BEYOND BEST IN CLASS
REGULATION:
MEETING THE CHALLENGE

Monday 8 August, 1-5.45pm
China in the World Auditorium
Building 188, Fellows Lane
The Australian National University

RegNet
School of Regulation &
Global Governance

ANU College of
Asia & the Pacific
SESSION 1 - Responsive excellence
John Braithwaite, School of Regulation and Global Governance (RegNet)

When I first joined the Trade Practices Commission (today the ACCC) in 1985 as a part-time Commissioner, I was shocked at how unresponsive to risk it was. When I left a decade later, what had impressed me most about the ACCC was that it was so effectively responsive to opportunities. Responsiveness to opportunities may be more important to regulatory excellence than responsiveness to risk. One reason is that regulators can miss opportunities to create public value by defining narrowly the risks that are their particular responsibility. Failures of the FBI to prevent the Global Financial Crisis and the September 11 attack are used to illustrate.

SESSION 2 - Fear, duty and regulatory compliance
Neil Gunningham, School of Regulation and Global Governance (RegNet)

Socio legal explanations of law-abidingness among regulated business enterprises, as well as among individuals, point to three basic motivational factors: fear of detection and legal punishment; concern about the consequences of acquiring a bad reputation; and a sense of duty, that is, the desire to conform to internalised norms or beliefs about right and wrong. I draw on three research projects concerning environmental regulation, supplemented by references to other research, to explore the interaction of these variables in shaping compliance and ‘beyond compliance’ behaviour by business firms. I conclude that, notwithstanding the repeated images of regulatory ‘failure’ conveyed by the media, regulation-induced fear of legal punishment, social license pressures, and the normative commitments of managers and others play important roles in inducing regulatory compliance.

SESSION 3 - Between evidence and experiments-based regulation: hybrids and nudges
Jeroen van der Heijden, School of Regulation and Global Governance (RegNet)

Using hands on examples from a across a number areas of recent research including my own work on sustainable cities, this presentation bridges various lines of thinking in regulatory scholarship and the diffusion of innovation theory. The examples illustrate that innovation results from experiments that bring government together with industry, civil society leaders and that hybrid regulatory tools (mixing mandatory and voluntary) and nudge-type approaches are needed to translate these experiments to instruments that are attractive to the majority of regulators. Finally lessons from these instruments can then inform evidence-based regulation to bring the laggards in.

SESSION 4 - Regulation and governance: lessons from public health
Sharon Friel, Director, School of Regulation and Global Governance (RegNet)

Health, and the social determinants of health in particular, presents a formidable challenge for governance: actions are required in many sectors of government and society. There are thus many institutions and actors involved, each with differing, and sometimes conflicting, institutional goals and objectives. This diversity of actors – state and non-state, public and private – suggests that governance will take place in ‘many rooms’, at many levels, and use many processes in an increasingly “decentralized” world. This session explores health and disease in a wider societal context, as a window into the challenges that decision-makers face across many other areas or regulation and governance. The argument will be that the use of multiple intersectoral policy instruments, involving a broad range of actors, is necessary to address the fundamental conditions of health policy, as is in many other spheres of regulation.

SESSION 5 - The wheel of social alignments: a regulatory model to help government decide the “big blueprint” for regulation and de-regulation
Valerie Braithwaite, School of Regulation and Global Governance (RegNet)

Cooperation is central to any regulatory effort from de-radicalisation to corporate taxing. It is not always easy to achieve and often trustworthiness and respect are second best alternatives. At the end of the line is authoritative control, but where a regulated population is intent on being defiant the expense of this option is prohibitive. The wheel of social alignments outlines the conditions for building cooperation with those being regulated and with alternative authorities, while being mindful of the way in which globalised forces disrupt the best laid plans of government for its citizens.

Closing remarks
Sharon Friel
Director, School of Regulation and Global Governance (RegNet)

Informal chat - directions & future sessions

All speakers from the day will remain to discuss future targeted events, take interest and ideas from the audience and respond to remaining questions.

All sessions will be followed by Q&A