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Effectively Engaging the Private Sector in the Business Reform Process

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This Brief discusses critical considerations for engaging the private sector in the process of reforming and implementing business regulations, along with channels and mechanisms that have been successfully used around the world. Using novel data from the Business Reform Committee project (BRC) covering 160 economies, the Brief presents global trends across income groups on the existence of reform committees and stages of engaging the private sector while reforms are being implemented. The Brief further draws from experiences across countries on making policy decisions and the implementation of reforms more consultative, while providing critical caveats so that policy makers can determine what mechanisms are best suited for their country.

Effectively engaging the private sector in a business regulatory reform initiative is a necessary condition for success

Business regulation is all about striking a balance, including between compliance and capture, or risks and innovation. Regulation is necessary, for example, to induce constructive firm behavior and protect the public against social, environment and economic risks, among others (see the Regulatory Policy website of the Organisation of Economic Co-operation Development: https://www.oecd.org/gov/regulatory-policy/risk.htm). On the other hand, regulation and industrial policy have been used as a vehicle for creating economic rents that benefit special interests (Rijkers, Freund, and Nucifora 2014). Moreover, cumbersome regulatory requirements can stifle innovation (Aghion, Bergeaud, and Van Reenen 2021). Heavy-handed regulations can further hinder the productivity and performance of micro, small and medium enterprises (MSMEs), which typically have less capacity to dedicate to regulatory compliance (Kitching, Hart, and Wilson 2015). To get business regulation right, a good practice for governments is to engage the private sector in reform initiatives because they are the target of the policies and major stakeholders.

Making policy decisions and the implementation of reforms more consultative is linked to several positive outcomes, including a larger overall MSME sector and greater respect for the rule of law (World Bank Group 2016). Firms can provide critical insights into existing regulatory issues, thereby informing evidence-based policies. Private sector consultations can also legitimize a government's reform agenda (OECD 2019). Beyond the policy design stage, private sector engagement can help close implementation gaps by identifying regulatory bottlenecks (OECD 2012). A Review of the World Bank Group's Support to Structured Public-Private Dialogue (PPD) for Private and Financial Sector Development in 30 countries found that over five years, the PPD network could be associated with about 400 reforms and $400 million in private sector savings (World Bank Group 2009). On the other hand, when the private sector is not properly engaged, regulatory reforms can fail to materialize—or worse, reforms may have unintended consequences and serve special interest groups (OECD 2015).

For governments, the crux of the matter is how to *effectively* engage the private sector. Different strategies exist—from formal meetings and informal consultations to private-public forums and seminars—but each has had various degrees of success. How then can the private sector be engaged in a manner that is both consultative and collaborative, and ensures that the interests of new and incumbent firms are well represented? This Brief showcases the approaches that reform secretariats can use to engage the private sector. Private sector engagement for the purpose of this note is defined as a strategic approach whereby governments consult, strategize, align, and collaborate with the private sector to design and implement policy. Such engagement can take different forms and have different names (including Public-Private Dialogues, competitiveness partnerships, investors' advisory councils, business forums, public-private collaboration, and reform coalitions, among others). They are all synonymous with interventions that promote stakeholder engagement between the government and the private sector (Herzberg and Sisombat 2016).

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Most economies engage the private sector in the regulatory reform process, but interactions are limited

According to the BRC, government consultations with the private sector are almost 1.5 time more prevalent in lower-income economies than in high-income countries. Moreover, less than two-thirds of high-income economies have national reform committees, compared to nearly 90 percent of low- and lower-middle-income economies. On the surface, this is surprising given that high-income economies tend to do better on regulatory governance benchmarks, such as the Regulatory Quality and Government Effectiveness measure in the World Governance Indicators. Moreover, many high-income countries have regulatory governance processes in place that prescribe private sector engagement (such as notice and comment on proposed regulations) (OECD 2005). Yet, on a closer look, several possible explanations emerge. For example, informality is more pervasive in lower-income settings where mid- to large-scale firms are much less prevalent (Ciani et al. 2020). Thus, governments need to create formal structures to seek and obtain firm input, especially from smaller firms. Additionally, in high-income economies, private sector development may be less of a priority, and firms tend to be better organized around trade groups and associations that can directly lobby the government (Weymouth 2012).

