PART II*

Regulatory Policies and Outcomes

* The background material used to prepare this report is available on the Web site: *www.oecd.org/regreform/backgroundreports*.

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Consolidating Economic and Social Renewal

PART II

Chapter 2

Regulatory Governance*

* For more information see: Background Report on "Government Capacity to Assure High Quality Regulation" available on the Web site: *www.oecd.org/regreform/backgroundreports*.

Context and history

Co-operative federalism and the comprehensive rule of law are the defining characteristics of Germany's governance

Germany is the world's third largest economy after the US and Japan, following re-unification with the east in 1990. Its governance framework, which was developed in the post-war years to support a massive rebuilding of the economy and society, is marked by several strong and distinctive features. The first is co-operative federalism, under which the States (*Länder*) have significant regulatory powers and responsibility for implementing most federal legislation. The *Länder* governments are represented by the *Bundesrat* in the German parliament and have the right to veto much of the legislation of the *Bundestag* (the federal chamber). This system promotes diversity in *Land* regulation, as well as a highly consensus-driven federal policy process. The second is the "legal State" (*Rechtstaat*) tradition, which emphasises the rule of law, comprehensive regulation, and a *Weberian* model of bureaucracy based on narrowly defined responsibilities.

There have, as yet, been no significant changes to this system

The system does not encourage fundamental change: other issues aside, there is no single central actor powerful enough to push it. Until re-unification, Germany did not face any serious crisis that might have triggered such change, though disturbing long term trends such as unemployment had already emerged. Re-unification, a unique event in OECD history, took up immense political as well as economic resources: rather than change its regulatory governance in the face of this distracting challenge, Germany extended the system to the new eastern States. Regulatory reform has therefore so far been marked by disjointed incrementalism, building on what is already there. Traditionally, efforts have focused on improving the efficiency of the public administration and reducing administrative burdens for SMEs, and have often been promoted by the *Länder*.

Two public sector reform programmes launched in the 1990s – the *Lean State* programme, and the *Modern State – Modern Administration* programme – are noteworthy for their efforts to improve capacities for developing high quality regulation, and indicate an emerging shift in the State's role, from direct provider to facilitator (the "enabling State"). The latest and much more wide-ranging government reform programme – *Agenda 2010* – also underlines this process of adaptation. This echoes the evolution in other OECD countries away from a narrow concept of regulatory reform as deregulation moves towards more dynamic regulatory management which looks at quality as well as quantity. These initiatives also highlight the fact that the government is seeking ways of responding effectively to the pressures on the economy. A consistent and cumulative process is at work with the focus on public sector capacities.

Regulatory policy

Elements of a regulatory policy are in place but there are important gaps

Regulatory policy means an explicit policy that aims to improve the quality of the regulatory environment on a continuous and dynamic basis. Experience in OECD countries suggests that an effective regulatory policy has three basic components which are mutually reinforcing: it should be adopted at the highest political levels; contain explicit and measurable regulatory quality standards; and incorporate a regulatory management system that will track and promote regulatory quality.

Some elements of a regulatory policy have built up over time in Germany. The 1984 "Blue Checklist" introduced a broad set of issues for consideration when legislation is prepared, similar to the OECD's own Checklist for Regulatory Quality (Box 2.1). The "Joint Rules of Procedure for Federal Ministries", dating back to 1958, advises on the preparation of policy proposals, and has specific requirements for the whole regulatory process including consultation and justification Statements. The 1991 "Manual on Legal Drafting", revised in 1999, provides legal drafting guidance. More recently a non-mandatory guidance note for Regulatory Impact Analysis (RIA) has been prepared.

Box 2.1. **Germany's Blue Checklist**

The checklist was made available to government officials as a guideline. As was the case for most early checklists of this kind in OECD countries, compliance with the guidelines was not monitored or sanctioned. The checklist included the following questions:

1. Is action at all necessary?
2. What are the alternatives?
3. Is action required at federal level?
4. Is a new law needed?
5. Is immediate action required?
6. Does the scope of the provision need to be as wide as intended?
7. Can the length of the period for which it is to remain enforced to be limited?
8. Is the provision unbureaucratic and understandable?
9. Is the provision practicable?
10. Is there an acceptable cost-benefit relationship?

Taken together however, these procedures do not cover certain key issues. The RIA guidance is not prescriptive, contains no clear criteria, and does not advise on how to assess regulatory impacts or quantify administrative burdens. Further, more specific guidance is in preparation but not expected to be available for at least a year or more. Legal quality is still the main preoccupation.

Regulatory institutions

Regulatory co-ordination units exist but are dispersed across government

One of the key components of an effective regulatory policy is a regulatory management system to track and promote regulatory quality principles across government.

As elsewhere in the OECD, each ministry is responsible for developing its own regulatory proposals. Each one is also responsible for consultation and regulatory quality control, within the guiding framework of the Joint Rules of Procedure. Specific ministries play a stronger general role. The *Ministry of the Interior* must be consulted on the preparation of all laws and subordinate regulations, and the mandatory aspects of RIA (it is also the lead ministry for the *Modern State – Modern Administration* programme). The *Ministry of Economics and Labour* must be consulted on the effect on business, especially small and medium sized businesses. The *Ministry of Justice* must see all draft legislation: it is responsible for ensuring technical quality as well as conformity with the Constitution. The *Chancellery* is less prominent on a day-to-day basis but shadows individual ministries to help resolve differences and promote overall policy coherence. The *Ministry of Finance* assesses the effect of proposed laws on public expenditure and revenues. The reforms to improve public sector efficiency and reduce administrative burdens are overseen by *ad hoc* committees of permanent secretaries.

Germany has established several central regulatory co-ordination units in horizontal ministries. These could form the core of a potentially effective system, but they would need development, including a closer working relationship and stronger analytical expertise. Many OECD countries have opted for a single centralised regulatory quality unit.

The local government and EU dimensions

Local government: a need to strengthen regulatory quality mechanisms

Regulatory quality is important at all levels of government: failure to carry out effective regulation at one level can undermine efforts elsewhere. Germany's federal structure is one in which the different levels – federal, State (*Land*) and local – have very close relationships. Its federalism gives Germany an advantage that some other OECD countries have to work for: a close and responsive relationship with citizens. But the independence of local and *Land* levels is also a challenge for the promotion of consistent regulatory policies across the whole government.

