83 – the architect, represent an exception in the sense that their negative attitude towards regulation was not necessarily linked to their approach to management or their resource capacity. Both participants, however, reported negative experiences with specific sets of regulation that threatened the existence of the business. In the case of the architect it was the Resource Management Act and in the case of the printing business it was regulation related to making staff redundant. In these two cases, the negative attitudes towards regulation seem to stem from their negative experience with regulation rather than from a lack of resources or their approach to management.

In contrast, respondent number 52 – the roading contractor, and number 69 – the vegetable grower, had a negative attitude towards regulation in general that did not stem from a particularly negative experience. Both cases, however, lacked resources, systems and processes, technology and managerial experience.

Overall, it seems that negative attitudes towards regulation are related to one or more of the following factors that mutually affect each other: limited resources, lack of strategic approach to management, previous negative experience with regulation, difficulty complying with (a specific set of) regulation and struggling to keep the business surviving.

Negative attitudes towards regulation might be interpreted in the light of cognitive dissonance theory (Festinger, 1957). Cognitive dissonance describes an uncomfortable feeling that is caused by conflicting cognitions i.e. perceptions, thoughts, attitudes, intentions. Strong dissonance emerges particularly when fundamental elements of the self-concept are endangered such as realising that a decision that was made was wrong or realising that expectations or set goals cannot be met despite great effort. Both situations are likely to be familiar to small business owners. The dissonance might be resolved through either changing an attitude to match the behaviour, or changing the behaviour to match the attitude. A further strategy to resolve cognitive dissonance is rationalisation i.e. the tendency to create additional reasons or justifications to support one's choice. From a cognitive dissonance point of view, negative attitudes towards regulation i.e. "blaming regulation" can be explained as a means of rationalisation and thus resolving cognitive dissonance.

Alternatively it can be argued that regulation can become a major issue for firms who are finding it difficult to survive, have limited resources and lack a systematic approach to management. In these instances when a business is struggling to simply become profitable, regulation might be an additional hurdle that can become a significant burden.

POSITIVE ATTITUDE TOWARDS REGULATION

Twice as many respondents with positive as opposed to negative attitudes towards regulation were encountered in the study. Again it was found that, of those with positive attitudes towards regulation across all industries, the underlying individual experiences that shaped the attitude towards regulation were quite diverse. The following examples provide a crosscut sample of themes that we encountered.

Firm number 56 is a traditional manufacturing business that produces post drivers for farmers and fencing contractors. The business employs 15 staff including a general manager who deals with the day-to-day operation of the business. The firm produces a niche product and the business relies on overseas markets for 40 percent of its turnover. The business was predominantly affected by overseas regulation that affected the provision of a safety guard of their product that was currently not required in New Zealand. The respondent, however, accepted the importance of regulation in general. He saw the overseas safety regulation not as a problem, but as something that could give him an advantage over other businesses.

Despite his generally positive attitude towards regulation, the respondent does mention the costs regulations incur. However, he makes an important point that seems to distinguish respondents with positive attitudes from respondents with negative attitudes: regulative requirements might drive the implementation of appropriate systems and processes to manage regulation which then becomes a routine task and what he calls "an attitude" i.e. an approach to manage the business rather than a set of regulations.

It's a pain to actually comply and make sure that you've dotted all the i's and crossed all the t's, but you've just got to do it and if you keep it up to date and review it regularly it becomes an attitude to what you do. [...] Yeah, it's not a problem. With that, whilst it adds a cost to it, it has actually been a marketing tool because we can say the machines complies with all the safety requirements of the local standards – of the government – so, it's you know, I mean you can fight them and lose the business, or you can comply and make business. [...] The regulations are there for a reason (#56).

Respondent number 59 operates an animation studio that is highly dependent on public funding. Regulation is just part of being in business and for him there are more important issues on an industry level that affect his business than regulation.

I'm also quite level-headed and I think and this is all just part of a process, the way I regard it. And there's no regulation that I can think of that has been a problem, you know. It's more about some fundamental problems within our industry that need addressing (#59).

Respondent number 76 operates a large-scale dairy farm with 14 staff and a turnover of \$5m. Despite his strong concerns around the Resource Management Act (RMA), particularly in regard to consents for water use and irrigation, he has an overall positive attitude towards regulation. Despite the negative impact the RMA has on this business, he recognises the importance of the regulation with regards to environmental sustainability. He was particularly positive about animal health regulation as it ensures New Zealand's competitive advantage in international markets. As he regards himself as a good employer he expressed a positive attitude towards employment regulation as it creates a standard and level playing field within the industry.

First comes to mind the animal health things, I think that benefits us cause it protects our markets you know so that would be one. I guess as much as I have been speaking about the negatives of irrigation the positives is that we don't want to overuse the resource so that's, so there has to be regulation on that we accept that so that's another one. And I guess being an employer I mean I class myself as a good employer but I am always learning but there is a lot of employers out there that maybe aren't quite so good so it's good that there are restraints and things on them by which you can have some control of them (#76).

Respondent number 82 is a metallurgist who operates in a niche market by providing ultrasonic services. The business employs 18 staff and generates revenue of \$2m. Despite some very bad experiences with the IRD that cost him a lot of resources to get sorted, he generally expressed a positive attitude towards regulation. Due to the hazardous nature of his operation, compliance is not only important for personal safety, but is a prerequisite for getting contracted.

We're by nature very regulated because we're dealing in hazardous operations and we're often in site situations where we're totally controlled by the regulations of Contact Energy or something like that, you know, if we want to do anything you've got to fill out a sheet to be able to do anything onsite to start with and meet all their requirements. But at the same time I think it's a good thing because once you get that piece of paper to say that you're qualified to do that then, yeah, you can go ahead and do the job (#82).

Respondent number 99 operates an architectural business that employs 10 staff with a turnover of \$700k. He places great importance on managerial learning and development and sees managing regulation as a part of managing a business well. Despite concerns over the RMA, particularly the right of neighbours to stop developments without due reason and the increasing imposition of development levies, he regards regulation as providing important guidelines for his staff. The

respondent believes that knowledge of and the capability to manage relevant regulation (e.g. RMA or Building Act) gives them the status of experts. He places great importance on communicating regulation and changes in regulation internally.

It creates a guideline for everyone to understand how that function operates. [...] We have just processes and checklists so if something changes then our team is accountable, whoever finds the change will make everybody aware 'hey just to let you know that this here's happening' and so we work together (#99).

Table 6 provides an overview of a systematic analysis of the relationship between positive attitudes toward regulation and the four factors that have been identified in the previous chapter to impact on the capability to manage regulation: resource capacity, systems and processes, use of technology and managerial experience.

Results showed that respondents with a positive attitude towards regulation were likely to have medium to high resource capacity, to have well established management systems and processes in place and to use technology to assist with managing regulation. Further, most respondents were experienced managers. Compared to respondents with negative attitudes towards regulation, respondents with positive attitudes towards regulation seemed to have a more systematic approach to management.

	Resource capacity	Well established systems & processes	Use of Technology	Managerial experience
#55	Medium	Yes	Yes	Yes
#56	High	Yes	Yes	Yes
#59	Medium	Yes	Yes	Yes
#70	Low	Partly	Yes	Limited
#71	Medium	Yes	Yes	Yes
#76	High	Yes	Yes	Yes
#78	Medium	Yes	Yes	Limited
#82	Medium	Yes	Yes	Yes
#86	Medium	Yes	Yes	Yes
#87	High	Yes	Yes	Yes
#89	High	Yes	Yes	Yes
#91	High	Yes	Yes	Yes
#92	High	Yes	Yes	Yes
#94	Low	Partly	Yes	Limited
#95	High	Yes	Yes	Yes
#96	High	Yes	Yes	Yes
#99	Medium	Yes	Yes	Yes

Table 6: Relationship between positive attitudes and capability to manage regulation

Three cases slightly departed from the general pattern in the way, that they had limited resource capacity, only partly well established systems and processes and limited managerial experience. Respondent number 70 and 78 were both farmers and respondent number 94 was a traditional small manufacturer.

Respondent number 70 was a traditional sheep and cattle rearing farm business, run as a family business by father and son. Both father and son were interviewed and they had divided the role of dealing with regulation between them, the father still relied on logs and a diary system, whereas the son preferred online systems as for example filing tax returns. In moving to online systems, however, access to broadband was an issue, with their internet services currently provided by satellite.

Respondent number 78 was an orchardist/fruit grower who ran the business with his brother. Given the small size of the business and the fact that he was the only person dealing with regulation, it seemed to be a well managed business. As an exporter, complying with the specifications given by overseas retailers might at times stretch the limited resource capacity.

Respondent number 94 the owner-manager of a very small, traditional metal bashing business, focusing on one-off jobs from construction industry clients often in specialised areas such as cranes and lift machinery. The business was only micro in size with four employees, relying very much on the owner-manager. The respondent was a capable administrator, but very much like other businesses in this sector relied upon published printed material for information and paper based systems. However, he had started to use the internet and found that useful.

NEUTRAL OR AMBIVALENT ATTITUDE TOWARDS REGULATION

The majority of respondents expressed a neutral attitude towards regulation, believing that regulation makes little difference to their business. Neutral responses grounded in three perspectives on regulation that are exemplified with some quotes.

Regulation is a legal requirement and is part of being in business:

It's part of doing business (#89).

To me, it's a necessary evil. These things happen. You can't change it. You've just got to make the best of it (#86).

It's like you get a speeding ticket, alright, you know the law, you go fast, you get a ticket, why get upset? You understand that. I mean, ACC is like a speeding ticket, isn't it? It's the law. If you don't want to pay ACC, go and set up in China, Indonesia, Vietnam, no ACC there. This is New Zealand, this is what we do and this is what you've got to live with, isn't it? [...] There's way more important things to get upset about (#60).

Regulation is just a cost to the business, but they are viewed as important nonetheless:

It is just a cost on the business. Obviously, I would much prefer to have less regulation. It would make life much easier for us and would save us money, but there are no regulations out there, at the moment, that affect me that are negative, particularly negative, they're just annoying, you know, expensive (#93).

Well I guess it's a necessary evil and having said that of course we need some regulation. [...] We haven't got to a ludicrous point yet in terms of regulation, but we will no doubt get there one day (#100).

There are negative and positive aspects of regulation resulting in an ambivalent view:

Very negative about some things and very positive about others. I guess that in the balance of things, I'd be neutral. Well, I find them a cost more than

anything. They're not – they don't restrict what I do, but it's just – It's an additional cost (#64).

Similar to the previous two sections, a systematic analysis was undertaken of the relationship between neutral attitudes toward regulation and the four factors that have been identified to impact on the capability to manage regulation: resource capacity, well established management systems and processes, use of technology and managerial experience. Table 7 provides an overview of the results.