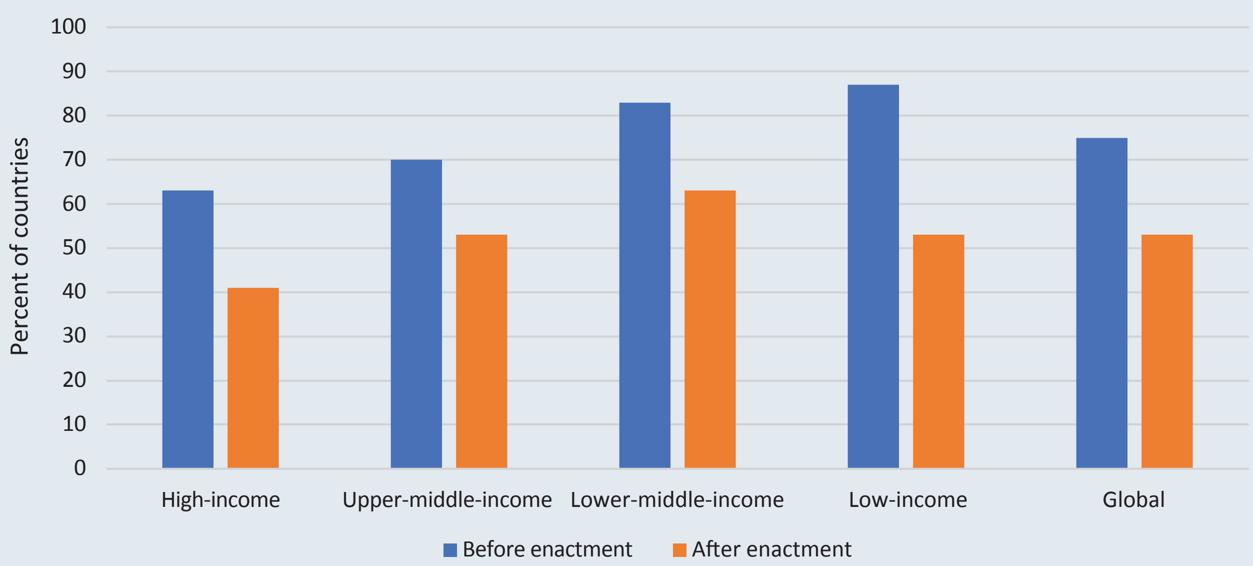
Most economies do engage the private sector in the business regulatory reform process, but not throughout the entire governance cycle. When breaking down the policy development process into the stages before and after reforms are enacted, the BRC data collected at the national level show that the input of firms is sought much more frequently during the former stage, even though ex post engagement facilitates the implementation of reforms, buffers against violations, and provides feedback loops (among other benefits) (figure 1).

More than three-quarters of economies engage the private sector before the enactment of a regulatory change, though the intensity with which these consultations are carried out varies. In Ethiopia, for example, focus group discussions, regular forums with chief executive officers (CEOs), and interviews with the private sector are used as feedback mechanisms (Amref Health Africa, Intrac, and World Vision 2016; BRC dataset). In comparison, Slovakia relies on written feedback on draft laws from key stakeholders through a government portal (OECD 2019).

Economies across all income groups engage less frequently with the private sector while reforms are being implemented, which starts at the time of enactment. Consultations with the private sector after the enactment of regulations are performed in slightly more than half of all economies sampled by the BRC project. Those economies that do ex post consultations are usually focused solely on implementation matters, not impact evaluation. Sweden is an exception: the private sector can make suggestions to conduct ex post evaluations by sending proposals directly to the government (OECD 2021).