The municipalities are constituent parts of the *Länder*, which set parameters for their operation, and are responsible for a wide range of local service delivery. They enjoy an historic right to decide all matters relating to the local community on their own responsibility within the framework of existing law. Local governments implement more than 75% of federal and State legislation, and handle two thirds of public capital expenditure.

The *Länder* have considerable independence and regulatory powers, as well as a strong relationship with the federal level. They are responsible for implementing most federal legislation as matters of their own concern under their own responsibility (there is generally no federal representation at *Land* level). A key part of the re-unification process with the east was the rebuilding of eastern *Länder,* in line with the general policy of extending the existing west German governance and regulatory framework rather than changing it. A number of mechanisms exist to promote *Land*-federal co-operation. These include an obligation, under the Joint Rules of Procedure, for ministries to involve *Länder* representatives in the regulatory process, councils and committees to co-ordinate activities and policies (including the Financial Planning Council for budget matters), and a Constitutional requirement that every bill passed by the *Bundestag* must be submitted to the *Bundesrat*. Nearly half the laws passed by the *Bundestag* require the consent of the *Bundesrat*.

There is scope to improve the *Land*-federal relationship and thus make government decisions and spending more efficient and effective. Current fiscal arrangements provide an incentive for inefficient *Land* spending in some areas, because the *Länder* only carry a share of the total costs for activities that are co-financed with the federal government. Such activities could be reduced. Tax and spending competencies could also be better aligned. Improving the incentives for cost control would encourage the use of cost-benefit analysis. There is also a need to help parliament make decisions on a more informed basis. Quality regulatory impact assessment of draft laws is lacking, and parliament itself is concerned about this. As in some other OECD countries, regulatory quality assurance mechanisms are much less readily available to the legislature than to the executive. Measures are under discussion to remedy this weakness. The *Länder* parliaments are ahead of the main parliament in this respect.

The EU: regulatory processes are quite well handled

The EU is hugely important for regulatory reform in EU member States: much new regulation comes from Brussels. EU legislation accounts for over half all new regulation in Germany in terms of economically relevant law. Handling this is relatively well done. The Joint Rules of Procedure are applied to EU as well as domestic legislation, which means that a broadly similar process of consultation and impact assessment is in place. Systematic efforts are made to influence the EU decision-making process, with some success. Germany's deficit for implementing EU law is about the EU average, at around 3% (though the EU target is 1.5%).

Regulatory transparency

An informal and unsystematic approach serves organised interest groups well, but risks excluding others

Transparency is one of the central pillars of effective regulation – that is, regulation that will be suited to its purpose. It is a challenging task and involves a wide range of practices, including standardised processes for making and changing regulations, consultations with interested parties, effective communication of the law and plain language drafting, publication and codification to make it accessible, controls on administrative discretion, and effective implementation and appeals processes.

Transparency of rule-making processes is based on the Constitution and the *Administrative Procedures Act* as well as the Joint Rules of Procedure. These cover a general obligation to consult and inform, and the Joint Rules set out more elaborate arrangements for new regulations. The provisions are complemented by specific and varying administrative procedures for particular policy areas. Such procedures appear to be proliferating, which may reduce overall transparency even if the quality of individual rules is improved. A Freedom of Information Act is under discussion.

Transparency in terms of public consultation gives stakeholders the opportunity to help shape regulation, gives regulators valuable feedback on potential costs as well as benefits and the prospects for successful compliance and enforcement, and provides a safety net against capture by particular interest groups. Not least, it helps to legitimise government action by involving interested parties. Consultation needs to be fully embedded in the regulatory process.

In Germany, formal rules are set out in the Joint Rules of Procedure, which prescribe in some detail procedures for consultation within government, but are much more general and discretionary as regards public consultation (for example, consultation of experts and umbrella associations should be "as early as possible"). This discretion means that consultation approaches across government are based on individual ministries' traditions. But though this gives rise to a largely informal system, consultation is usually intensive from an early stage, seeking to achieve consensus among organised interests.

The process usually takes time. The use of special and expert commissions (for example the *Hartz* Commission for labour market reforms) may help to move matters forward. The process is also not systematic (who is invited, by what means, what proposals and documents are the subject of consultation, varies between ministries). Comments are not made publicly available, and there is no single consultation contact point on the federal Web portal. Forward planning – the publication of plans for future regulation – is covered in a very general way via the federal Chancellor's public presentation of government policy. But this is not backed up by a more systematic communication to the general public of future regulations.

Overall, the system gives organised interests who are invited to participate a major influence, but may easily *de facto* exclude everyone else. Finding out about what is going on is burdensome for outsiders. It is in marked contrast with the more systematic and open "notice and comment" process adopted in many other OECD countries (Box 2.2).

Transparency of communication is another pillar of effective regulatory practice. The existence and content of laws need to be known, and citizens provided with information to help them comply with, and make use of, the law. As in most other OECD countries, all new federal legislation must be published in an official gazette (accessible on the Internet since 1998). The Ministry of Justice posts important legislation on its Web site. Varied, usually somewhat basic, arrangements are made by other ministries for their legislation. The Joint Rules encourage the use of correct and understandable language. However the legal background of most government officials (as well as business and consumer association representatives) familiar with legal precision may weaken the priority attached to plain language. There is scope for improvement.

Adoption and communication of a law sets the framework for achieving a policy objective. But *effective implementation, compliance and enforcement* are essential for actually meeting the objective. A mechanism to redress regulatory abuse should also be in place, both as a democratic safeguard and as feedback to improve regulations. The rule-making process in Germany includes little prior assessment of legislative proposals' enforceability. Mechanisms for compliance and enforcement are marked by the division of powers between the federal government and the *Länder,* enforcement usually being the responsibility of the latter. Federal supervision is usually restricted to checking the legality of the enforcement. There is no systematic monitoring of compliance and enforcement practices, and mechanisms for the enforcement of federal legislation vary across the *Länder,* partly dependent on the resources allocated to them. Some efforts are being made to promote cross-*Länder* harmonisation of practices. A strongly embedded respect for the rule of law may ensure high compliance rates.