	Resource capacity	Well established systems & processes	Use of Technology	Managerial experience
#51	High	Yes	Yes	Yes
#53	Medium	Partly	Yes	Yes
#54	Medium	Yes	Yes	Yes
#58	Medium	Yes	Yes	Yes
#60	Low	No	No	No
#63	High	Yes	Yes	Yes
#64	High	Yes	Yes	Yes
#65	Medium	Partly	Yes	Limited
#66	Low	Partly	Yes	Limited
#68	Medium	Partly	Yes	Limited
#72	High	Yes	Yes	Yes
#74	Low	Partly	-	No
#75	Low	Partly	-	No
#77	Low	Partly	Yes	No
#79	Low	Partly	Yes	No
#80	Low	Partly	-	No
#81	Medium	Partly	Yes	Limited
#84	High	Yes	Yes	Yes
#85	Medium	Partly	Yes	Yes
#88	Medium	Partly	Yes	Limited
#90	Low	No	No	No
#93	Medium	Yes	Yes	Yes
#97	Medium	Yes	Yes	Yes
#98	Medium	Partly	Yes	Limited
#100	-	-	-	-
#101	High	Yes	Yes	Yes

Table 7: Relationship between neutral attitudes and capability to manage regulation

While it was possible to establish a relationship between systematic approach to management and negative attitudes towards regulation as well as positive attitudes towards regulation, no such relationship was found for neutral attitudes towards regulation. Results indicated a rather mixed pattern that did not allow making a coherent conclusion. Some respondents who stated a neutral attitude towards regulation showed signs of resource scarcity as well a lack of a systematic approach to management. Others, however, reported a high resource capacity with well established systems and processes, use of technology and managerial experience.

The lack of relationship between neutral attitudes and the approach to management could be explained on the basis of potential response bias. Response bias describes a cognitive bias that occurs when respondents answer questions differently to what they actually believe. In the case of this study social desirability response bias is probably the most likely one that needs to be considered. Social desirability response bias describes the tendency of respondents to (often unconsciously) answer in a way that seems socially acceptable. It could therefore be argued that some respondents might have had a negative attitude towards regulation, but have chosen to answer with a neutral response. This reinforces the argument that results in Table 4 need to be treated with caution.

In summary, a descriptive analysis of the results from Tables 5, 6 and 7 was undertaken to illustrate the relationship that was found between attitudes towards regulation and the factors that impact on the capability to manage regulation. Results showed that 71 percent of respondents with a negative attitude towards regulation have only limited resources available in their firm. This number decreases to 12 percent for respondents with a positive attitude towards regulation. A similar trend was found for all four factors analysed. Details can be found in Table 8.

		Negative		Neutral		Positive	
		N	%	N	%	N	%
Resource capacity	Low	5	71	8	32	2	12
	Medium	2	29	11	44	7	41
	High	0	0	6	24	8	47
Well established systems and processes	Yes	1	14	10	40	13	76
	Partly	1	14	13	52	4	24
	No	5	72	2	8	0	0
Use of technology	Yes	3	42	20	91	17	100
	No	4	58	2	9	0	0
Managerial experience	Yes	0	0	12	48	14	82
	Limited	4	58	6	24	3	18
	No	3	43	7	28	0	0
	Yes	0	0	12	48	14	82

Table 8: Relationship between attitudes and capability to manage regulation

Overall, results suggest that the four factors that we identified as impacting on the capability to manage regulation were highly interrelated. This means that respondents, who were lacking resources and managerial experience, were likely to lack well established systems and processes. On the other hand, respondents with

higher resource capacity and some form of managerial experience were more likely to have at least partly established systems and processes in place. This clearly illustrates the interrelatedness between the firm's capacity in terms of resources, systems and processes and the owner-manager's capability in terms of managerial experience.

Sector perspectives

In this chapter we focus on three contrasting sectors from the analysis of the second set of interviews. Firms were selected from three different sectors based on the following assumptions:

- Traditional manufacturing i.e. engineering characterised by increased competition from overseas, high overhead costs, lack of qualified staff, potentially importing, comparably high level of regulations.
- Creative industries i.e. media and design that is characterised by rapidly changing technology and business environment, business models that are based on flexibility i.e. project type work, contracting people instead of employing staff and a comparably lower level of regulations.
- Primary production i.e. food production characterised by large number of exporters, exposed to price volatility, seasonal cycles and comparatively high level of regulations.

It has to be noted, however, that some of the firms did not match these categories exactly, due to sampling and recruitment constraints. Despite narrowing the focus to three industries great diversity within these sectors was still encountered. Particularly within the traditional manufacturing sample we encountered examples of firms with comparably low degrees of engineering such as printing. A number of firms in three specific industry sectors were identified however, which allowed for the completion of case studies on: the printing industry, the film and media industry and, primary production.

CASE STUDY: PRINTING INDUSTRY IN WELLINGTON

Four businesses operated within the printing industry and were all located in greater Wellington. The following section compares these four businesses in terms of their firm demographics, their business performance, the impact of regulation and how they manage regulation.

Table 6 shows that two businesses (#86 and #89) operated in a narrow niche market, while the two other firms had a slightly broader focus. With the exception of number 86, all of the businesses were still operated by the founder, although in number 85 the owner's son is due to succeed soon. In the case of number 86, two brothers and a sister bought out their father about five years ago.

	#85	#86	#89	#95
Focus	Digital design and print	Labels for food industry	Business forms	Digital desktop publishing
Structure	Husband and wife	Brothers and sister	Husband and wife	Owner-manager and one silent investor
Year of establ.	1945	1965	1986	1998
No of staff	12 (-1)	40	16	12
Turnover	\$1.6m (+)	\$10m (+)	\$3m	\$2m
Attitude to regulation	Neutral	Positive	Positive	Positive

Table 9: Characteristics of case study firms

Case Study 1:

#85: Firm number 85 is a traditional print business run by the owner-manager. The business does digital design and print - for example stationary, magazines, flyers, books. The number of employees has remained stable at 12 FTEs. Although he has been affected by the downturn in the recession, they decided to make one person redundant about 18 months ago which was considered by them to be sufficient. An office manager acted like a general manager and dealt with regulation. The firm appeared to have well-established systems and processes. The major issue for firm 85 came with the decision to make a person redundant. It was clear that they were not particularly well prepared for this, it was a case of 'last in-first out' and they seemed to-rely heavily on advice from the print industry trade association (*PrintNZ*). Given the long-established nature of the business and the owner, he used his network of peers fairly extensively for advice, which was important as a source of information and learning. Monthly staff meetings were held and encouragement given to improve processes. The respondent had a rather neutral attitude towards regulation which might be attributed to their latest problems of complying with provisional tax requirements. Further the respondent admitted that they might not comply with all of the OSH regulation.

Case Study 2:

#86: Firm 86 was a progressive business, yet in a traditional print sector. The respondent ran the business together with her two brothers who had bought out their father about five years ago; this seemed to be an acrimonious process. They have focused on a niche market which is printing labels for food & drink producers and others such as wineries. They employ 40 FTEs who work over two shifts to maximise productivity. They were large enough to have administrative systems and processes in place to deal with all aspects of regulation. The respondent mentioned the concept of lean management which they were now striving for. It appeared that they did all they could to achieve excellence in their product and processes. The respondent had a very positive attitude to regulation, which she saw as helping them to maintain quality. The business holds an environmental certification and the certification and re-auditing process is regarded as important to improve performance in all aspects of the business. The respondent used a variety of sources of learning, but preferred the Employers & Manufacturers Association (EMA) or Chamber of Commerce (CoC) (which locally had merged) over their industry trade association (same as first case) which she described as "very old school, old men".

Case Study 3:

#89: Number 89 was a niche printing business focusing on printing forms for a number of 'print brokers' who deal with major public services such as NZ Police and health bodies. The business seemed to rely upon a relatively small number of major clients, but has retained them by proving a benchmarked quality service. The company has grown steadily and now employs 16 FTEs. The company's size allows it to employ an administrator who deals with most of the finance issues, and a communications liaison who obtains information on a range of issues including regulations and makes sure that this is disseminated to staff. One area to note was the emphasis that this owner-manager paid to internal communications to staff with regular staff meetings, acting on suggestions from staff especially on H&S and environmental issues. The business holds an environmental certification which has been very beneficial for the company and indeed it could not operate without it as this was necessary in order to secure contracts from the public sector. Sources of advice included the printing industry trade association, especially on employment contracts and regulations. The firm knew other print companies and referred business to them.

Case Study 4:

#95: Firm 95 was a small digital print business that specialised in desk top publishing. They relied on investment in latest technology and machinery and the respondent indicated that he attended trade fairs and events in North America and especially Europe to observe the latest printing technology and future trends. He was the owner-manager with a silent partner who had a 'complementary' business. He had recently started a web-based digital photo company to take advantage of increasing web-based trends in the industry to provide a be-spoke service to professional photographers. The respondent was an 'alert' entrepreneur, seeking to find opportunities to exploit and making sure that he was up with the latest trends. As with other businesses in this sector, the respondent had found regulation and employment regulations restrictive making it difficult to dismiss an employee. The trade association and other business owners were important sources of information in this situation. The respondent had originally started a business after arriving from Zimbabwe, in the 1980s. This business had expanded too rapidly and failed due to over trading. However, he was able to restart and this experience made him aware of the mistakes that he had made, illustrating the importance of previous experience and learning mentioned in the earlier chapters.

The four case study firms illustrate that the printing industry has changed remarkably due to the increased use of digital technology. Print marketing is now competing against cheaper forms of marketing such as email, internet or mobile. Further, the industry has suffered from the economic downturn as a lot of businesses have cut down on their print marketing. With the exception of firm number 86 which produces labels for the food industry, all of the firms in this case study have been significantly negatively affected by the recession. Besides facing a shrinking market and increased competition, the four businesses are facing high costs because of investment in new technology which is regarded as inevitable to maintain competitiveness. Approaches other than investing in new technology that were used by the firms comprised:

- reducing costs through letting staff go (#85)
- increasing productivity (#86)
- specialisation (#89)
- diversification (#95) and
- networking through collaboration with other businesses informally and on an ad-hoc basis (#89) or formally and strategically through shared ownership (#95).

Two areas of regulation emerged across all four case study firms that seemed to impact most on businesses – environmental regulation and employment related regulation.

All of the four businesses mentioned increased pressure to reduce environmental impact – mainly from public sector clients, however, their approach to manage environmental regulation, was individually different. While one business responded (#85) in a rather reactive manner and was satisfied to achieve the necessary level of compliance that some of his clients required. The other three respondents took a more proactive approach with two businesses holding environmental certification (#86 and #89). The third business (#95) has not yet gone through a formal certification process because of high associated costs. The role of public sector procurement seemed to play an important role in driving environmental practices in the selected businesses by specifying minimum standards for qualification, particularly for the two businesses that held formal environmental certification. These

firms viewed environmental sustainability as a means to increase their productivity and used environmental regulation to the benefit of their business.

