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## DOMESTIC REGULATIONS

The following is a briefing paper that outlines the current regulatory climate in both the United States and abroad. It attempts to assess the impact those regulations have on American businesses and, where applicable, attempts to include citations for those estimates and the cost, scope and size of the “regulatory marketplace”. The paper was prepared by NetCompliance, Inc., ([www.netcompliance.com](http://www.netcompliance.com)), a Washington, DC-based Internet company, and member of the Advisory Committee of the Internet Caucus, which provides businesses with Web-based “paperless” compliance solutions and on-line worker training programs.

As you are well aware, government regulations affect all Americans daily. From the food we eat, the water we drink, and the medication we take, to the cars we drive, the programs we watch and listen to, and how we are protected at work and play, regulatory mandates are everywhere.

This is especially true in the area of regulation on businesses. As NetCompliance CEO Krish R. Krishnan pointed out in testimony (available at [netcompliance.com](http://netcompliance.com)) last summer before the Senate Small Business Committee on the future of E-Commerce, future Federal regulatory activity promises more compliance requirements and paperwork, no matter who controls the government and the White House. He said:

“I hold in my hand and would like to submit for the record a copy of the “Unified Agenda of Federal Regulatory and Deregulatory Actions” that was published in the Federal Register on April 24, 2000. This calendar, which is published twice yearly, describes 4,441 government rulemaking actions under development or recently completed within the latest twelve months . . . if this document is indeed an indicator of future regulations, then imagine the difficulties faced by small businesses trying to keep up with rapidly changing regulations and why these businesses are looking for better, cheaper and faster (compliance) solutions.”



To their credit, some agencies within the government have tried to make electronic compliance a priority. A January 3, 2001 story by the Associated Press from Washington, DC said “The IRS finally is making electronic tax filing truly paperless and projects that 42 million taxpayers will chose the e-file option this year, 20 percent more than last year’s record high number.” OSHA offers “interactive computer programs that tell businesses how to comply with rules” and the EPA has established Web-based “Compliance Assistance Centers targeted to specific areas of regulation.”

Meanwhile, FCC Chairman Kennard told Congress last year that the FCC would move toward “a digital agency – a user-friendly and electronic environment where consumers and licensees alike feel comfortable communicating directly with the agency via online services.”  
[www.fcc.gov/speeches/kennard/statements/2000/stwek022](http://www.fcc.gov/speeches/kennard/statements/2000/stwek022)

Local governments are looking to cooperation in e-government. For instance, a February 19, 2001 article by Federal Computer Week’s civic.com website said “creating cross-agency applications would benefit citizens and save money for state and local jurisdictions, a panel of government technology officials agreed this week at the 2001 Government Technology Conference Southwest in Austin, TX ([www.civic.com/civic/articles/2001/0219/web-egov-02-19-01](http://www.civic.com/civic/articles/2001/0219/web-egov-02-19-01)).

And on Capitol Hill, Senator Conrad Burns announced on February 7, 2001, that he has prepared an agenda he calls the “Tech 7”, which will focus on Internet infrastructure. One of the 7 is called “E-government”, which Burns said will make “the workings of government available to citizens over the Internet through cybercasts and online documents. It will also provide incentives and resources to government agencies that use the Internet to allow citizens and businesses to complete paperwork online” ([www.burns.senate.gov/p010207](http://www.burns.senate.gov/p010207)).

However, much more needs to be done to assist businesses with regulatory compliance. To sum up the current regulatory climate, the website [www.regulation.org/whyregs](http://www.regulation.org/whyregs) notes:

“Increasingly, regulations impose enormous costs on businesses in such areas as paperwork, permits, equipment, worker training, attorneys’ fees, and recordkeeping. . . When government regulates, unelected federal employees tell the public to spend money to do something they have decided is good for society even when the costs of that rule might far exceed its benefits.”

Economist Thomas D. Hopkins of the Rochester Institute of Technology found in 1995 that American people had to spend \$668 billion just to comply with the regulatory burden, and he projected that figure to rise to over \$750 billion in the year 2000. He estimates that the compliance costs fall disproportionately on businesses with fewer than 20 employees, who had to spend \$5,500 per employee in the 1990’s just to comply with regulations. Meanwhile, firms with 500 or more employees, on average, spent \$3,000 per employee (see Cato Analysis #303). Additionally, in the “Grandfather Government Regulations Cost Report – by MW Hodges” (<http://mwhodges.home.att.net/hodges>), Dr. Hopkins is also quoted as estimating that the same per-employee cost of regulations for large manufacturing businesses could range up to \$10,600 per employee.