The principle of judicial review is a very strong feature of Germany's administrative and legal tradition. The Constitution provides all citizens with the right to appeal all administrative decisions and actions to the courts. A multi-stage process can be activated, and the courts generally examine both the legality and the substance of cases. Conditions are applied for

Box 2.2. **Promoting a more open rule making process: "Notice and comment" in the US**

The 1946 Administrative Procedure Act (APA) established a legal right for citizens to participate in rulemaking activities of the federal government on the principle of open access to all. It sets out the basic rulemaking process to be followed by all agencies of the US Government. The path from proposed to final rule affords many opportunities for participation by affected parties. At a minimum, the APA requires that in issuing a substantive rule (as distinguished from a procedural rule or Statement of policy), an agency must:

i) Publish a notice of proposed rulemaking in the Federal Register. This notice must set forth the text or the substance of the proposed rule, the legal authority for the rulemaking proceeding, and applicable times and places for public participation. Published proposals also routinely include information on appropriate contacts within regulatory agencies.

ii) Provide all interested persons – nationals and non-nationals alike – an opportunity to participate in rulemaking by providing written data, views, or arguments on a proposed rule. This public comment process serves a number of purposes, including giving interested persons an opportunity to provide the agency with information that will enhance the agency's knowledge of the subject matter of the rulemaking. The public comment process also provides interested persons with the opportunity to challenge the factual assumptions on which the agency is proceeding, and to show in what respect such assumptions may be in error.

iii) Publish a notice of final rulemaking at least thirty days before the effective date of the rule. This notice must include a Statement of the basis and purpose of the rule and respond to all substantive comments received. Exceptions to the thirty-day rule are provided for in the APA if the rule makes an exemption or relieves a restriction, or if the agency concerned makes and publishes a finding that an earlier effective date is required "for good cause". In general, however, exceptions to the APA are limited and must be justified.

The US system of notice and comment has resulted in an extremely open and accessible regulatory process at the federal level that is consistent with international good practices for transparency. The theory of this process is that it is open to all citizens, rather than being based on representative groups. This distinguishes the method from more corporatist models of consultation, and also from informal methods that leave regulators considerable discretion on who to consult. Its effect is to increase the quality and legitimacy of policy by ensuring that special interests do not have undue influence.

judicial review to be triggered: an applicant must file a claim that his or her own rights have been violated.

Alternatives to regulation

The approach needs development: alternatives are not yet systematically considered according to regulatory quality principles

The use of a wide range of mechanisms, not just traditional regulatory controls, for meeting policy goals helps to ensure that the most efficient and effective approaches are used. Governments must lead strongly on this to overcome inbuilt inertia and risk-aversion.

At the same time, care needs to be taken when deciding to use "soft" approaches such as self-regulation to ensure that regulatory quality is maintained.

Germany puts clear formal obligations on regulators to consider alternatives and to justify when they opt for "traditional" regulatory solutions instead of self-regulation (Box 2.3). These are part of the Joint Rules of Procedure. The recent emphasis on developing an "enabling State" lends political support to these efforts. However in practice, little is done to give effect to the instructions. Ministries for example nearly always simply summarise their consideration of the options to a traditional approach as "no alternatives", which cuts short any possible further debate.

As elsewhere in the OECD, Germany's use of alternatives is most developed in the environmental field. Here voluntary agreements are widely used (for example to phase out environmentally harmful products). More than 100 voluntary agreements are currently in effect. Germany also has one of the highest rates of participation in the EU's Eco-Management and Auditing Scheme (EMAS). Most voluntary agreements have been effective in reaching their targets, but their status is not well defined, targets may not be ambitious enough, and their efficiency may be a problem.

Box 2.3. **The German Checklist for identifying opportunities for regulatory alternatives**

The *Joint Rules of Procedure of the Federal Ministries* stipulates that draft regulations must be accompanied by an explanatory memorandum, which among others must explain:

- whether there are other possible solutions to regulation;
- whether the identified policy objective can be performed by private parties; and
- the considerations that led to the rejection of non-regulatory options.

An annex to the *Joint Rules* provides a checklist for identifying opportunities for self-regulation:

- What kind of regulatory arrangement is appropriate to address the problem? Is self-regulation sufficient? What structures or procedures should the State provide to enable self-regulation? Would it be possible for the State to make self-regulation mandatory?
- Provided the task can be carried out by non-governmental or private bodies: how is it ensured that the non-governmental service providers will provide their services for the common good (nation-wide coverage, etc.)? What regulatory measures and bodies does this require? How is reassignment of tasks to governmental institutions ensured in the case of bad performance?
- Can the problem be solved in co-operation with private bodies? What requirements for the legal design of such co-operative relationships should be imposed? What practical design is suitable and necessary to enable or support such co-operative relationships in organisational terms?
- If it seems that the problem can only be solved adequately on the basis of a programme or other target-oriented basis: what minimum content of regulation is required by the rule of law (*e.g.*, stipulations on competence, aims, procedures, etc.)?

Source: Government of Germany (2000).

Table 2.1. **Examples of self-regulation in Germany**

Sector/economic activities	Players and regulatory powers
Craftsmen	Chambers of Handicraft and Guilds: • issue ordinances for examinations to become a journeyman; prepare and execute the exams (prerequisite to exercise the trade); • issue ordinances for examinations for master certificates; • oversight of apprenticeships; • specification and oversight of vocational training; • co-administration of vocational schools.
Lawyers	Chambers of Lawyers (federal and for individual court districts): • issue licences to become a specialist lawyer; • revocation of authorisations; • specification and supervision of professional duties.
Chartered accountants	Chamber of Chartered Accountants: • issue licenses to become a chartered accountant; • provide binding opinions to the authorities on the authorisation of new accountants; • provide opinions on the revocation of authorisations; • specification and supervision of professional duties.
Doctors	*Länder* Chambers of Doctors:[1] • organisation of emergency services and further education; • specification and supervision of professional duties of doctors; • specification of vocational training of receptionists; • setting up of bodies for examining wrongful care.
Pharmacists	*Länder* Chambers of Pharmacists: • organisation of emergency services; • specification and supervision of professional duties; • specification of supplementary training.

1. According to Heilberufegesetz Nordrhein-Westfalen (Act on Medical Professions of Northrhine-Westfalia).

Source: OECD.

Germany has delegated regulatory powers to a number of self-regulatory bodies, within a broad policy framework laid down in a parent law (Table 2.1). The effectiveness of this type of regulation is not always clear, and can engender restraints on competition (for example the arrangements for the professions raise issues). Recent useful research provides suggestions for when self-regulation should be preferred to other tools, and the issues that should be examined when making a choice.