The second trend that emerged from the analysis was the welcome flexibility brought about by the introduction of the 90 days probation. All of the firms had sufficient access to sources of information and advice either through industry bodies or business peers that they used if needed – as in the case of respondent number 85 who made one staff member redundant last year. The respondent knew other print businesses owners who he consulted and this ability to network was an important factor that positively affected the respondent’s capability to manage the redundancy process.

CASE STUDY: FILM AND MEDIA INDUSTRY

Three businesses in the sample operated within the film and media sector, two in Wellington and one in Auckland. The following chapter compares those three businesses in terms of their firm demographics, their business performance, the impact of regulation and how they manage regulation.

	#59	#92	#93
Focus	Animation	TV and film production	TV and film production
Structure	Husband and wife	Wider shareholder group	Wider shareholder group
Year of establ.	1997	1977	1985
No of staff	19(-16)	17	6
Turnover	\$3m	\$10m	\$10m
Attitude to regulation	Positive	Positive	Neutral

Table 10: Characteristics of film & media industry case study firms

Case Study 1:

#59 Firm 59 is an animation studio that creates animations for the commercial (advertising) and entertainment industries. The co-owner and founder of the business has been and continues to be actively involved in government initiatives aimed at developing New Zealand’s creative sector. The goal for the business has been to move away from dependence on commercial work and to the development of long form animation involving television and feature film production based on its own intellectual capital. This transition depends on the funding of the New Zealand Film Commission on the commissioning policy and resources of New Zealand On Air. It is this area of industry support/regulation that most concerns this respondent as the scope to obtain commissions from overseas film and television companies is limited, although the company has had some successes. The basic need is for additional resources to be given to commissioning bodies as their current priorities, which do not value animation highly, are difficult to challenge. As a studio they have been affected by the reduction in advertising spending and have downsized from a peak workforce of around 35 to 19, with a large contract workforce drawn upon. The downsizing experience partly explains their other areas of regulatory concern: the benefits of employment flexibility, including probationary employment periods.

Case Study 2:

#92: Business number 92 is a media production company that was founded in 1977. The main respondent, the business manager, revealed that the business operates with 17 staff, but that the number employed fluctuates greatly with the level of contracts and the level of production. The business could employ up to 100 staff at any one time, and up to 200 staff during a major production. The firm produces high quality TV programmes for national broadcasters as well as international broadcasters such as the BBC and ITV. The main concern for the respondent was employment regulation with a particular focus on industry-related employment issues, such as the controls imposed by Actors Equity New Zealand. The industry body represents actors who work in New Zealand and plays a major role in granting permissions for performers to work in New Zealand. This restricted how the company could operate in New Zealand. The relevant body is based in Australia and it was considered by the respondent to be biased, making it difficult to get the required visa permissions for performers to work in New Zealand. Visas are only issued to visiting actors and performers who have the Equity accreditation/permission. The process in getting this 'permission' was seen as bureaucratic, difficult, costly and time consuming.

Case Study 3:

#93: Company 93 is a long-standing film and TV producer, which was founded by the respondent 25 years ago. The nature of the operation of the business is very volatile, with six permanent employees and the number of staff on contract varying with each production. The main discussion in terms of regulation focused on the complexity of dealing with contract staff to meet IRD requirements. The fact that most contract staff are self-employed adds to the complexity. They have to check the IRD status of each of the contract staff, whether they are self-employed and want them to deduct PAYE, whether they are exempt or whether they operate as a business and then are invoiced for all services. After some discussion he admitted that this was quite onerous, but through experience they knew how to deal with such staff and how to check their status. He admitted that for a new company starting up in the sector it would be arduous, although advice could be obtained from the industry body. With every project that they obtain, they allocate one person to sort out contract staff and deal with PAYE issues. Obtaining visas for overseas workers was another regulatory area that the respondent suggested caused problems within the wider industry.. His contract workers were mainly production staff, as opposed to performers, so he was not affected as much as other firms. Local authority permission was sometimes needed to film in public locations or in natural reserves, and while this process might be different depending on the local authority, it was generally not considered a problem. The business was coping with regulation because of the availability of an office manager and because of the long-standing experience of the respondent in the industry.

The three case study firms illustrate the dynamic nature of this industry. Each firm operates with a small number of permanent staff and contract in additional resources and expertise as required. For a mid to large-sized project over a six to 12 month period, up to 200 staff might be contracted, which challenges the firm's systems and processes. Not surprisingly the firms' biggest concern with regard to regulation was employment regulation and to some extent taxation i.e. PAYE for contracted staff. Each of the three firms appeared to be well managed with well-established systems and processes in place, this is crucially important for the firms to cope with the fluctuating workforce. Despite the at times large workforce, these firms are still "small" and operate without an HR department.

I think the thing about being an SME is that we don't have an HR department. At the university you've probably got 9 people sitting in a room thinking about this stuff. We don't. [...] I'm the only one who thinks about this kind of stuff (#92).

Resource capacity and well set up systems and processes have been mentioned in an earlier chapter as an important factor that impacts on how well regulation is managed. In addition, this film and media industry case study is the “*importance of the dynamic capability*” of the firm (Macpherson et al., 2004; Teece et al., 1997). the capability of the firm to quickly respond and adapt to changes in the business environment. In the dynamic context of this industry it is therefore not only important to have the necessary resources, but to actually develop and renew them constantly.

Another theme that emerged centred upon obtaining work visas for overseas workers. While the actual regulatory framework around immigration itself did not seem to cause major problems, the accreditation process set up by the industry body (i.e. Actors' Equity New Zealand) was regarded as problematic. Given the recent turmoil around securing the production of the Hobbit films, these comments have to be treated with caution.

Overall, the three case study firms showed a high level of engagement at an industry level through lobbying, holding board positions and extensive networking. The businesses had sufficient access to sources of information and advice. Compared to the printing industry case study, it seemed that the film and media industry bodies were considerably stronger and had more negotiation power with regard to some of the issues that concern the industry.

CASE STUDY: PRIMARY PRODUCTION

The 15 interviews in the primary production sector consisted of dairy, sheep, and cattle farmers, as well as fruit and vegetable growers. From a managing regulation perspective three groups of businesses emerged with similar issues:

- Dairy, sheep and cattle farmers (10)
- Vegetable growers for the domestic market (2)
- Fruit growers for the international market (5)

Each of the three subsectors is described more in depth in the following section.

Dairy, sheep and cattle farmer

Because of the considerably large number of cases within this subsector, we only provide two case summaries as exemplars for dairy and sheep farmers.

Case Study 1:

#66: The interviewee from firm 66 was a farmer in a rural location in the ‘high country’, northern Otago. The farm was mixed stock rearing, mainly sheep focusing on raising lambs. The farm effectively was tied to supplying Silver Fern Farms (SFF), a company that marketed the final product. The farmer had to maintain standards set by SFF. The relationship with SFF gave him certainty of income since he knew in advance, from year to year, what price he would get for his product (lambs). His productivity depended partly on the season, and partly on how many lambs he could get from his stock ewes. He was able to merge two former farms to run a much larger business, as he considered farm size critical to getting a decent return. He had been able to develop the business through an additional investor, who was a current dairy farmer in Canterbury.

Case Study 2: #68:

This traditional dairy farm business, firm 68, has operated as a family firm since 1998. The firm was operated by the owner and farm manager and employed three fulltime staff generating revenue of \$2m. The output was taken directly by Fonterra who effectively provided regulation of the product and milk quality. He had started with one farm and bought out another, and was still looking to expand if an 'opportunity arose'. The respondent considered the current conditions in the dairy industry to be very good, primarily because of the returns paid by Fonterra. The success of the dairy farm effectively depends on the success of the sole buyer, Fonterra, and their global marketing strategies, however, there was little doubt that the dairy industry was doing very well and not affected by the global recession.

Overall, results showed that this subsector was particularly affected by local authority regulation. Examples mentioned included Resource Management Act e.g. construction of tracks and culverts, irrigation and effluent disposal and environmental regulations such as for example weed control. Particularly with respondents from the South Island it seemed that the impact of regulation varied by location (i.e. Otago and Canterbury with Environment Canterbury (ECAN)) playing a major role in enforcing environmental regulation. Because of the diverse area that ECAN covered, a consistent environmental policy was not regarded as being appropriate.

The South Island high-country farmers in this group further mentioned the Tenure Review Act for Crown pastoral lease land which was considered to be a lengthy process i.e. one respondent mentioned that the review took eight years which results in a large degree of uncertainty for the individual farmer.

A key characteristic of the firms in this subsector was being embedded in a cooperative such as Fonterra or SFF. These organisations had their own set of regulation around safe and secure farming practices and members were regularly audited. Regulation was even expected to increase because of the growing demand to track produce to source origin. While a few respondents did complain about the cost of complying with these regulations i.e. time to fill in paperwork, they generally had a positive attitude towards these industry related regulations. Overall they were considered beneficial by setting standards and maintaining high levels of quality – the basis of which their products were sold internationally. Overall the cooperatives appeared to play a major role for the businesses in this sub-sector not only by providing regulation, but by facilitating the development of systems and processes to deal with regulation.

The diverse experiences with regulation in this subsector are reflected in the respondents' attitudes towards regulation. Three respondents expressed a negative attitude towards regulation and two respondents expressed a positive attitude towards regulation. The remaining five respondents preferred neutral response.

Vegetable growers for domestic market

Two businesses operated within this sub-sector and they are briefly described in the following two paragraphs.

Both businesses operated in a highly competitive environment. As small-scale producers they were not able to sell directly to supermarkets, but relied on large wholesalers who in turn dictate the price. Both businesses struggled financially to survive and succession issues were apparent. Not surprisingly, regulation was seen predominantly as a cost. Examples included minimum wage, which was felt to be too generous for the type of industry that they were in and ACC which was seen as an additional cost on the business.

#65: Firm 65 was a long-standing plant nursery run by a husband and wife team employing 12 full-time staff and up to another 10 part-time staff at peak periods. They described the business as a wholesale greenhouse nursery which supplied some multiple chain retailers such as Mitre 10. They commented that the business had been for sale for 'some time', but they were unable to sell in the present climate due to the limited number of buyers who would be prepared to take this on as a going concern. They admitted to be struggling economically in the present recession. The market was highly competitive, with big buyers able to dictate price. When discussing price, they admitted that there was no room to manoeuvre; they were in effect 'price takers'.