Other regulatory costs estimates abound. For instance, the US Office of Management and Budget in 1997 estimates that businesses spend \$116 million man-hours on record keeping and reporting requirements for the US Environmental Protection Agency (EPA). In that same year, the US



General Accounting Office (GAO) estimates the business burden for compliance with asbestos and lead regulations at \$1 billion.

One of the more active Federal agencies in the area of regulatory compliance and enforcement is the Department of Labor's Occupational Safety and Health Administration (OSHA). OSHA has a history of fining American businesses, as evident by a list of recent citations which can be found at both its website ([www.osha.gov](http://www.osha.gov)) and the private "Safety Advantage" site ([www.safetyadvantage.com/updates](http://www.safetyadvantage.com/updates)). Three of the more recent ones are headlined:

"Texas contractor faces \$101,500 in OSHA fines after unprogrammed "local emphasis" inspection at excavation worksite"

"Missouri poultry processor faces \$332,500 in fines for safety violations"

"EPA referral results in OSHA inspections and \$1.6 million in proposed penalties against contractors for asbestos, lead violations"

In the Heritage Foundation Briefing Paper "The Workplace, Enhancing Opportunity, Safety and Innovation, ([www.heritage.org/issues/chap11](http://www.heritage.org/issues/chap11)) author D. Mark Wilson quotes an Employment Policy Foundation Study entitled "A Century of Progress, a Century of Change", which says that OSHA levies each year \$100 million in fines and penalties. OSHA recently issued new ergonomics rules that they say will cost businesses almost \$5 billion annually, but are estimated by the Foundation at more than \$126 billion annually.

So what is the overall impact of regulations on businesses? According to the same Heritage study, in California alone:

"high-tech companies must comply with at least 35 federal and 33 state laws. Managers often express frustration because they can never be sure whether they are in complete compliance with all applicable requirements"

(Source: US General Accounting Office, "Business Regulation: California Manufacturers Use Multiple Strategies to Comply With Laws", GAO/HEHS-98-208, September 30, 1998).

Nationally, the impact of regulations on small businesses is particularly bleak. The US Small Business Administration's Office of Advocacy, in its report "The Changing Burden Of Regulation, Paperwork, And Tax Compliance On Small Business ([www.sba.gov/gopher/legislation-and-regulations/burden](http://www.sba.gov/gopher/legislation-and-regulations/burden)), quotes Dr. Hopkins on his study, which found that:

"about 40 percent of the 360 small businesses surveyed indicated that small firms in their industries did not fully comply with most regulations. The small businesses cited ignorance of the rules as the most common cause of this lack of compliance."

Faced with this staggering and costly burden of regulatory compliance, many businesses are seeking to use the Internet to manage their complex business processes, such as compliance management. This is wise, for B2B electronic commerce is rapidly spreading from large, hi-tech firms, to small companies and other industries. Goldman Sachs believes that small business will drive B2B electronic commerce from its 1999 level of \$114 billion to \$1.5 trillion in five years. Goldman Sachs also estimates that the primary industries for growth in the next five years are



computer hardware and software, aerospace/defense, electronics, chemicals, motor vehicles and parts, medical equipment and transportation.

The Internet is now offering an opportunity to comply with regulations in a different way. Internet companies are looking to the Web to deliver not only compliance, but also education, training and information to American businesses in a cost-effective manner.

## FOREIGN REGULATIONS

The status of foreign regulations is less clear. The following information was obtained after contacting the OECD, IMF, World Bank, Cato Institute, Heritage Foundation, the BBC, Goldman Sachs and various other sources of information.

The indication from all of these sources is that, while many countries are attempting their own form of regulatory reform and paperwork reduction, regulatory activity abroad is antiquated and a burden to business. According to the OECD, in its paper, "Control and Management of Government Regulation" (<http://www.oecd.org/puma/regref/pubs/con95/nature>):

"More than any other government function, regulation is simply outdated. OECD countries have enormous inventories of rules that have survived without serious examination for decades or even centuries. Yet routine updating of regulations is virtually non-existent, and the task has just begun. Finland in 1995 replaced its Land Law of 1734. The United Kingdom is reforming a series of licenses that developed piecemeal over a century or more."