Regulatory Impact Analysis

RIA is long established but undermined by a number of important weaknesses

RIA is perhaps the most important regulatory tool available to governments, as its aim is to ensure that the most efficient and effective regulatory options are systematically chosen. It is, however, a challenging process which needs to be built up over time. It combines good habits of consultation with a rigorous review of the impact of prospective rules through a clear and balanced assessment of costs and benefits.

Germany's 1984 Blue Checklist was one of the first efforts in the OECD to get regulators to consider a range of issues in the development of rules. The last twenty years have seen a cumulative reinforcement of this approach. Current RIA policy is based on the 2000 revision of the Joint Rules. RIAs must be prepared for all draft regulations (primary and secondary) and must follow some requirements and procedures, including financial impact assessments for government budgets as well as for business and consumers. But the approach remains, overall, weak. There are no formal sanctions for non-compliance.

Resources available to the Ministry of the Interior to secure compliance with the Joint Rules are tiny. Central resources to promote RIA are insufficient. The guidance and training available to regulators is not enough and recent promising conceptual work to develop RIA has not yet been translated into practical measures for application in day-to-day ministry business. Quantitative evaluations remain especially weak. The federal and *Länder* parliaments show a growing interest in ensuring a more effective system to support their rule-making. Meanwhile some skepticism and reluctance remains among regulators, as well as a lack of awareness of what RIA can do and the guidance available.

The following list, based on best practices identified by the OECD, sets out the most important areas for government attention in the development of RIAs:

- *Maximise political commitment to RIA*. Use of RIA should be endorsed at the highest political level. Political commitment is currently inadequate, and too general to make a sustained and continuous impact on ministries.
- *Allocate responsibilities for RIA carefully*. Ownership by regulators needs to be carefully balanced with quality control and consistency: responsibility for RIA should be shared between ministries and a central quality control unit. As in nearly all OECD countries, Germany puts the main responsibility on ministries. The role of the ministries with horizontal responsibilities for regulatory quality (see Institutions above) is not clearly organised. Overall responsibility for promoting RIA and regulatory quality has not been defined or allocated.
- *Train the regulators*. Regulators need the skills to carry out high quality RIAs. Current arrangements – two to three hours as part of voluntary training in law-making – are not enough. The Ministry of the Interior is working with the Federal Academy of Public Administration to develop new training methods.
- *Use a consistent but flexible analytical method*. An effective RIA needs a soundly based cost-benefit analysis which includes quantification. Guidelines exist, but are not applied.
- *Target RIA efforts*. RIA resources should be targeted at regulations with the largest potential impacts, and with the best prospects for changing outcomes. Current guidelines offer no advice on this.
- *Develop and implement data collection strategies*. RIA quantitative evaluations are only as good as the data which support them, and lack of information is known to raise problems. Here again, guidance for ministries is essential.
- *Integrate RIA with the policy-making process*. RIA can only be effectively managed if it is integrated, as early as possible, with policy-making and is not just an "add-on" after policy decisions have been made. Stronger incentives – and a stronger cultural conviction of RIA's value – are needed for ministries to integrate RIA at an early stage, and possibly also sanctions for non-compliance.
- *Communicate the results and involve the public*. Consultation provides essential quality control, by providing feedback on a draft regulation's feasibility and likely future impact. To the extent that ministries carry out public consultations, RIAs are rarely included, and introductory summaries to proposed rules only mention briefly the likely costs for business and citizens.

Building regulatory agencies

Germany's regulatory agencies are generally well-conceived but transparency needs to be improved

Most OECD countries have established independent regulators as part of their structural reforms to promote competition in markets. These are now an important part of effective regulatory management. Setting them up to be fully effective, however, presents a significant challenge. They should be competent, accountable and independent; at arms' length from short-term political interference; capable of resisting capture by interest groups yet responsive to general political priorities; and have decision-making procedures that take into account the special features of the regulated sector, but are also transparent and accessible. The scope of the functions and powers devolved to a regulator is the major factor in identifying the best design for it, which also depends on the institutional context.

There is no general policy to guide the establishment of regulatory agencies in Germany but they do share some important features. They are mostly established by law as Higher Federal Authorities responsible to the relevant policy ministry. Overall they enjoy a high degree of autonomy, whilst remaining politically close to their ministry. Their professional integrity and expertise is generally well-regarded. The wide discretion which they enjoy in consulting on, and communicating, regulations makes for a variety of practices. Transparency could be improved with the application of a more systematic framework covering issues such as communication of decisions and the relationship with parliament.

An overview of Germany's regulatory agencies for rail, financial and postal services, telecommunications, pharmaceuticals, food safety, and social insurance as well as for general competition policy is given below. A regulator for electricity and gas is to be set up. A careful and systematic review of a wide range of design issues, using the experience of other OECD countries as well Germany's own experience (not least with the telecommunications regulator, RegTP) should be carried out in setting up this new regulator.

- *Powers*. They concentrate on the application of regulations and their enforcement, policy remaining with the ministry.
- *Independence*. They generally enjoy a high degree of independence, partly embedded in statutory guarantees, partly through the ministry's political choice.
- *Accountability*. They are legally accountable to their ministry, though they may take final decisions in individual cases and their decisions can be challenged in court. Political accountability is through annual and bi-annual activity reports.
- *Communication*. Transparency is very variable and there are no general rules or guidelines. Several regulators publish their decisions on the Web. BKartA, BAFin and RegTP must publish in the Official Gazette.
- *Management and appointments*. They are headed by a president and vice-president appointed through a political process. Advisory councils are mandatory for BAFin and RegTP, to advise and monitor the regulators' activity.
- *Resources/funding*. Most of the funding is via the federal budget and integrated in the relevant ministry's budget. Funding by fees and charges varies from 2.92% (BVA – the social insurance regulator) to 100% (BAFin).

- *Consultation and decision-making procedures.* The Act on Administrative Procedures provides a general framework. The Joint Rules of Procedure do not apply to regulatory agencies, which have set up their own and different decision-making mechanisms. These are not monitored or evaluated by the government.
- *Administrative appeals and public redress.* The first instance appeal is usually the regulator (though it is the court for RegTP). Complaints normally delay the implementation of the regulator's decision.
- *Co-ordination.* There are virtually no requirements and no framework. Ministries decide *ad hoc* whether to invite regulatory agencies in a consultation. Only RegTP among the sectoral regulators is required to consult the BKartA on competition issues. Concurrent powers with the BKartA, and supporting mechanisms, cover the relationship between regulators and the competition law. Significant horizontal co-ordination takes place between the regulators.