#69: Firm number 69 was a long-standing traditional vegetable growing business owned by the respondent with her son and other members of her family. The business was still very much reliant on manual labour and casual staff. They employed four permanent staff and any additional staff on casual contracts. Annual turnover was \$1m, which gives an indication of the labour intensive nature of the business. The main customers were the major wholesalers who in turn supplied retailers. Their produce would be sold to the final customer in Countdown, Woolworths and other supermarkets. Therefore they were struggling to compete and to secure contracts with the wholesalers and market suppliers. The nature of supply seemed to be rather traditional and 'old fashioned', with little in the way of modernisation. Further, there was little mechanical equipment beyond the use of tractors and machinery to harvest the product. The respondent was well past retirement age, but still took an active part in the management of the business and in dealing with regulation.

The perception about regulation as a cost was consistent with the respondents' attitudes towards regulation. Respondent number 69 expressed a negative attitude towards regulation and respondent number 65 expressed a neutral attitude towards regulation on the basis that regulation is a cost, but part of being in business.

Firm number 65 employed a full-time administrator who dealt with the regulation and compliance side of the business and generally seemed to manage regulation well. However, firm number 69 had less resource capacity (i.e. the daughter-in-law helped with the administration) and paper-based systems were still in place.

A key characteristic of both firms was that they predominantly operated in isolation with no obvious networks they could use for advice and support and no industry body. The lack of an industry body became apparent when the respondent of firm number 65 mentioned the Emissions Trading Scheme (ETS) as a further constraining regulation. They considered it unfair that despite the fact they were growers, they did not get any benefits or credit under ETS, whereas tree growing nurseries would be entitled to credit. They saw ETS as being good intentions by the State, but they were one of the anomalies under the system. This suggests that the industry body not only has an important role in providing information and advice, but in providing a voice for their members when it comes to regulation. In the case of growers, it is apparent that their industry body was rather fragmented and lacking power to negotiation on behalf of their members compared to, for example, the dairy industry.

From the results it became apparent that the impact of regulation varies considerably within an industry i.e. primary production, and that there is a need to focus more narrowly on sub-sectors to be able to provide meaningful comparisons.

Fruit growers for international market

The five businesses in this group consisted of apple, kiwi and pip fruit growers and they relied predominantly (i.e. 95 percent) on exports.

#79: Firm 79, a kiwifruit and apple orchard in the Hawkes Bay, is operated by a 37 year-old female and 38 year-old male. The business is a family firm, and was established in 1984. The interviewees are in business with parents, who are the original owners of the firm, which was converted from dairy in the 1980s. The firm currently employs six full-time staff, plus contract workers. Turnover is approx \$1.7m per annum and they export their produce into Asia via Turners and Growers. The respondents have a strong focus on productivity and longer-term growth plans. They are currently replanting their apple variety to better meet the needs of the Asian market. A big concern for the respondent were the growing costs of tax and employment related compliance, labour and land which makes it difficult to compete against South America, their biggest competitor. The business is part of Global Good Agricultural Practice (GlobalG.A.P), which they consider important with regard to traceability and sustainability and the respondents consider this voluntary industry regulation beneficial for their business.

While the businesses mentioned above were managed differently, and varied in their economic success, a few common themes emerged around regulation.

The businesses in this sample relied heavily on seasonal workers and at peak times some operations grew from micro businesses employing fewer than five staff to large operations employing around 100 seasonal workers. Despite this large increase in a relatively short timeframe, the businesses seemed to cope well with employment and taxation related regulation. This was mainly due to the long-standing experience of the owner-manager/s, well-established systems and processes including the use of technology and additional administrative resources. While managing and complying with employment regulation emerged as a major concern for small businesses in this study, none of the firms within this group mentioned it as a particular concern. This finding is interesting when compared to the three businesses in the film and media case study that faced a similar situation i.e. hugely fluctuating workforce, but for whom employment regulation was a major concern. One possible explanation for the differing experience is the nature of the workforce that is employed and the nature of the employment status/agreement. In this sector, casual and short term labour contracts were normal and could be predicted, whereas in the media sector there was a greater degree of worker independence and sub-contracting.

Overall there was very little concern amongst the businesses within this group in relation to general business regulation. With the exception of one respondent who expressed a positive attitude towards regulation, respondents within this subsector had a neutral attitude towards regulation.

Similarly to the vegetable growers, the businesses in this sub-sector operated in a very competitive environment. From an export perspective it seemed that the businesses in this group shifted their focus from Europe towards Asia, having the advantage of getting a fixed price for their products rather than a forward price as it is common in Europe. For some respondents, the focus on Asian markets resulted in large investments i.e. developing and planting new crops to suit the different needs in Asia. Some of the apple growers for example planted new crop to achieve larger and sweeter Apples for the Japanese market.

For exporters into Europe regulations set by global grocery retailer Tesco emerged as an issue. Tesco for example, decreased the level of spray residue allowed on apples to gain competitive advantage. This forced apple growers to change their practices to be able to sell their produce to Tesco. This is an interesting example as the regulation is not imposed by legislation, but by a major customer.

Similar to the dairy and sheep farmers, but in contrary to the vegetable growers in the previous case study, the firms in this group were well integrated into their respective industry bodies and operated, with the exception of one business, within a cooperative such as ENZA or Turners and Growers.

Further, respondents within this group mentioned GlobalG.A.P. It is a private sector body that sets voluntary standards for the certification of production processes of agricultural products around the world. Respondents were audited every year and despite their complaints about the financial and administrative costs of complying with GlobalG.A.P. viewed compliance as a necessary requirement to compete in international markets

Start-up perspectives

In this section we report analysis of the interviews with start-up firms organised around the themes that emerged from the interviews, these are discussed under the following headings: new business, new owner or new legal structure, access to finance and cash flow management, level of complexity, feeling of uncertainty and forward planning and the role of accountants.

NEW BUSINESS, NEW OWNER OR NEW LEGAL STRUCTURE

Of the ten firms in the sample, three firms were start-ups i.e. founded in either 2009 or 2010 and they were founded by first-time business owners. Four firms were start-ups as well, but founded by business owners with previous business experience i.e. serial or portfolio business owners. Two firms were established firms that were acquired by first time business owners – one was bought as a going concern, the other one was a management-buy-out. One firm was an established business that was run as a sole trader for about seven years before registering as a limited liability company in 2009.

Table 11 shows the combination of business and ownership for each of firms in the sample.

No	Business	Owner
#104	Newly founded	First-time business owner
#106	Newly founded	First-time business owner
#108	Newly founded	First-time business owner
#102	Newly founded	Previous business experience
#105	Newly founded	Previous business experience
#107	Newly founded	Previous business experience
#111	Newly founded	Previous business experience
#103	Established	First-time business owner
#110	Established	First-time business owner
#109	Established, but new legal structure	First-time business owner

Table 11: Combination of business stage and ownership

Results indicated that we need to carefully distinguish between new businesses, new owners and new legal structures when we talk about start-up businesses. Overall the table indicates that almost half of the respondents had previous business experience and three of the businesses have already been in existence for a number of years, but have changed ownership or legal structure. Implications for the capability to manage regulation are twofold:

- Previous business experience seems to assist with setting up systems and processes, a factor that emerged as being crucial for the capability to manage regulation. Those respondents were generally well aware of the importance and relevance of systems and processes as they have either experienced the benefits, but more likely the pitfalls of not having them set up properly.
- The following quote is from a business owner whose previous business experience has taught him the importance of well set up accounting systems and financial management. He learned that it could become a risky and costly experience if finances and tax regulation are not professionally dealt with from the early stages on. He remembered “the mess” of the accounting system in his previous business and decided to use Xero right from the start.

If anything was going to trip us over in the early stages or get us in to a mess that would be expensive to fix down the line it would be meeting our IRD

requirements and being on top of the money. [...] So I, yeah I didn't want to have to waste a lot of time and money down the track and I thought it would be cheaper to sort it out from day one which pretty sure it is. (#105)

- The two respondents who took over existing businesses were first-time business owners, but their experience varied heavily. The first respondent benefited from the resources and systems that were already in place when he bought the business. He was able to resort to a part-time administrative support person, who has been with the previous business for 30 years and knew how to deal with the accounting software package. The second respondent acquired the business via a management buy-in with herself as the sole owner, after having been with the business for only six months. She inherited creditors and the accumulated liabilities. A period of illness and a lack of general business experience have exhausted her resources and she was struggling to survive. The finding indicates that first time business owners might benefit from buying an existing business if this business already has robust systems, processes and resources in place that the new business owner can tap into. However, if it is beneficial for the new business owner or not might depend on a thorough and professional due diligence.

ACCESS TO FINANCE AND CASH FLOW MANAGEMENT

To assess the extent to which the start-up phase of a business was affected by government regulations compared to non-regulatory factors, respondents were asked to identify the factors that have affected the start-up of their business and the factors that respondents expect to affect their business plans in the next two years.

The most critical factor that emerged from the analysis was access to finance and cash flow management. Most ventures in our sample were entirely privately funded either through the founders themselves or through private investors. While those respondents with extensive previous business experience and business success tended to aim to get private investors on board, first time business owners were more likely to try and get access to finance through banks.

The following quote is from a spin-off of an established company in the information and technology sector. The spin-off has been founded to commercially exploit the research and development that has been undertaken in partnership with Crown Research Institutes (CRIs), funded by the Foundation of Research, Science & Technology (FoRST).

The hardest one is raising capital at the moment, because it's so tight in New Zealand. Trying to get investors to invest in small start up companies is very hard. Yeah that's the hardest thing at the moment. Banks don't touch businesses like that, so it's always you've got to have private money. (#107)

The next quote, in comparison, is from a first time business owner, who has been made redundant and then bought the current business that manufactures threaded water pipes and specialised fittings.

I think the hardest thing that I've had to live with, and I guess I'm still living with it, is the no interest whatsoever from the banks. I was very, very disappointed in the beginning, you know. I didn't really want a lot of money. (#110)

Independent of the sources of finance, financial resources were generally scarce amongst the businesses in our sample and cash flow management was considered to be of critical importance. As indicated a previous section, cash flow management and financial planning was a critical prerequisite that affected respondent's capability to comply with regulation. It seemed that respondents were generally aware of and understood their (tax-related) compliance requirements. Still, most seemed

vulnerable to actually achieve compliance. As a result most respondents would appreciate more flexibility around the tax payment dates.

For new start type businesses, where cash flow is a major issue, there doesn't seem to be any flexibility - saying well don't worry for this month you can pay us next month sort of thing. (#103)

LEVEL OF COMPLEXITY

Generally, business-related regulation was not considered too onerous by businesses in their early stages. This finding, however, has to be treated with caution. Particularly those businesses that were less than 12 months old were not yet trading or not trading to a large extent and most of them did not yet employ staff other than themselves and/or other working directors. The level of complexity, therefore, was still limited as some of the regulatory requirements, such as provisional tax or employment regulation have not yet kicked in.

