

Reflections on the NRCoP Regulatory Capability webinar

On 23 March 2021, I joined an audience of close to 400 regulators and others – academics, consultants and people from professional services firms – to learn what I could about ‘*Regulatory Capability: what does it mean and how do we acquire it?*’

‘Capability’ is a word frequently on the lips of team leaders, regulatory agencies and steerers of regulatory systems – but much easier to say than to define or deliver. The NRCoP itself has at its aim building regulatory capability and professionalism, but we openly admit we’re on a learning pathway to define what these terms mean in practice, and to deliver activities capable of achieving them.

My guides on this journey of discovery were all well-qualified to assist. Dr Grant Pink has had a lengthy career as a regulator, leader of regulatory teams, doctoral researcher into regulatory capability and expert consultant to national and international regulators. Victoria Thomson has held senior roles across the kinds of regulatory areas which are not for the faint-hearted – construction, electrical, transport, agriculture and liquor and gaming. And Dr Lorraine Cherney, with a background in liquor and gaming regulation at both the practitioner and PhD level, is leading the NRCoP’s work on potential professional development offerings for regulators.

What did I learn from these wise and experienced people?

First and most important: **what is the problem to which ‘regulatory capability’ is the answer?**

Not completely surprisingly, this turned out to be a variation of the same question I’d spent my lengthy policy career asking, as one fashionable solution after another swept the public service.

For Grant, the starting point was unpacking the ‘who, what, where, when, why and how’ questions. It never hurts to be reminded in the rush to commission training programs, that *capability* is both applicable and necessary at the level of the individual regulator, the team, the organization and indeed as G-Reg in New Zealand is demonstrating, a jurisdiction’s regulatory system. Other important questions, inter alia, include what level of seniority in the organization are we targeting, and what point on the regulatory continuum? (hint: maybe don’t just think ‘compliance and enforcement’). Given that regulatory problems are rarely either simple or quickly solved, because if they were we would have fixed them already, my personal take away was that *capability training* cannot be regarded as the regulatory silver bullet. Some other important ‘c’ words are all part of the equation, including capacity, competence, consistency, culture and credibility.

Which brings me neatly to Victoria Thomson and the distilled wisdom from both her regulatory career and her ANZSOG education.

From my perspective, Victoria’s presentation was invaluable in reminding us of **the importance of the *authorizing environment and political astuteness to being capable regulators***. Using the spectacular recent inquiry into Crown Casino’s fitness to hold a gambling licence as a case study, she encouraged us to be aware of how much a regulator’s effectiveness can sit outside their formal scope of work.

I learned that even within the context of a steady downgrading of specialist regulator expertise and oversight in the service of a regulatory reform agenda, regulators need to have their finger on the pulse of both their duty holders and the political, bureaucratic and stakeholder power structures within which they operate. They need to be aware of what drives their duty holders, including the character of the Board, financial imperatives and organizational culture. They should be able to recognize the political power and influence their duty holders wield, and make sense of the interplay between these informal and sometimes unrecognized influences and the formal authorizing environment.

For the two ANZSOG staff supporting the NRCoP, myself and Dr Lorraine Cherney, the webinar served to re-confirm the importance and urgency of continuing to work at regulatory capability and professionalism.

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