Keeping regulations up to date

A more systematic approach would be very helpful

Since the mid-1980s Germany's regulatory quality agenda has focused largely on the reduction of administrative burdens, led by the Ministry of the Interior. Special attention is paid to SMEs, for which there is a dedicated unit in the Ministry of Economics and Labour. The 2003 Initiative to Reduce Bureaucracy (see Part I) brings together a number of initiatives. It is an ambitious platform but it is not yet quite clear how the goals will be achieved. Recent federal initiatives to reduce administrative burdens are listed in Box 2.4. Measures are mainly applied *ad hoc* and *ex post*, and there are no specific targets. Inadequate federal authority to promote policies in areas where administrative burdens are especially high is an issue. This could be helped by increased co-operation between the federal and State governments as well as incentives for the States to support strategies aimed at reducing burdens.

Many OECD countries, including Germany, face the challenge of identifying and measuring administrative burdens imposed by new or existing legislation. This is often not clear, so that governments do not know the burdens on their businesses and cannot therefore make informed policy choices to improve matters. Some countries have put innovative practices in place to address this (Box 2.5).

As in most other OECD countries Germany has accumulated a large stock of regulations and administrative formalities. It has made substantial efforts to review this legislation, and repealed a great number of primary and secondary laws (Table 2.2). New regulations often include repeals of the regulations they replace. Some useful provisions exist. The Joint Rules of Procedure offer guidance on review (for example explanatory memoranda must explain whether a time limit can be applied to the law). However, the actual use of "sunsetting" is very limited and *ex ante* tests for review are not usually established. Mandatory reporting obligations may require and/or allow regulators to highlight desirable revisions to the law in the light of their experience. Independent committees have also commonly been used to review and simplify existing regulations, and to review government administration and procedures.

However, there is no systematic policy for review, and the guidance which is already in the Joint Rules of Procedure is not strongly embedded with regulators. It also needs more political support.

Box 2.4. **Recent federal initiatives to reduce administrative burdens**

Recent federal initiatives to reduce administrative burdens:

Mail box suggestions. In 2001 the Ministry of Economics and Labour published a report with 80 measures to reduce administrative burdens. The measures were based on an invitation in 1999 to business organisations and business to provide concrete suggestions to burdens for business.[1] The measures – some of which are still in the process of being implemented – primarily consist of marginal and practical adjustments of existing administrative procedures. No assessments have been made of cost-savings or other gains of the project.

The Digital Townhall. A pilot project, Media@Komm, launched in 2000 in three municipalities makes a large number of local government services available on-line. The objective is to simplify and accelerate citizen-local government transactions as well as to improve internal administrative processes. Services available on-line include building applications, public tendering, business promotion schemes as well various reporting obligations.

Standard nationwide business number. A pilot project launched in Bavaria in 2002 introduces the use of standard nationwide business numbers. Nationwide introduction is scheduled for 1 January 2005.

Health insurance: simplification of communication and standards. In 2000, the statutory health insurance funds standardised their benefit forms. A system developed by the Ministry of Economics and Labour has enabled electronic and simplified communication procedures between employers and insurance funds. Information about cost-savings and other effects is not available.

Reporting on line. Since 2000, German companies can use the Internet to provide obligatory information to the Federal Statistical Office for some statistical surveys. Information required by other authorities is reported through other channels, some of which are electronic.

"***JobCard*".** A pilot project launched in 2002 introduced a JobCard for employees. The card and its supporting software systems will allow the publicly run employment services to electronically access information about unemployed seeking work, employment periods, pay level information, etc. The project is intended to accelerate and facilitate the approval of employment benefit claims. No information is available on the expected or realised savings and other results of this project.

Laws and regulations on line. By mid 2003, the Ministry of Economics and Labour expects to make information about the legal framework and procedural requirements for start-ups available on the Internet.

BundOnline 2005. Launched in 2000, the German Government's e-Government plan BundOnline 2005 has as its main objective to provide online those of its nearly 400 services that can be placed on the Internet, by 2005. The project is also expected to drive comprehensive administrative reforms by enabling significant simplifications of government structures and internal procedures. Headed by the Ministry of the Interior, the project has a total budget of EUR 1.43 billion to be spent primarily on the specialist application in departments and on reorganisation projects.[2] When fully implemented, the government expects BundOnline 2005 to provide annual savings of EUR 400 millions. As of July 2003 a total of 200 federal administrative procedures and services were available from federal portal *www.bund.de*.

1. However 71% of the responses either did not address particular regulations or they were not able to point to concrete burden or barrier problems stemming from an identified regulation (Ministry of Economics and Labour (2001), 5-6). These could also be seen as a reflection of the problems which large, consensus-driven German organisations face in providing specific suggestions to reduce administrative burdens. With most administrative regulations providing some kind of benefits to specific, veto-equipped members of large business organisations, it has sometimes been necessary for business organisations to resort to very general recommendations to the government on how to reduce administrative burdens.
2. Ministry of the Interior, 2003.

Box 2.5. **Monitoring and measuring administrative burdens**

The **United States** operates a highly developed, comprehensive and centrally enforced programme for analysing and clearing individual government information collection requirements. The Paper Work Reduction Act (PRA) is intended to minimise the amount of paperwork the public is required to complete for federal agencies. The Act requires federal agencies to request approval from the Office of Management and Budget (OMB) before collecting information from the public. The OMB has the responsibility to evaluate the agency's information collection request by weighing the practical utility of the information to the agency against the burden it imposes on the public. Agencies must publish their proposed information collection request in the Federal Register for a 60-day public comment period, and then submit the request to OMB for review. In seeking OMB's approval, the agency needs to demonstrate that the collection of information is the most efficient way of obtaining information necessary for the proper performance of the agency's functions, that the collection is not duplicative of others the agency already maintains, and that the agency will make practical use of the information collected. The agency must also certify that the proposed information collection "reduces to the extent practicable and appropriate the burden" on respondents, including, for example, small business, local government, and other small entities. Since 1980 the OMB has set varying quantitative targets for the reduction of information collection burdens.

Another example of an advanced system for measuring administrative burdens is the MISTRAL methodology developed and employed in **the Netherlands**. MISTRAL works in three stages: first, all "data transfers" between a business and the authority are clearly identified (*e.g.*, a document, a telephone call, an inspection, etc.); second, the time involved in each "data transfer" and the level of expertise of the person performing the task are determined; third the data are computed to produce estimates for the administrative burdens incurred by the information requirement under review. Burdens are quantified in time as well as in monetary terms. MISTRAL has been used to quantify administrative compliance costs of very different laws and regulations, including legislation concerning working conditions, the environment, annual accounts, corporation tax, and social premiums. The Dutch government has set up successive policy goals for the reduction of these administrative burdens: minus 10% by 1998, and minus 25% by 2003, compared to the 1994 baseline.