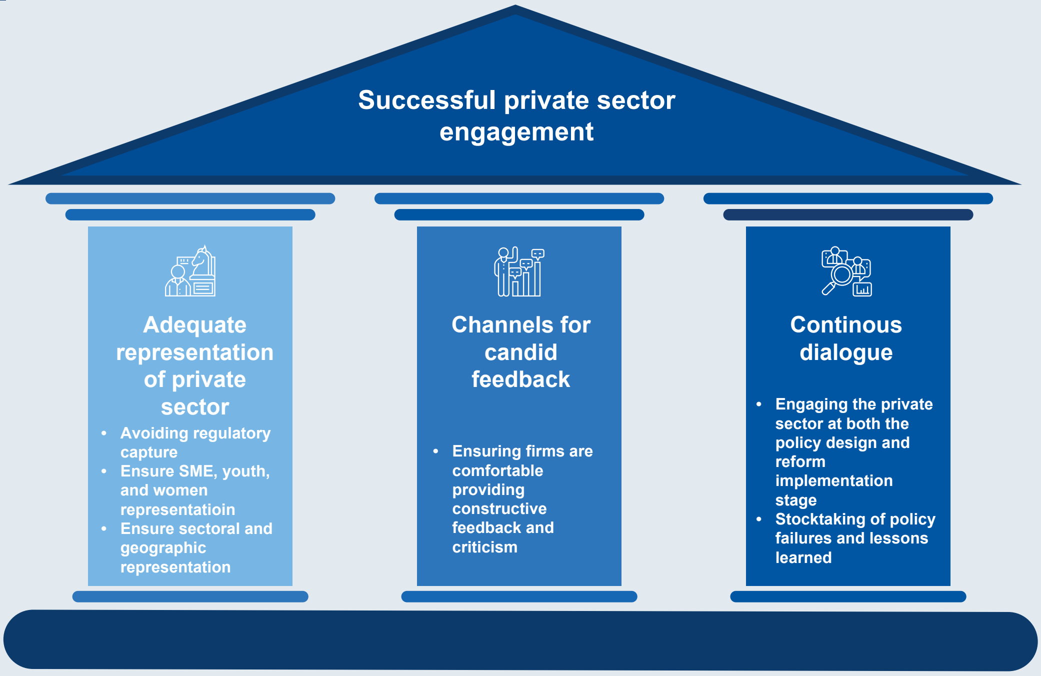
Despite most economies' attempts to engage the private sector, firms often feel left out of the reform process. A McKinsey study shows that most executives globally find public officials uninformed about the economics of their industries (McKinsey & Company 2010). The same study also reveals that nearly three-quarters of executives say companies should regularly engage with government, though only 43 percent actually do so despite a number of channels. These findings are supported by BRC data: structures to engage firms are generally in place in most countries. Therefore, it is likely that feedback mechanisms are insufficient, poorly designed, lack legitimacy, and/or firms are unaware that they even exist. For instance, a study by Ali, Grava, and Reaz (2019) finds that in Bangladesh, government officials do not understand regulatory implementation gaps due to poorly designed mechanisms to receive feedback from the private sector. Indeed, the existing mechanisms (a "complaint box" and a generic agency email address) are rarely used. Another study finds that in Bulgaria, firm representation on panels is limited to large and established private parties that have little interest in shaking up the status quo and bringing in other firms (Mandova 2001).

Figure 1 Private sector input is sought more often before the enactment of a regulatory change than after



Source: World Bank, Business Reform Committee database.
Note: The sample is restricted to the 108 economies (out of 160) that have reform committees.

Figure 2 The necessary conditions for successful private sector engagement



Source: World Bank.
Note: SME = small and medium enterprise.

Engaging the private sector requires meeting several conditions

Successfully engaging the private sector requires meeting several conditions, which are mutually self-reinforcing (figure 2). Mainly, governments need to (1) ensure adequate private sector representation; (2) provide adequate platforms (or channels) to collect candid feedback; and (3) ensure continuous dialogue.

