



TelSoc: TIO and Consumer Regulation

Thursday, 21 September 2023

Dr Karen Lee, Senior Lecturer and Director of Students, Faculty of Law

Terminology

- Self-regulation
 - mandated, sanctioned, coerced and voluntary (Black)
 - internal v external (Freiberg)
 - ‘voluntarily developing, administering and enforcing [a solution]’ with no legal backstop
- Co-regulation
 - industry association developing a code with government responsible for enforcement
 - government and industry sharing the regulatory load with government backstop powers
- Direct regulation
 - statutory regulation adopted by regulatory bodies or Parliaments

Pre-conditions for effective self- and co-regulation?

ACMA	Ofcom
number of players in the market	collective interest in solving the problem
competitive market with few entry barriers	alignment of industry solution to citizen/consumer interests
product homogeneity	absence of industry incentives not to participate
common industry interests	probability of 'free riding'
industry incentives to participate and comply	clarity of objectives, processes and structures
low degree of consumer detriment/rapidly changing markets	openness and transparency
clear regulatory objectives	adequate and proportionate resource commitments
accountability and transparency mechanisms	audit and enforcement measures
consumer and stakeholder participation	redress mechanisms

The complexity of regulatory functions

- Rule-making

fact-finding, identifying and describing issues, formulating regulatory approaches/rules, monitoring and assessing operation

- Rule implementation

rule translation and operationalisation

- Compliance

prompting management commitment, corporate acquisition of skills and knowledge (eg, building compliance leadership), institutionalisation of social and legal responsibility

- Enforcement

detection of non-compliant behaviour, developing suitable rules and tools, enforcement strategies, assessment, modification