Norway also has a sophisticated regime for measuring and monitoring administrative burdens on enterprises. The Register of Reporting Obligations for Enterprises maintains a constantly updated overview of businesses' reporting obligations to central government. Law obliges public authorities to co-ordinate their reporting requests to business. The register also maintains an overview of permits required to operate within various business and industries, and provides information on how to obtain such permits. On a yearly basis, the register publishes estimates for the total reporting obligations imposed on business by central government. The Register is responsible for the methodology and for collecting burden estimates, whereas individual ministries and agencies are primarily responsible for measuring the actual burden of a reporting obligation. Burdens are measured in time spent on filling forms and preparatory work for the reporting obligation. Norway does not have a quantitative, government-wide target for the reduction of administrative burdens.

Table 2.2. **Repealed federal laws and subordinate regulations in Germany**

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002[1]
Primary legislation	29	15	48	15	12	21	34	14	12	40	20
Secondary legislation	114	127	170	79	89	157	172	89	74	125	122
Total	**143**	**142**	**218**	**94**	**101**	**178**	**206**	**103**	**86**	**165**	**142**

1. As of 7 November 2002.

Source: The Government of Germany.

Conclusion

Germany's current regulatory policy is based on some very sound fundamentals: a coherent rule-based framework which is highly respected, a search for consensus in rule-making, and a public administration recognised for its reliability and integrity. These strengths, however, need to be balanced and supported by other features which are currently absent, so that regulatory policy can provide full and effective support to sound decision-making. Until recently, the main focus of regulatory policy was the important but somewhat narrow issue of reducing administrative burdens, especially for SMEs. Ensuring regulatory quality involves more than this. Recent efforts to develop RIA, which was implanted quite early, show a growing appreciation by the government of the need to go further. But RIA has not yet blossomed into an instrument capable of supporting a broad and effective evaluation of rules. Germany's regulatory system as it stands is complex, there is a significant implementation gap between available tools and practice, the administrative culture is legalistic which means a lack of quantitative, evidence-based evaluation of rules, and there are issues of transparency and accessibility for stakeholders.

Regulatory governance in Germany can be strengthened by working on three mutually supportive issues. The first is to promote a more systematic and coherent approach to consultation and communication of regulations, including the rapid finalisation of planned measures to strengthen RIA. The second is to improve the institutional and procedural framework. Many other OECD countries have found that a successful regulatory policy is best supported by an explicit definition of that policy, developed and monitored by a permanent committee of high level officials and/or stakeholders, and supported by a central government unit with the capacity and competence to guide, monitor and possibly exercise some control over the regulatory process. Improving the framework also means paying more attention to the transparency of regulatory agencies, and reviewing the current structure of inter-governmental funding to improve economic incentives for better cost control, not least via stronger cost-benefit analysis. The third issue is to promote an administrative culture which is supportive of regulatory quality management, complementing current legal perspectives with economic ones aimed at improving efficiency in rule-making. With progress on these three issues, Germany would be on the right path to a highly effective and comprehensive regulatory policy.

Policy options for consideration

1. Close the implementation gap between regulatory policies and practices.

The immediate challenge for regulatory governance in Germany is to close the implementation gap between existing regulatory policies and practices by enhancing and improving the political, institutional and practical support for high quality regulation. This can be done by expanding, converting and making operational existing tools and concepts

into coherent and consistently applied regulatory practices. Meeting this challenge would include improving and enhancing the current support for these policies – political, institutional as well as practical support – as set out in the recommendations below.

2. Strengthen regulatory policies by setting out a single government-wide regulatory policy.

Germany should strengthen regulatory policies as a permanent, high priority for the government, with an integrated approach to the use of regulatory tools, procedures and institutions. Several programmes and policy commitments address different aspects of a regulatory policy in Germany, but with a notable emphasis on *ad hoc* projects focussing on *ex post* reviews and the reduction of administrative burdens. Germany does not have a single explicit or published policy promoting a government-wide regulatory policy. Many regulatory policy elements are applied *ad hoc*, depending on the political strength of individual ministers, without a permanent, government-wide and institutionalised management structure to support them. Policy-makers and civil servants have no strong incentives to pursue a consistent and coherent application of the regulatory policy guidelines already in place. An explicit government-wide policy on the quality of regulation, with the institutions and legal support to carry it out, would boost the benefits of reform for Germany. It is equally important that the policy endorses the systematic use of evaluations and quantitative, evidence-based assessments as the basis for regulatory decision-making and for the review and revisions of existing regulation.

3. Select a permanent ministerial committee responsible for promoting regulatory policy.

Once adopted at the highest political level, a permanent ministerial committee should be established or adapted to support Germany's regulatory policy. The committee should increase accountability for regulatory reform results within the ministries by establishing a systematic process of oversight, against which ministries will be held accountable. Such a committee could be particularly valuable in the context of adopting and reviewing a regulatory policy, and it would provide the necessary "championship" to drive forward the effective implementation of a regulatory policy. Past experience shows that *ad hoc* committees of civil servants implementing selected regulatory policy issues have not been sufficient to change the political agenda towards comprehensive and consistently applied regulatory policies. Similar arrangements to ensure high-level political attention and accountability to regulatory reform have been successfully adapted in the Netherlands and South Korea.

4. Equip a technical unit in the centre of government with capacities to support regulatory quality.

The German government should equip a unit located in the centre of government with the mandate and resources needed – in particular economic expert capacities – to promote, advice, support and evaluate a government-wide and comprehensive regulatory policy. The current criteria, sanctions and staff resources available to enforce RIA obligations are insufficient. A centre-of-government unit with stronger and more credible capacities would oversee the RIA system and provide technical opinions on the *substantive* – not just technical – quality of proposed measures. The unit could also offer training and provide advice on regulatory instruments. As part of this, evaluations of applied regulatory tools and procedures would constitute an important feedback loop to on-going improvements

and revisions of the regulatory policy. Another option could be to equip the unit with a formal challenge function *vis-à-vis* ministries' regulatory proposals.