New Zealand hasn't imposed anything on me yet because I guess I'm not really selling anything yet. (#104)

Out of the five respondents that operated the business for less than 12 months, only one respondent mentioned tax regulation as a critical factor that impacts on his business. This respondent has previously owned businesses in NZ, the UK and the US and has started up a new venture in NZ in 2010. The venture consists of two IT software development companies with two different product lines (one related to sports, the other to iPhone applications) and one coffee shop that operate under a holding company. In total, he employs 10 staff. He further received some (FoRST) funding (TechNZ voucher) that in turn helped him attract private investors. The respondent believes that the legal structure of the holding company adds to the complexity of his case and might be the reason why he finds complying with tax regulation difficult. It seemed that the businesses were set up under a holding company for tax and/or investment purposes, but the respondent hasn't got enough legal or accounting knowledge to actually manage that structure himself and he hasn't got the financial resources to employ a professional accountant.

FEELING OF UNCERTAINTY

A theme that emerged from the interviews with start-up business owners, was the feeling of uncertainty i.e. that respondents were not sure whether they were complying or not.

For learning processes to be successful, relevant and immediate feedback is considered important. A lack of feedback can cause uncertainty for the individual learner. However, the degree of acceptance of uncertainty and the ability to deal with uncertainty are individually and culturally different (see for example Hofstede, 2010).

In our sample, we encountered a few examples of uncertainty. Interestingly, uncertainty was not only encountered with new business owners, but as well with experienced business owners who were confronted with a new situation.

The following quote is from a respondent who is one of three working directors of a software development company that focuses on media and communication technology. All three working directors have previous working experience. The new business, however, has been established as a loss attributing qualifying company (LAQC), which none of the directors had experience with. The experience of uncertainty regarding their tax requirement has triggered the use of professional advice.

I'm not an accountant and none of us are accountants or lawyers we have a fear of doing something wrong and because of that you know get the expert help with the preparing the tax returns and that sort of stuff. (#105)

The next quote illustrates the respondents need for feedback to make sure that he is complying.

However I'm the business owner and I'm ultimately responsible for complying with regulation. [...] At the end of the day it's not IPayroll that's going to have my balls in a sling if something goes wrong. Ultimately it's the tax department so you ultimately are always seeking confirmation that it's gonna be ok. (#111)

The feeling of uncertainty seems to be closely connected to receiving feedback about the compliance behaviour. It could be argued that there are certain regulatory areas – such as workplace health and safety – where such feedback is not provided. As long as the business is not externally audited i.e. by a health and safety inspector, compliance is based on self-assessment of the business owner. The following quote is an example of “not knowing what you don't know”. The respondent is a first time business owner who assumes that he complies with health and safety standards, but does not know for sure.

I mean, we've never had a health and safety inspection – I don't know. (#108)

FORWARD PLANNING AND THE ROLE OF ACCOUNTANTS

One of the project findings is that accountants play an important role for the capability of small firms to manage regulation. Some business owners heavily rely on accountants for their accounting advice, support, and their financial management advice.

One of the respondents was a chartered accountant and is the financial manager of the start-up company interviewed. He pointed out the importance of financial forward planning and that external accountant's typically only look backwards i.e. by doing GST returns and end of year tax returns.

I used to work as a CA and we used to have 400 clients with the partner I worked with and you can't help those businesses cause basically you're spitting out a few sets of accounts a day and all you're doing is you're looking at it historically. You look at what they did in the last month or last 12 months and it's too late to correct any mistakes cause they have virtually gone under or the damage has been done. Whereas accountants should be forward thinking. (#107)

Further the respondent mentioned the importance of the accuracy of the planning process and praised himself for only having a maximum of 10 percent variance between his three months planning and the actual result.

For start-up firms forward planning is particularly relevant in relation to provisional tax. This often comes unexpected, so they are confronted with a double tax bill after their first year of trading.

Key informant perspectives

In this section we report analysis of the key informant interviews which were undertaken with trade associations, business members' associations and providers of management software. A table indicating organisations that participated was provided on page 12. The results are organised around themes that emerged from the interviews and are discussed under the following headings: areas of regulation causing concern for members, factors affecting capability of members, measures and activities undertaken that assist members' capability, location and the advocacy role of trade associations.

REPORTED AREAS OF REGULATION THAT CAUSED MEMBERS' CONCERN

Areas of concern reported by their members can be grouped into two categories, areas of general regulation and areas of regulation specific to sectors.

The main concerns with areas of general regulation are: employment regulation and employee relations. Employment regulation was seen as one of the more complex areas for small business owners to manage. Other areas that were perceived as containing some complexity were OSH and ACC. In the area of general taxation, it was considered that small business owners were able to develop systems to deal with PAYE, GST and other taxation requirements. Other areas included compliance; environmental resource constraints and resource management issues.

Other regulations mentioned were more specific to sector: handling hazardous substances; building regulation; resource consents; alcohol licence, work visas for migrants, consumer trade relationships; bio-security and food safety (primary producers); local regulations and by-laws and investment regulations and succession (primary producers).

In responding to these areas of regulation, the main way members used the trade and business associations was to seek advice. Membership is in all cases voluntary, but the extent of use of the service was variable. For example, some will join just to get the status and be kept informed, but the extent of proactive use by members varied as indicated in a previous chapter.

FACTORS THAT AFFECTED MANAGEMENT CAPABILITY OF THEIR MEMBERS

A number of factors were discussed in some detail that affected the management capability of the associations' small business owner members. The main factors identified were concerns with access to and availability of resources, role of intermediaries, accountants and trusted advisers, awareness and education, nature of communication, use and access to technology and a number of other related issues. Where possible, these are linked to the factors that we have previously identified in interviews with small business owners and are discussed in more detail in this sub-section.

Resource capacity:

From interviews with small business owners, resource capacity emerged as one of the key factors that affected their capability to manage regulation. This finding was supported by the key informants.

A number of organisations identified a general challenge for small firms in dealing with regulation where they are unable to allocate responsibility to an employee for overseeing compliance. It is suggested that once there is someone with specific

responsibilities for managing regulation, especially with relevant skills, the likelihood of compliance increases. Prior to that point being reached much will depend on the capacities of the individual owner operator to give due attention to regulatory issues and their willingness to invest in processes that will help the business manage risks. One association executive suggested that prior experience of entrepreneurs affects their inclination to seek out and respond to information that will assist the management of regulation. According to this person's judgement, small business owners with prior employment in a large organisation are the most likely to show awareness of the importance of managing regulation. Another association executive suggested something similar when referring to the tendency for small business owners in his sector to 'drift' into self employment from prior employment as an individual contractor. In these circumstances the move into self employment can be unplanned and mainly a response to immediate work opportunities.

A programme 'Recognising wives' has been developed by Certified Builders Association of New Zealand (CBANZ) to reflect the important contribution many spouses make to the running of small building companies. In practice, it is frequently wives who are given the responsibility for managing the business's finances and ensuring regulation is adhered to. The importance of wives may be shared with family-owned businesses in many industries, but it takes on a particular significance in the construction sector where business owners are engaged in physical labour during the day and only turn attention to doing the paperwork in evenings.

Also mentioned was the time devoted to paperwork, specifically mentioned in building, restaurants and farming sectors, where often the self-employed single owner-manager does not have time to deal with regulation. In the building sector, the respondent from CBANZ indicated that the role of wives as spouses is important because they may be in practice be the person who manages the business's compliance with regulation.

Management systems and processes:

From interviews with small business owners, well established systems and processes and particularly the use of technology emerged as one of the key factors that affected their capability to manage regulation. Again, this finding was supported by the key informants, particular by the on-line and software providers

A general comment is that the nature of the software package used is a factor affecting capability. The recent Christchurch earthquake has illustrated the importance of on-line systems in avoiding SME vulnerability and helping SMEs to be resilient. Two of the respondents represented companies that provided an on-line system that could deal with areas of managing regulation such as taxation and employment, although neither was a comprehensive management system. In principle, the on-line financial system frees up the owner-manager to focus on business. In the case of one provider, it allows the SME owner-manager to know their financial position from day to day and freed up the need to be aware of financial changes in regulation The respondent indicated that this was via the SME owner-manager's accountant, again indicating the importance of the accountant's intermediary role in affecting SME capability to manage regulation.

"Because the accountant and the small business owner have got access to the accounting system real time every day and the data's up to date every day, it means that the accountant can do more, they can be more frequently involved in their small business in terms of making sure they're alright (and) there is so much more that accountants can do and offer to small businesses that they don't do".

In the case of another respondent , the on-line system deals with all the management SME employment regulation. It is arguable that such systems allow the SME owner-

manager to focus on running the business rather spending time on managing regulation. For example, the respondent commented:

that “we would do all the back office services such as [] doing the PAYE, transmitting the files to IRD, making the payment to IRD, paying third parties”.

In another case, capability is enhanced through the software package. Depending on the version, it can provide a full financial and management PC-based system including that of payroll management. The respondent indicated that approximately one third of their clients are accountants or tax agents; one third are SMEs with less than 20 employees.

In summary, it is arguable that access to computing technology is an important factor. For example, this might determine whether computer-based systems were used, which financial package would be used, whether on-line or pc-based. These could all potentially affect management capability.

A slightly different perspective on the impact of technology was offered by PrintNZ. In the printing sector, technological change has affected SME management capability in different way. In this sector, changing technology has reduced the need for handling hazardous substances and reduced levies that might be charged by ACC. For example, the respondent from PrintNZ commented:

“We have a much smaller reliance on those hazardous substances than we ever have in the past”.

Learning about regulation:

From interviews with small business owners the theme of how small business owners learn about regulation emerged as another key factor that affected their capability to manage regulation. From a key informants' perspective this issue of how small business owners learn about regulation depends on the role of intermediaries, accountants and trusted advisors as well as well as the business owners' awareness and education.

- Role of intermediaries, accountants and trusted advisers:

The corollary of the resource issue is that small business owners will be reliant upon the quality and access to the role of intermediaries, which may be their accountant or trusted adviser, for their capability to manage regulation. In some cases this will be reflected in the extent to which a small business owner is a proactive member. Independence is a key part of this role. Advice when provided is accepted and acted on. For example, the respondent from the Employers' Chambers of Commerce Central (ECCC) commented:

“The advice we provide is generally readily accepted, because it's trusted advice, because they know we have no ulterior motive.” And they may go a stage further and *“go in and set up a system for small employers and provide the materials they need and the advice they need.”*

The importance of the role of intermediaries and their effect on capability was identified by a respondent from a software provider. He indicated that they worked with “forward-looking accountants” that were able to work as trusted intermediaries.

