

## Bulletin 2020-02

January 17, 2020

### **Stakeholder comment sought on defining and measuring regulatory burden for industry impact assessment**

#### **Introduction**

The bulletin builds on extensive stakeholder engagement efforts to increase AUC efficiency and reduce regulatory burden. It sets out how the AUC intends to define and measure the impact of the AUC's regulatory activities in its future evaluations and reporting. The AUC is asking for your comments or questions on the proposal by February 7, 2020.

Finding ways to improve how we regulate is a critical part of what we do. On October 4, 2019, we hosted an AUC Regulatory Burden Reduction Roundtable with stakeholders to discuss regulatory burden, including how to define it, possible steps we could take to reduce or remove regulatory requirements, and next steps.

The Commission reported out to the regulatory burden reduction roundtable participants by way of Bulletin 2019-18, dated October 18, 2019. In that bulletin we committed to implementing certain initiatives immediately, while acknowledging that elements of the conversation required further thought and discussion. In particular, we indicated that we would be looking to focus additional effort on defining regulatory burden and how to measure it. This bulletin addresses that definition and measurement.

The AUC held further stakeholder roundtables on each of October 28 and October 29 to explore the then draft, now finalized, [AUC Strategic Plan 2019-2022](#). These meetings were held to gain stakeholder perspective on our challenges and priorities for the coming years, including efficiency and limiting regulatory burden. The AUC also reported out following these roundtables to acknowledge strengthening of the earlier burden reduction initiatives, and stakeholder endorsement of the strategic plan including initiatives on reducing regulatory burden.

We have now published the AUC Strategic Plan 2019-2022, in which we set out key themes that will guide our work in the planning period and provide more details on the actions we intend to take to deliver on our objectives.

A key theme of the strategic plan is promoting efficiency and limiting regulatory burden. As part of that work we have committed to publishing an annual report card to show what this means in practice. The annual report card will be informed, in part, by an industry impact assessment.

Replacing our stakeholder survey, the industry impact assessment will attempt to quantify in an objective way the potential impact our regulation has on the companies we regulate.

The purpose of this bulletin is to outline how we propose, in a simplified way, to define and quantify this impact.

### **Defining regulatory burden**

At its heart, the AUC's work must be in the public interest. The public interest should include an assessment of the impacts, normally expressed in costs, that are being imposed as a result of our regulatory actions.

The industry impact assessment tool is an effort to quantify the effects and impacts of our regulatory actions on the companies we regulate.

The impact on business is only one factor in assessing regulatory effectiveness or efficiency. There are, in any given situation, potential corresponding benefits to consumers, other industry players, society and the environment that must be considered in any assessment of the impact of our work.

The AUC intends to define regulatory burden by assessing what activities should be included in the industry impact assessment. In order to capture all potential regulatory activity that might be included in the industry impact assessment, we have listed the activities the AUC undertakes in discharging its statutory duties:

- Adjudicative casework.
- Policy development and advisory work.
- Consultations.
- Education and communication activities; complaints.
- Changes to rules and codes.
- Compliance activities.

Our intention is to exclude the adjudicative casework from the industry impact assessment, while including all other activities. There are four reasons for this approach.

1. Adjudicative casework is the day-to-day work of the Commission. We are, in most cases, required to apply the regulatory framework to companies that are monopolies. Our intention is to focus the industry impact assessment on incremental actions above our day-to-day regulatory work.
2. While adjudicative hearings are an important part of the Commission's work, they are only one of a number of ways that the Commission pursues its regulatory mandate. For example, in the 2018-2019 year, the Commission issued 558 decisions, of which 2.9 per cent resulted from oral hearings.

3. The Alberta government's intention in respect of reducing red tape under the *Red Tape Reduction Act* is to exclude adjudicative or court work from the measures being put in place. The exclusion of adjudicative functions is consistent with the maintenance of operational independence.
4. As part of the AUC Regulatory Burden Reduction Roundtable, we committed to improving our adjudicative processes and in this regard we have already acted on a number of recommendations:
  - a. The Commission has initiated several case management and technical meetings (one with Commission members present) addressing timing and issue scope.
  - b. We have accepted a negotiated settlement request.
  - c. In one case we have directed parties to identify which issues could be negotiated.
  - d. In another application, a hearing panel will conduct an oral process to determine outstanding information request issues in the event that a staff-led technical meeting does not resolve the issue.

This work will continue, including reporting on existing initiatives and working with stakeholders to monitor interest in additional opportunities for improvement. Our progress in facilitating more efficient decision making in our adjudicative function will be reported on through the annual report card.

### **Assessing regulatory impact**

The impact of the activities included in the industry impact assessment will be evaluated on the basis of the following factors:

- What are the impacts of the regulatory activity on the business? (E.g., additional investments required.)
- Are the costs direct or indirect? (E.g., familiarization costs.)
- Are there impacts that cannot be quantified?

Where costs of implementing or responding to a regulatory initiative can be identified, they may be presented as a range, to illustrate the plausible margin of error if activity-based costing has not been utilized.

## **Comments**

This bulletin sets out the framework and approach by which the AUC would define and measure regulatory burden for purposes of our proposed industry impact assessment. The Commission is seeking comments and recommendations on implementing this approach to evaluating the impact of regulation.

If you have questions, comments or recommendations with respect to the proposed approach, they are welcome and may be addressed by email to [holly.lee@auc.ab.ca](mailto:holly.lee@auc.ab.ca) by February 7, 2020.

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