5. Establish standards for consultation procedures and improve accessibility to existing regulations.

There is scope for improving current consultation and communication mechanisms. Germany should improve regulatory transparency by establishing formally defined standards for consultation procedures and by improving accessibility to existing regulations. The discretion left to ministries and the lack of minimum standards for the timing, content, process and scope of consultation procedures raises concern about the costs, transparency and accessibility of the process for stakeholders not familiar with or not frequently operating in this framework. The German government should: establish uniform and clear obligations for consultation procedures for all regulation on the federal level, *i.e.*, a notice and comment procedure with minimum standards for the timing, content, process and scope of consultation processes; establish a single, easy searchable, free of charge, consolidated, Internet based database for all federal laws and regulations; establish a notice-and-comment procedure to replace or supplement the current practice of consulting with selected parties; consider making responses to consultation papers publicly available; improve and expand information available to the public about future planned legislation, for example by drawing more on information already available in internal government planning systems; reduce the proliferation of sector-specific administrative procedures; and work towards reduction of current exceptions.

6. Ensure that promotion of self-regulation and alternatives is supported by thorough analysis.

Germany should further promote and support systematic consideration of self-regulation and regulatory alternatives for new regulatory proposals. Considerations about the use of self-regulation and soft-law alternatives should be matched with the same scrutiny, transparency and accessibility that apply for traditional regulation. It should also develop practice-orientated guidelines including examples and criteria for the use of regulatory alternatives. Improving and encouraging a more widespread use of alternatives is contingent on an increased awareness among regulators about the potential benefits of non-regulatory alternatives, and on improving the monitoring of regulators' obligation to consider alternatives.

7. Address identified shortcomings in the RIA process.

The current RIA requirements and guidelines provide an important basis for a continued and needed improvement of RIA practices. As a first step, the German government should establish safeguards to ensure a consistent and coherent application of these requirements by ensuring that resources and expertise are available for a centre-of-government unit charged with monitoring, guiding and possibly sanctioning compliance with these standards (see above). In particular, it should be mandatory that draft regulations sent to public consultation are always accompanied by RIAs. Based on the existing RIA concept, the German government should consider sequencing the RIA process into a two or three step model, allowing for early, informed and flexible responses to draft regulations. This would help target the efforts and resources on the impact of major regulations only. RIA guidelines should also be reviewed and consolidated with a view to making the guidelines more operational and aligned to the actual

regulatory process, and, preferably, coupled with a clarification of ministries' obligations during a sequenced RIA procedure. Furthermore, the German government should consider enhancing accountability for RIAs by having responsible ministers "sign off" and guarantee the quality of impact assessments presented to Cabinet and Parliament.

8. Consider a general regulatory governance framework for independent regulatory authorities.

Germany should consider establishing a general framework for the accountability and quality assurance mechanisms applied by independent regulatory authorities. The German system of regulators has been developed *ad hoc* and explicitly for the sectors and the market characteristics in which they operate. This approach has many advantages which should not be lost. However Germany should consider developing a general framework for the use of RIA, communication, consultation and other quality assurance measures applied by the independent regulators. Such frameworks may provide benefits in terms of improved transparency and accountability. Furthermore, in its ongoing consideration of the design of a new independent regulator for gas and electricity, Germany should benefit from the experience in many OECD countries.

9. Develop a strategy and methodology to estimate and monitor administrative compliance costs.

Germany should continue efforts recently initiated under the "Initiative to Reduce Bureaucracy" to establish targets for burden reduction projects. To match the significant political focus on reducing administrative burdens, mechanisms and procedures should be established to quantify administrative burdens and to systematically integrate these assessments in the RIA process. The measurement of the size of existing burdens can be an important information-based approach to developing a policy on burden reduction and the basis for the evaluation of policy initiatives taken. Where possible the German government should attach specific, quantitative targets to new and existing administrative simplification initiatives. The German government should continue to pursue efforts for a nation-wide strategy to reduce administrative burdens – credibly committing the federation as well as the *Länder*.

10. Encourage – especially by training – the continued development of an administrative culture supporting regulatory quality management.

A continued effort is needed to embed good regulatory practices not only in procedural guidelines but also into the culture of the public administration. Government actions rely on an excessively legalistic approach as the standard for quality. The appreciation on the part of some officials of the benefits associated with early integration of regulatory impact analysis in the policy-making process needs to be extended to other departments and regulatory authorities in order to support a broad and continuous development of high quality regulation. The development of such a culture could be encouraged by making regulatory quality management an integral part of the training not only of junior civil servants engaged in the regulatory process, but, as importantly, also of senior civil servants.

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Consolidating Economic and Social Renewal

APPENDIX

Appendix Tables

Table A.1. **Sectoral regulatory reform in Germany**

Industry	Key legislation/regulatory framework	Regulation on prices	Regulation of entry and exit	Other regulations	Remaining regulations on prices, entry, exit	Other remaining regulations
Telecommunications	Fully open to competition since 1.1.1998. Competition-oriented regulation in principle covers all telecommunications markets.	Sector regulator (RegTP) controls the market on *ex ante* and *ex post* basis.	Free entry and exit. (Proof of reliability and professional qualification); access regulation (interconnection, essential services).	Carrier-selection and pre-selection for local calls introduced by law since 1.12.2002, implementation of CbC 1.5.2003, pre-selection in summer.		Universal service obligation exists but without practical impact.
Electric power	Market liberalised in 1998. All customers free to choose supplier. Conditions for network access determined by Associations Agreements. *Ex post* control through BKartA/courts. Introduction of regulatory authority planned.	No *ex ante* regulation. Abuse control by BKartA/courts on the basis of competition law and/or the Act Against Unfair Competition. Tariff approval (small consumers via low voltage electricity networks) by State agencies (relevant for retailers, who are also entitled to special contracts).	Supply of electricity does require specific approval (however, specific activities are not included); reasons for non-approval are legally fixed. No specific regulations for exit.	Minimum quotas for "green" electricity purchased at regulated prices, compensated by fee on some consumers.		Universal service obligation exists but without practical impact.
Natural gas	Market liberalised in 1998. All customers free to choose supplier. Conditions for network access determined by Associations Agreements with quasi legal status. *Ex post* control through BKartA/courts. Introduction of regulatory authority planned.	No *ex ante* regulation. Abuse control by BKartA/courts on the basis of competition law and/or of the Act Against Unfair Competition.	Supply of natural gas does require particular approval (however, specific activities are not included); causes of decline for approval are legally fixed. No specific regulations for exit.	Notification of long-term natural gas supply contracts (longer than 2 years).		Universal service obligation exists but without practical impact.
Insurance and banking	Liberalisation of insurance market in 1994. Abolishment of insurance monopolies and *ex ante* control of insurance products. Phasing out of State guarantees for State-owned banks by 2005.	None.	Comprehensive licensing requirements and on-going financial supervision in compliance with globally accepted core principles including minimum capital requirements and professional qualifications. Supervisory powers include withdraw of licence.	On-going financial supervision in compliance with globally accepted core principles. New Federal Financial Supervisory Authority effective 1 May 2002 for banking, insurance, securities/asset management supervision with involvement of the Central Bank in the on-going supervision of banks.		Some agreements among health insurance funds are not covered by the competition law.