From interviews with start-up firms forward planning emerged as particularly relevant in relation to provisional tax. This may often be unexpected, so the start-up owner is confronted with a double tax bill after their first year of trading. The same issue was mentioned by one of the software providers. The SME owner-manager could be unprepared and *“they haven't been putting aside enough provisional tax and they haven't worked out how that process works—so provisional tax in particular is probably the most difficult thing”* (for start-up SMEs to manage). This may lead to a relatively painful period of *“unlearning”* which is required for the early stage SME

owner-manager; indicating that access to advice at an early stage would be an important factor affecting SME capability to manage.

- Awareness and education:

Respondents indicated that once awareness is raised then SME owners are more likely to take action and generally are responsible. The education role of member and trade associations was seen as being particularly important in the area of managing regulation and ability of SMEs to comply with complex regulation. All associations run seminars and educational programmes that are designed to inform members (and possibly non members where seminars are open to all industry participants) of the implications of regulatory changes and how they can meet them. These are often popular. For example, the respondent from ECCC commented:

“We notice that easily our highest attendance are around compliance based programmes and/ or strongest growth area would be in things like OSH in particular. And it is not, how do I protect my staff? It’s how do I comply?”

Other relevant issues:

Further to reinforcing some of the key factors that were identified in interviews with small business owners, key informants mentioned a number of other relevant issues that were specific to their role of providing support to small businesses. These issues are summarised under two headings: enforcement of regulation and communication of regulation.

- Enforcement of regulation:

Trade associations generally align themselves with industry best practice partly as one motivation for membership can be to help businesses protect themselves against competition from businesses that are less inclined to adhere to good standards of business conduct. In this context trade associations can be concerned with what they see as inadequate enforcement.

The executive of one association suggested that one way of enhancing enforcement capacity may be to increase the use of on-the-spot fines that could be imposed by inspectors during normal workplace visits, rather than relying on separate enforcement processes. Another association referred to their practice of referring complaints against non members to the agency that is perceived to be better resourced to take action rather than the agency that manages the regulation for which they have evidence of a transgression.

There was support expressed for removing the voluntary nature of some regulation, notably KiwiSaver, which is currently voluntary in the sense of ‘opting in’. For example, one respondent considered that if KiwiSaver was made compulsory, this will mean people have certainty in dealing with it.

- Communication of regulation:

Other views mentioned under-resourcing of support to assist SME owner-mangers to deal with the complexity of legislation, such as call centres and that there is relatively high variability in the nature of such advice. A related area was a need for simple self-explanatory guides in layman’s language as some regulation is necessarily in legal terms which respondents felt might be impenetrable to average small business owner and finally a view reported that regulation may also be “too piecemeal” and in need of rationalisation. Complexity of regulation in employment was a view supported and perceived to be a critical issue for those businesses taking on staff.

In some areas of regulation it was felt that this was compounded by a lack of clear practice and/or guidelines in the legislation and regulation. This is partly a comment on the increased use of performance-based regulation in place of setting precise standards or practices to be adhered to. The Consumer Guarantees Act, for

example, has introduced the test of 'reasonableness' to judge the acceptability of some commercial practices. One association representative suggested that their association has invested effort in studying subsequent case law to provide their members with guidance on what may be considered reasonable or unreasonable in the context of their business operations. It suggests that it has proved impossible to do this as no consistent judgements are being made. Similarly, the Chemical Industry Council indicates that it has identified a need for 25 codes of practice to assist compliance with the Hazardous Substances and New Organisms Act (1996). A question is whether it should be the responsibility of regulatory agencies to provide such guidance. To date, the Chemical Industry Council has been the most active in developing Codes of Practice and notes that these now have official status but have frequently been developed solely at the expense of the industry.

MEASURES AND ACTIVITIES UNDERTAKEN THAT ASSIST MEMBERS' CAPABILITY TO MANAGE REGULATION

All the associations recognised the limitations on SME members' capabilities to manage regulation and offered a number of specific programmes that were targeted at areas of regulatory concern identified in the previous section. These are discussed in more detail in this section.

Templates and programmes:

Trade association offered standard templates for their members for employment contracts, backed up by guides to dealing with regulation. Examples included, the Baking Industry Association, which has a *Food Safety Programme* for their members covering aspects of hygiene, health and safety in the sector and café bakeries. It provides a simple guide detailing the major documentation steps of a Food Safety Programme. Individual businesses customise the programme with their specific details and delete the options which do not apply. When complete, this gives businesses a programme which reflects their actual practice in a consistent and standardised method to identify and control food safety hazards in a manner required by regulation.

The Motor Trade Association (MTA) provides templates and standard contracts relevant to the automobile sector. CBANZ provided templates for builders and standard employment contracts and a 'business toolbox' which was supplemented by advice on best practice. PrintNZ provided templates and standard contracts indicating that templates would be provided on individual employment contracts, disciplinary procedures and redundancy procedures. HANZ indicated that they carry "*50 resources on employment legislation—from model employment contracts to how to do interviews*". CBANZ reported a specific support programme for the role of spouses whose role on regulation could go unnoticed, the *Recognising Wives* support programme. These resources were supplemented by the availability of DVDs.

Assurance of quality standards and development of codes of practice:

This was seen as an important role for a number of trade associations, which may go beyond the requirements of government regulation, but provided an important accreditation standard for their members. For example, the primary role of the NZCIC is to administer *Responsible Care*. This is a worldwide initiative of the chemical industry that was developed after the Bhopal incident in the mid 1980s to enhance health and safety standards in the chemical industry. All members of the Chemical Industry Council are required to join *Responsible Care* and indicate their willingness to follow its principles and engage in a process of continuous improvement.

The respondent from PrintNZ indicated that they implemented the *Enviromark* programme, which contains different standards of accreditation for those members

seeking accreditation. Similarly the MTA can provide an environmental audit for members. Accreditation of quality was important to establish standards in the building sector (CBANZ).

Advisory services:

Providing support and advice to their members on regulation was seen as a critical function, often specifically tailored to their sector. However, this was tempered for some areas which were seen as being too confidential or personal (taxation advice) or too complex legally (most trade associations do not employ legal experts, but have an employment advisory role). For example, the MTA provided an HR advisory service but would refer members for more specific legal advice to recommended advisers or lawyers. CBANZ reported that although they do provide financial management advice (an area that was seen as a weakness in the sector), they would also recommend approved consultants where additional advice was needed.

Education and raising awareness:

Trade associations undertake an active educational role for their members. A proactive role enables the identification of issues in advance that may affect capability to manage regulation. For example, the Baking Industry Association provides information on defining casual employees and employment. PrintNZ combine training and advisory role (i.e. are an ITO as well) and therefore, had specific training and apprenticeship programmes.

The provision of seminars was an activity undertaken by all the organisations. These were provided to cover one-off issues and concerns with regulation, changes and new regulations. In addition an organisation may take information around to their members via road shows and via other forms of communication such as e-newsletters and magazines. PrintNZ indicated that they have an industry annual conference in addition to regular seminars. Interviews at the previous stage revealed that this was an important source of information.

The respondent from Federated Farmers indicated that as an organisation it would stage community-based seminars to enable farmers to attend one off educational events, using their size and resources to stage local meetings at times such as evenings that farmers could attend. The respondent commented:

“We have a huge network in town and around the country and we get technical advice groups, which do have quite a bit of influence”; although attendance varied from “hundreds—to a handful.”

The educating role was taken much wider by two organisations, PrintNZ and Federated Farmers, which also undertook a role to educate the public about the industry. This was undertaken to increase public understanding and awareness of issues related to the relative industrial sectors.

Independent research would also be undertaken by the larger membership organisations such as PrintNZ and Federated Farmers. For example, PrintNZ indicated that they undertook a survey of the industry and *“macro-analysis of our industry and how we fit inside New Zealand manufacturing and the economy”*.

An ongoing goal of PrintNZ is to grow its membership and to shift toward a more educative role that encourages good business practices from the outset. The general strategy for doing this is to build partnerships with other organisations and businesses that engage with businesses as they are being established. This gives an opportunity to encourage more business owners to join before they encounter a problem and to encourage attention to good business practices that should minimise the risk of businesses failing to meet regulatory requirements.

The potential partnerships are with public and private agencies. For example, IRD engages with start ups and there is discussion of PrintNZ and IRD working more

closely together. Similarly partnerships with private sector companies such as banks and telecommunications businesses are at various stages of development. They are aimed at facilitating referral of a potential PrintNZ member, with the association in turn reciprocating with recommendations of preferred service providers. This needs to be consistent with privacy legislation which puts some constraints on the development of this approach.

LOCATION

The geographical location of members' was a factor raised by a number of respondents. Auckland was perceived as being a location where members had access to range of resources and variety of different networks, such as chambers or local business associations that could provide key sources of information. Hence SME members in such a locality were perceived to be less reliant on the national body represented by the trade association.

Where there was a policing role with regulation, across different locational areas, respondents mentioned variability of practice. For instance, there was variation reported in imposing standards by local authorities, which may lead to some resentment by SME members of unfairness in treatment. For example two association executives linked to sectors where local authorities have enforcement responsibility noted concern within their industry about variation in how regulation is interpreted. This concern tends to undermine support for regulation where there is the perception that it is partly a 'postcode lottery' as to whether something will be judged inadequate or not.

Variation in local regulations was indicated as a specific issue for Federated Farmers who considered that expertise varies across the regional councils with some concern as to whether farming practices were understood. Even national policy positions would vary regionally as the following comment illustrates:

"We have national policy positions which are variable for catchments (and) we've got this regional policy manual because it just saves a lot of duplication when you've got the annual planning season coming up, so we submit on 68 annual plans".

ADVOCACY ROLE AND PRE-DESIGN

The importance of an advocacy role on behalf of their members by trade and member associations varied considerably, from minor importance in the case of some associations to major importance and a full time role for large organisations such as PrintNZ, Federated Farmers and HANZ. For example the respondent from Federated Farmers, reflecting on the importance of local regulation for their members, commented that it has:

"a team that focus on what the government here does and then another team that focuses on the regional; regulation in all the regional councils and district councils, which is the thing that hits the most on a day-to-day basis".

The respondent from PrintNZ indicated that it will:

"put submissions in on any of the legislation that's going through Parliament that may have an affect on our members. So things like the Holidays Act, the Employment Relations Act, changes to ACC, Hazardous Substances - we will put submissions in on those types of things".

The respondent from HANZ indicated that advocacy might involve:

"reducing red tape, it might be getting changes to legislation or it might be preventing changes to legislation occurring, which could have a negative impact ---from the range of businesses which we represent".