What this has led to is uncertainty among companies and investors trying to do business overseas. The World Bank, in its study entitled "Institutional Obstacles to Doing Business: Region-by-Region Results from a Worldwide Survey of the Private Sector", <http://wbln0018.worldbank.org/rese.../f355fc388ff71015852567e00055adda?opendocumen>), queried 3,600 entrepreneurs in 69 countries. It found:

"Entrepreneurs in industrial countries perceived the greatest obstacles to doing business to be tax regulations and high taxes, labor regulations, safety or environmental regulations, financing, regulations for starting new businesses and operations, and general uncertainty about the cost of regulation",

and,

"In the developed countries costly regulations and red tape hinder investment. 40 percent of entrepreneurs responded that they had not invested because cost of compliance were too high . . . (while) almost 70 percent of entrepreneurs in developing countries said that they had not invested because the cost of compliance with government regulations were too uncertain to make for investment planning."

Even with all of this compliance uncertainty, most of the sources queried found it difficult to calculate the total cost of regulations abroad. We do have one reliable source, Hambrecht and Quist, who estimates worldwide compliance cost at \$140 billion.

However, as the OECD paper on Control and Management best put it: "the full cost to businesses and citizens of complying with regulations are unknown in all but a few OECD countries,

supporting the view that regulation is the best way to conceal the true cost of policy.” There were a few sources that attempted to place a price on the cost of compliance with regulations.

For instance, a BBC News article on the Web entitled “Business: The Company File The cost of red tape”

([http://news.bbc.co.uk/1/hi/english/business/the\\_company\\_file/newsid\\_392000/392200.stm](http://news.bbc.co.uk/1/hi/english/business/the_company_file/newsid_392000/392200.stm)) reported that due to flexible working time rules, parental leave and minimum wage regulations:

“The Institute of Directors says red tape introduced in the past two years (1998- 1999) is costing British business almost 5 billion pounds a year and that new rights for employees are placing an astonishing burden on industry.”

A higher estimate can be found in the newmedia internet feature story entitled “Regulation – Accounting for the accountants” (<http://www.vnunet.com/features/69973>) which interviews Maurice Fitzpatrick, head of economics at Chantrey Vellacott and originator of the Red Tape Index. Fitzpatrick is quoted as saying that for the two-year period from May 1997 to May 1999, new measures such as minimum wage and other rules, drove up the cost of regulation by about 17 percent, or a median average of about 30 billion pounds a year. The article also concludes that “regulation is adding a serious financial burden to business – and the end is not in sight.”

Add to this the fact that the growth in e-commerce brings with it its own set of problems in terms of adapting to using the latest technology to keep proper track of business activity. For instance, a news article from Computer Reseller News entitled “The e-paper trail”

(<http://www.vnenet.com/features/600632>) notes that legislation on VAT and other regulations requires a company to keep its business information a minimum of six years, and that some need to archive their data via computer backups in case of a systems catastrophe. Or as they reported: “the growth in e-commerce can only compound the problem as paper is increasingly displaced by bits and bytes.”

In that same vnenet article, EcentreUK, the association for standards and best practices in electronic trade in the UK, suggests the following advice for businesses:

“As a default we would advise that businesses should keep one version of all transactions including all data fields and all related standing data and parameters for seven years when trading in the UK and 10 years for any overseas requirements. In addition, you should retain certain contracts and other important documents, such as long-life property leases and mortgage deeds for ever.”

What all of this information suggests is that foreign companies will have an even greater need to understand and comply with burdensome regulations, store their information electronically, and be able to produce it for audits when the need arises. Companies such as NetCompliance that can use the Internet to successfully collect, store, publish and distribute regulatory compliance knowledge and training information are in the best position to fulfill those functions.

This point is best illustrated by Goldman Sachs’ Technology Research team whose list of its top ten global themes for 2000 ([http://www.gs.com/news/2000/top10\\_2000](http://www.gs.com/news/2000/top10_2000)), contains several themes that are tailor made for companies that offer its clients services via the Internet. The three most pertinent Goldman Sachs worldwide predictions positively affecting Web-based companies are:

“Demand for servers, storage, software and services should escalate due to the massive increase of online data”



“Online commerce should ignite demand for higher levels of system reliability, availability and scalability”

“The radical pace of technology change should accelerate demand for outsourcing”.