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Table A.1. **Sectoral regulatory reform in Germany** *(cont.)*

Industry	Key legislation/regulatory framework	Regulation on prices	Regulation of entry and exit	Other regulations	Remaining regulations on prices, entry, exit	Other remaining regulations
Railways	State monopoly transformed into joint stock company in 1994. Partial unbundling of infrastructure and train services in 1999. Currently guidelines of EU (first railway package) and results of task force of government "Future of railways" are put into practice.	Supervision by Federal Railway Office (mainly technical issues and track access and abuse control by BKartA *ex post i.e.*, prices for track access).	Proof of professional qualification. Free entry and exit.			
Air transport	National carrier privatised in 1997.	Unregulated pricing subject to abuse control by BKartA *ex post*.	Free entry and exit within EU.	Bilateral treaties on air traffic.		
Road transport	Partly liberalised market for occasional bus services; abolition of contingents for freight transport in 1998.	Prices fixed by the operator of regular bus services (approved by competent authority) and occasional bus services; prices for taxi services fixed by competent local authority. Liberalisation of freight rates in 1994 for road haulage.	Proof of professional qualification, financial and personal liability for carriage of passengers and road haulage. Restricted entry for taxi services.			
Postal services	In 1989 the integrated post and telecom operator was transformed into three enterprises (telecom, post, and bank); transformation into joint stock companies in 1995 with partial privatisation afterwards. Partial monopoly rights (to date for letters up to 100 g) were granted in return for universal service obligations; market opening for letter above 100 g and outgoing letters to foreign destinations.	RegTP is regulator and supervises price setting of dominant carrier(s) (letters *ex ante* regulation; other postal services *ex post* regulation).	Entry for the delivery of letter post items up to 1 kg is subject to a licence (licences are not restricted, except for the exclusive right area, now set at below 100 g). Some competition for Deutsche Post AG for letter services with added value. Free entry and exit for parcel and courier services where many companies entered the market long ago.			

Table A.1. **Sectoral regulatory reform in Germany** *(cont.)*

Industry	Key legislation/regulatory framework	Regulation on prices	Regulation of entry and exit	Other regulations	Remaining regulations on prices, entry, exit	Other remaining regulations
Pharmacy	Regulated sector.	Uniform prices for drugs that may only be sold by pharmacies (including prescription-only drugs).	Proof of professional qualification and citizen of a European Union State. Free exit and limited entry as neither pharmacy chains nor non-pharmacist owners are permitted.	Pharmacies restricted in products that may be carried; some restrictions on advertising. Subject to retail restrictions on opening hours, with modifications.		
Retail sector	The Gifts Ordinance and the Discounts Act were lifted on 31 July 2001. Opening hours recently further liberalised (takes effect from 1 June 2003). Act against Unfair Competition to be revised: regulation of special sales to be abolished.	Ordinance on proper price quotation. Act against Restraints on Competition forbids sales below purchase costs.	Free entry and exit; notification in register of companies and register of commerce. Construction license demanded outside town centers, even if change of use of an existing building for retail is intended.	Some locations are exempted from opening hours limit (gas station, railway stations). Ordinance on Packaging requires outlets to charge deposit for certain types of packaging and to recollect used packaging.		

Source: OECD.

Table A.2. **Potential impacts of regulatory reform in Germany**

Industry	Industry structure and competition	Impact on output, price, and relative prices	Impact on service quality, reliability and universal service	Impact on sectoral wages and employment	Efficiency: productivity and costs
Telecommunications	State monopoly in long distance and international services replaced by competition, mostly local monopolies in local connections, but some competition is developing.	Significant decline of prices for long distance and international calls, some decline for local calls.	More freedom of choice for customer.	Positive employment effects (since 1998).	Acceleration of productivity and declining unit costs.
Electric power	Regional legal monopolies replaced by oligopoly. Entry mostly on retail level and for renewables.	Prices have decreased, in particular for industrial customers.	More freedom of choice for customers, but relatively low rate of switching in reality. However, many customers have renegotiated prices.		Higher level of productivity.
Natural gas	Regional legal monopolies replaced by oligopoly at retail level, duopoly remains at import level and generally monopoly in transport.	Prices have developed in line with prices in other European countries. No relative decline.	More freedom of choice for customer; customers have renegotiated prices. However very low rate of switching in reality.	Wages still above average; employment decreased.	Increase in productivity.
Insurance and banking	Competitive market, with trend towards consolidation and mergers.		Improvement of service level due to ICT applications.	Negative employment effects.	Increase in productivity.
Railways	Increasing intramodal competition in the freight market; increasing competition for the provision of (subsidised) local passenger services; beginning intramodal competition for long distance passenger services.	Output by and large constant in the freight market with probably declining prices and declining market share of rail transport; output increase for local services even prior to public tenders, with partially shrinking subsidies per train kilometre; output by and large constant in the market for long distance passenger services. Successful entry of one competitor.	Improvement of service level due to ICT applications. Service level is generally good, so is reliability. Significant improvements of service level for local services.	Negative employment effects.	Increase of productivity.
Air transport	Competitive market.	Decreasing prices and new entry of several carriers.	Service level is good, as well as reliability.		
Road transport	Many small suppliers. Competitive market for road haulage.	Decreasing prices.			
Postal services	Partial monopoly.	Prices slightly falling in real terms.	Limited choice for customer, apart from courier services.	Decreasing employment.	Productivity increase.
Pharmacy	Potentially competitive.				
Retail sector	Competitive market.		Increased service level due to liberalised opening hours.		

Source: OECD.

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Table of Contents

List of Boxes

List of Tables

List of Figures