However, all organisations recognised the importance of an advocacy role and this led in some cases to pre-briefing and consultation on regulations. Federated Farmers work as well for Fonterra in terms of advocacy. They often make detailed submissions to government departments on new regulation. Extensive consultation would be involved directly with them before a change in regulation that affected the farming sector.

One association executive noted that whether they had a good working relationship with government agencies partly varied according to the location of and inclination of individuals within an agency. This association's executive was not located in Wellington but had benefitted from a regional office being in the same location and an individual within that office who saw value in maintaining close contact with the association.

In the case of ECCC it tries to influence policy at a number of different levels, it indicated that they work directly with policy analysts and provide information. They may also influence indirectly through funding of other organisations, who have a more active advocacy role, such as BusinessNZ.

The NZ Construction Industry Council (NZCIC) positions itself as a source of expertise especially in safe handling of hazardous substances and has eschewed involvement in lobbying government. Rather it seeks to act as an expert body that is willing to work alongside Government departments and agencies (Environmental Risk Management Authority (ERMA), DoL and Ministry for Environment (MED)). The need for this was linked to a perceived loss of expertise in Government as it has reduced its direct experience of handling chemicals as agencies, such as the former Ministry of Works and Development, were privatised.

In the case of Hospitality Association of New Zealand (HANZ), it recognised an advocacy role both locally and nationally and gave the example of the Food Safety Bill as model of pre-design involvement of association in regulation.

An advocacy role might be less important for some organisations such as the Restaurants Association, partly due to relatively low density of membership, but it indicated that it still dealt with IRD and NZ Food Safety Authority (NZFSA).

An advocacy role was also undertaken by one of the software companies, although not a member organisation, here the respondent commented that: *"We lobby really intensively on the issue of capability with the MED and IRD"*. This partly reflected the importance of regulation for the organisation, which was reported to regularly feature as concerns in their annual survey of small businesses.

SME capability to manage regulation framework

Results suggest that the SME capability to manage regulation depends on a number of factors that are closely interrelated and interdependent. Further, the relationship between SME capability to manage regulation and compliance is sensitive to changes in the environment of the business. Because of the dynamic nature of the phenomenon, static classifications or typologies are not considered appropriate as they tend to reduce complexity and pigeon hole business owners. We attempt to maintain the complexity and dynamic nature of the phenomenon by developing a framework that identifies the major concepts that underlie the SMEs capability to manage regulation, illustrates the relationship between them and depicts the impact of dynamic forces on compliance behaviour. Figure 2 illustrates that SME compliance behaviour is driven by a range of different factors that are related to the person, the firm and the environment the business is operating in. While the nature of our research allowed us to identify the interaction between the different concepts and their underlying constructs, it did not allow us to assess the strength of the relationships.

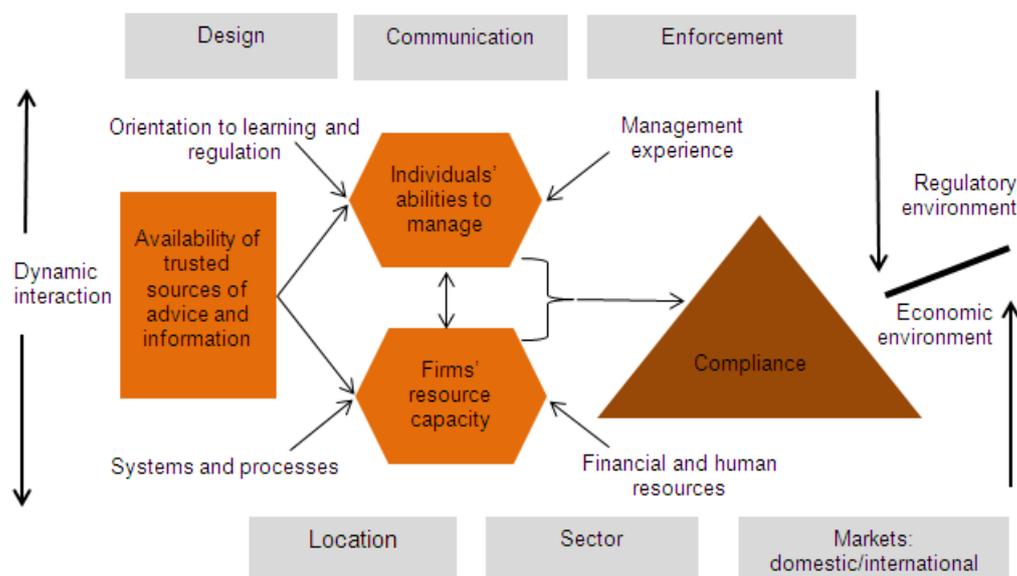


Figure 2: SME Capability to manage regulation framework

The individual's ability to manage regulation, the firm's resource capacity and the availability of trusted sources of information and advice can be considered as the three core constructs that make up the SME's capability to manage regulation. While these three constructs are distinctively different, there is a strong interaction between them and their underlying constructs. As such, the availability of trusted sources of advice and information mediates the individuals' abilities to manage as well as the firms' resource capacity. The regulatory framework acts as a dynamic force on the SMEs capability to manage regulation through its design, communication and enforcement of regulation. The business environment is a dynamic force depending on location, sector and markets.

This section describes the framework and its underlying concepts in more detail. First, we describe the different factors that define the SME capability to manage

regulation and as a second step we present the dynamic forces that impact on the relationship between SME capability to manage regulation and compliance behaviour.

SME CAPABILITY TO MANAGE REGULATION

As Figure 2 shows, three different constructs have been identified that form SMEs capability to manage regulation: the individuals' ability to manage regulation, the firms' resource capacity and the availability of trusted sources of information and advice. Each of these constructs is underpinned by a number of concepts that are interrelated or mutually dependent.

- Individuals' ability to manage regulation

The first construct "Individual's ability to manage regulation" focuses on the person and expresses the individual's ability to deal with regulation. It reflects three underlying concepts: management experience as well as the individuals' orientation towards learning and regulation (i.e. attitudes).

Results showed that the capability to manage regulation is closely related to the capability to manage the business in general. In other words, if an owner-manager is managing and performing well within their environment, then this translates into capability to manage regulation. Conversely, it can be argued that managing regulation is a core component of managing a business. Within the broader notion of management experience, financial management emerged as a particularly important skill in the context of managing regulation. Previous business or management experience, however, was important in determining business skills of respondents.

Besides management experience, the respondents' orientation towards learning was the second concept that constituted the person's capability to manage regulation. It describes the respondent's ability to seek information and advice, the level of engagement with sources of learning and the respondent's ability to translate or implement the obtained information and advice into business practice. Some respondents seemed to be self-reliant and mostly isolated from sources of learning and development. The sources of information these respondents tended to rely on were ad hoc peer group networks. In the face of regulatory changes, these respondents, however, are particularly vulnerable. Further, respondents displayed different levels of engagement ranging from a rather reactive approach i.e. relying on information provided by government agencies or regulatory bodies to actively participating in the industry. Collectively, pro-active engagement was reflected in the strength and power of industry or business associations which varied considerably across sectors. By collectively providing a voice to government, pro-active respondents could impact on the regulatory system i.e. the design, communication and enforcement of regulation. Lastly, the respondent's ability to translate information and advice into business practice or identify implications for the firm was an important element of the learning and development concept. It seemed that respondents with well established internal systems and processes could translate the information and advice more effectively into action.

The third concept was the respondents' orientation towards regulation i.e. their attitudes. We identified managerial characteristics that were common for respondents with negative attitudes towards regulation as well as positive attitudes towards regulation. While respondents with negative attitudes towards regulation tended to have a lack of systematic approach to management, respondents with positive attitudes towards regulation tended to have managerial experience and well set up systems and processes. This indicates that attitude towards regulation is an important element in understanding how individuals approach and manage regulation, although it is very challenging to untangle the nature and direction of the relationship between attitude towards regulation and capability to manage.

- Firms' resource capacity

The second construct "Firms' resource capacity" focuses on the firm and its resources, systems and processes and reflects three underlying concepts: human resources, financial resources and management systems and processes.

The smaller the firm, the more likely it is that the owner-manager is responsible to deal with all aspects of the business which was often described as "debilitating" and "tiring"

With businesses that were able to grow, however, this issue reduced in importance. As the business grew, and its resource capacity grew, the owner-managers were able to employ staff that were designated to manage the administrative, regulatory and/ or financial side of the business. Below this threshold it is often 'silent' personnel such as the owner's spouse or other family members who assist with those tasks, but are often not suitably qualified.

The second concept that constitutes a firm's resource capacity is the extent to which the owner-manager is able to implement management systems and processes in the business. Managing regulations tends to become a routine task if appropriate systems and processes are in place. More importantly, businesses with well established processes and systems find it easier to manage and adapt to changes in regulation. While established processes and systems are likely to be related to the firm size i.e. with increased firm size comes increased complexity, it seems that the business owner's approach to management is likewise important. This means that even in micro firms well established systems and processes were found because of the owner-manager(s) managerial capability and/or proactive and longer-term approach to business planning. Setting up general management systems and processes was considered to provide 'stability' to the business.

Systems that emerged as particularly relevant were accounting software packages such as MYOB, Quickbook, Xero or payroll software packages such as iPayroll. For many small businesses the starting point for using accounting software packages was to better manage and control their cash flow by doing the (basic) accounting in-house. Using accounting software packages was perceived by respondents as enhancing their ability to plan ahead, while at the same time decreasing the reliance on their external accountants. As mentioned earlier, financial management (and the type of resource used) was an important part of respondents' capability to manage regulation. Use of software packages was perceived to not only assist with managing specific types of regulation, but particularly with learning about regulation and changes in regulation as the software providers tend to provide free courses for their clients.

The third concept that defined a firm's resource capacity was financial resources. The majority of businesses in our sample ran on their operating cash flow and a bank overdraft with only limited additional resources. Tight cash flow, therefore, emerged as the main constraint on the firm's capacity to manage regulation.

- Availability of trusted sources of information and advice

The third construct in the framework "Accessibility of trusted sources of information and advice" comprises the availability and access to information as well the nature of the relationship. Most respondents were able to name at least one source of information and advice in relation to regulation indicating that information and advice is sufficiently available. The main sources of information and advice that emerged were:

- Trade associations, industry bodies, chambers of commerce and employers' associations
- Professional advisors like accountants, lawyers and bank manager

- Government departments or regulatory bodies
- Trusted business owners (peers)
- Media.

Availability and access to information and advice clearly emerged as an important driver for the development of the respondent's capability as well as the firm's capacity to manage regulation. Similarly important, however, is how respondents engaged with sources of learning and advice and how capable they were in translating the information and advice into business practice. On the other hand, access to sources of information and advice was limited by the financial resources of the firm i.e. some firms considered professional advice not to be affordable. As such, the relationship between the availability of information, the respondent's approach to learning and capability to translate the information and the firms' financial resources are mutually dependent.

With regard to tax compliance, external accountants were a key source for information and advice. A typical strategy for respondents, who lacked financial management skills, was to contract external accountants "to do the books". Using an accountant to compensate for the owner-manager's lack of financial management might be considered positive as it indicates general awareness and an ability to access assistance. The nature of this relationship and particularly the shift of responsibility and control over the business' financial matters to the accountant can, however, constrain the owner-manager's capability to manage regulation. These business owners tended to have limited awareness of their cash flow situation which could result in not meeting their payment obligations towards regulatory bodies such as for example IRD.

It seemed that the relationship between small business owners and accountants is changing and that there is a need for accountants to become more "forward thinking" and assist small business owners in their financial planning rather than just back calculating tax liabilities. This complements the findings on the use of accounting software to assist small business owners with their cash flow management and financial planning.

The perceived cost of using professional services moderated the access to sources of information of advice. Despite, readily available information and advice, a number of respondents did not access them because they perceived them as being too expensive. This was particularly relevant with regard to the use of accountants. In theory it could be argued that the benefits of using an accountant should outweigh the financial costs to the business. A number of respondents, however, were not convinced that the net outcome of using an accountant would be positive for their business. This indicates that some small business owners might not see the added value an accountant can provide. It seems that that they only see the time an accountant charges as a financial cost to the business rather than viewing the use of an accountant as a means of managing regulation. Their own time spent on dealing with tax regulation is rather seen as a psychological cost rather than a financial cost. Membership of business associations was often considered as also being too expensive.

RELATIONSHIP BETWEEN SME CAPABILITY TO MANAGE REGULATION AND COMPLIANCE

We argue that the results indicate that the capability to manage regulation and compliance are two separate issues. While a positive relationship between those two concepts might be assumed, our findings suggest that the capability to manage regulation does not necessarily translate into compliance. Cases were encountered where small business owners showed strong individual ability to manage regulation,

positive attitude towards regulation and access to trusted sources of information and advice. Yet, in some of these cases, compliance with, for example, tax regulation was low. The 'blind' interview approach allowed us to assess the respondents' capability to manage regulation on the basis of the interview data that we then compared against the respondents' actual tax compliance behaviour as measured by IRD. In cases where we encountered a discrepancy between our assessment of the respondents' capability to manage regulation and IRD's compliance measures we explored potential explanatory factors. Results from the coding and analysis of the interview transcripts showed that this "discrepancy" can be attributed to two dynamic factors: the business environment and the regulatory environment.

- Business environment

Results showed that managing and adjusting to economic trends appears to impact more significantly on businesses than any one individual regulation. The recession was the single critical incident that affected the businesses in our sample most in the last two years was the recession. In particular, the recession impacted on businesses through reduced customer demand and fluctuating workload, increased competition and price cutting and as a result constrained cash flow. Through tightening financial resources, the recession also significantly impacted on respondents' ability to comply with regulation. The biggest concerns were to keep up tax obligations and to manage employment matters i.e. cutting staff hours or making staff redundant.

Another dynamic factor that was identified that is related to the business environment are the income patterns of early start-up firms. Income patterns of early start-up firms were generally volatile and difficult to predict, leaving most firms in a financially unstable situation. As a result, most start-up firms seemed vulnerable to achieve tax compliance. While start-up firms in our sample were generally aware of their tax requirements and had systems in place to manage compliance, some struggled to meet compliance. This finding confirms that the capability to manage regulation and actual compliance are too separate constructs.

Other factors that constitute the business environment were location, sector and market.

With regard to location, there is some indication that location might be an important factor in how regulation is managed, particularly with regards to local authority regulation. For example, businesses in the primary sector were affected by some variation in planning regulations and resource constraints. Location can affect access to resources, in turn affect a business's resource capacity. This may include skilled labour, access to finance and social capital in the form of business networks and availability of trusted advisers, accountants and other intermediaries; an important source of proximal learning

The sector case studies that were undertaken clearly indicated the varying nature and extent of regulation firms were facing. Although the important factors affecting capability apply across all industry sectors, we have reported that special conditions can apply in some sectors which can affect capability in dealing with certain regulations. For example, both the media sector and the primary sector have more complex recruitment and employment patterns than occur in our other case study sector, traditional manufacturing, which meant that additional systems and resources needed to be established by business owners to manage the such recruitment and employment practices and manage the regulatory implications (for example, associated with sub-contracting). It is arguable as well that some businesses in the traditional manufacturing sectors, for example, in printing face different regulatory issues associated with areas such as OSH. We have also reported that in some sectors, such as the chemical industry, voluntary codes may be adopted that go beyond national regulatory standards.

Markets, whether domestic or international, provide the economic environment and context within which businesses operate. These do not in themselves provide a source of differences in regulatory environments, apart from different regulatory codes and requirements that may be required in international markets when businesses are exporting. As we have reported, in case examples, these provide a benefit that assists the competitive position of businesses operating to meet the what may higher requirements as a result. Dealing with customer requirements and meeting trading regulations is a further area where voluntary codes are developed (such as the motor vehicle sector). Markets, through suppliers and customers, are a further source of proximal learning and (indirectly) affect capability to manage.

- Regulatory environment

The regulatory environment impacts on the SME capability to manage regulation through the design of regulation, the communication of regulation and the enforcement of regulation.

Respondents from trade associations, for example, perceived that they had an active advocacy role on the part of their small business members, although the importance of this role varied considerably, from some or minor importance in the case of some associations to major importance and a full time role for membership organisations in sectors of manufacturing and primary production. All the business membership organisations in our sample recognised the importance of an advocacy role and this led in some cases to pre-briefing and consultation on regulations. They often make detailed submissions to government departments on new regulation. Such associations would be consulted before a change in regulation that affected the relevant industry sector.

Results suggested that it is important for regulatory bodies to operate a range of communication channels (i.e. on-line, face-to-face, phone, print and mobile). Results indicate that small business owners have different preferences with regard to communication. While the trend towards improving on-line systems is considered positive by some participants, there are others who still prefer print or phone, even among young business owners. Regulatory bodies can impact on an individual's ability to manage regulation by tailoring their communication to the diverse needs of the SME sector.

The way regulation is enforced does not only impact on SMEs capability to manage regulation, but also on the translation of this capability into actual compliance behaviour. Regulative requirements might drive the set up of appropriate systems and processes to manage regulation which then becomes a routine task i.e. an approach to manage the business rather than a set of regulations.

An example of strict enforcement is health and safety regulation on the commercial side of the construction industry. To work on commercial sites or become an approved government contractor, businesses need to have health and safety certification. Despite the cost of the certification for the business, most respondents were positive about it as it creates a level playing field amongst competitors and helps them manage regulation by providing them with the necessary information and procedures and covering the legal aspects of compliance. Respondents who felt that the enforcement of health and safety is too strict tended to adapt their business strategy into areas that they felt are less strictly enforced. An example is workplace health and safety regulation in the construction and trade industry. There was a perception that health and safety regulation on residential sites was less strictly enforced compared to commercial sites, although the same regulation applies in both areas. Other examples include business owners who subcontract staff rather than employing them or deliberately decide not to employ staff at all to avoid employment related regulation.

Consistency of enforcement can be viewed as critical in maintaining support for regulation or at least the willingness to respect its intentions. A concern voiced in some industries is that local governments vary in their administration of regulation. Where this perception takes hold it allows regulation to be interpreted as unfair or poorly designed or both. Therefore, capability to manage regulation might in some cases mean that owner-managers deliberately decide to configure their business to avoid particular types of regulation.

Further, we encountered niche industries, for example, playground maintenance or industrial security systems, where the industry body has introduced voluntary manufacturing standards in the absence of government regulation or a lack of enforcement of government regulation. In these instances compliance with voluntary regulation was perceived as important as it creates a standard.

Conclusions & Implications

This is the first in-depth study that we are aware of that has examined the nature of small business capability to manage regulation and its relationship to compliance. This research makes three contributions to the field of small business regulation and compliance. First, our results confirm previous research (e.g. Kingston University, 2010) which shows that small business owners' behaviour and approach to managing regulation needs to be seen in the wider socio-economic context. Second, our findings point to the importance of distinguishing between capability and compliance. While compliance is only a measure of demonstrated action, the concept of capability involves the broader potential ability to act. It allows for the understanding of small business owners' behaviour in managing regulation, it can explain how and why owner-managers undertake specific actions in response to the regulatory business environment. Thirdly, by broadening our understanding of how small business owners manage regulation, this report contributes knowledge that will be of use to business owners, researchers and particularly policy makers who are concerned with designing and implementing regulation.

SME capability to manage regulation is affected by a number of complex variables that include; resource capacity, systems and processes; owner-manager attitudes to regulation and their specific regulatory environment in which they operate; access to resources, including technology; learning orientation and access to sources of learning. The relationship that exists between any one of these variables and SME capability is not necessarily homogenous across all SMEs, although it is possible to generalise on the broad direction on the nature and direction (+ve/-ve) of this relationship with some of these variables.

Regulation and the impact of the regulatory environment will become a more important issue in terms of SME capability to manage with the trends in globalisation and harmonisation of regulatory environments. Despite the widely reported stalling of the latest WTO trade talks at Doha, there continues to be a growth in bi-lateral and multi-lateral free trade areas and associated pressures to harmonise regulatory codes and regulations. This indicates that SMEs will continue to operate in a dynamic regulatory systems framework that is subject to change, not only do SMEs need capability to manage regulation; this capability must have the flexibility to cope with regulatory change. There will be a need for further research and we include suggestions for further research, which may form at least part of a research agenda, in the following paragraphs.

From a research perspective, the following implications for further research were identified:

- Quantitative research to further explore the framework that has been developed and in particular to test the relationship between the individual concepts in a multivariate design.
- Quantitative research to further explore the link between individuals' attitudes towards regulation and their systematic approach to management. Again, a multivariate design might be suitable to explore the strength of some the relationships identified in this research.
- Longitudinal case studies to explore some of the dynamic factors that we have identified. Repeated case studies with a limited number of firms over a period of time would allow investigating the dynamic interaction between regulatory framework, business environment and individual learning and changes to managerial systems and processes.

- While the present study identified that resource capacity is a key factor that impacts on the capability of small firms to manage regulation, the precise threshold was not possible to establish. This is another potential area of further quantitative research.
- Regulation emerged as a diverse and complex issue, given the different layers i.e. local vs. national, national vs. international and the different degrees of application i.e. business in general vs. specific industries. As a result of this complexity, further research by specific types of regulation is suggested.

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