Consultations must reach a broad array of actors to determine the overarching private sector's interests and receive input from stakeholders. Sector-specific dialogues typically focus attention and enable greater collaboration. However, consultations that target only a few easily identifiable actors increase the risk of regulatory capture by special interest groups and exclude key demographics. This is often the case for MSMEs—as well as young and women entrepreneurs, who tend to be underrepresented on corporate boards (Deloitte 2022), and by extension, in countries' trade associations and chambers of commerce. By the same token, it is also important to include firms beyond the main business city. About 75 percent of the world's population live in urban settlements of fewer than 500,000 people (Cities Alliance 2014). Yet, in many countries, most investment and policy attention are focused on the major cities.

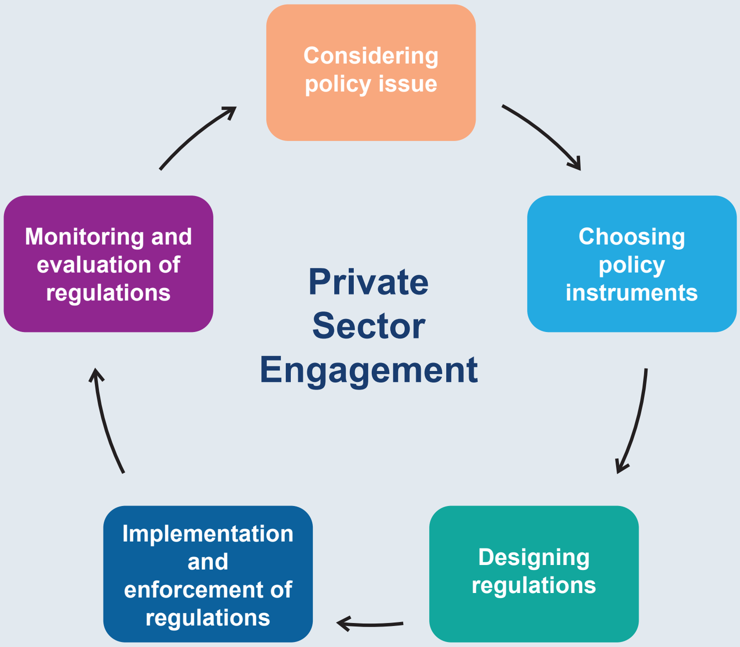
Candid feedback can be collected when communication channels and platforms are adapted to the preferences of the private sector. Engaging reforms require not only input from the private sector, but also that those inputs candidly reveal the needs and preferences of firms. Factors such as age, socioeconomic status, and geographic mobility have an impact on stakeholders' preferences for engagement (such as in-person versus online). Country context is also important. Executives may or may not have qualms about voicing disagreements about regulatory proposals directly to the government. The political system and the level of civil society engagement, therefore, need to be accounted for when determining what mechanisms are most suitable to collect feedback from firms.

Ensuring dialogue throughout the regulatory governance cycle allows for better policy implementation and impact evaluation (figure 3). The best practice is for the private sector—and other groups with relevant subject area expertise not covered in this Brief (such as labor organizations and academia)—to be consulted before and while new regulations are being drafted, during the implementation stage, and once a reform is fully adopted to conduct a review of regulatory policy. By contrast, one-off consultations hamper long-term and meaningful private sector engagement. To enable regular back-and-forth, many governments make it a point to respond to comments and follow up on private sector input. The OECD stakeholder consultation data reveal that governments in about half of OECD economies consistently respond to written comments received from the private sector (OECD 2021).

Economies are using several channels to successfully engage the private sector

Governments can engage the private sector in different ways. Some approaches revolve around face-to-face interactions, while other mediums of communication allow for anonymous feedback. By the same token, some approaches typically gather feedback from firms directly, while others rely on selected intermediaries (figure 4). The experience of economies, nonetheless, shows that each approach has its merits. The optimal combination is largely determined by local characteristics. For example, *Doing Business* and *Women, Business and the Law* reports show that the private sector is comfortable with its contribution being highlighted and made public in some countries, while in others the preference is to remain confidential. Social norms and culture may also determine whether firms prefer providing their input directly, or coalesce around selected representatives to voice the majority opinion. These sorts of preferences should factor into the mechanisms selected to gather firm input.

Figure 3 Private sector engagement across the regulatory governance cycle



Source: World Bank Group 2019.

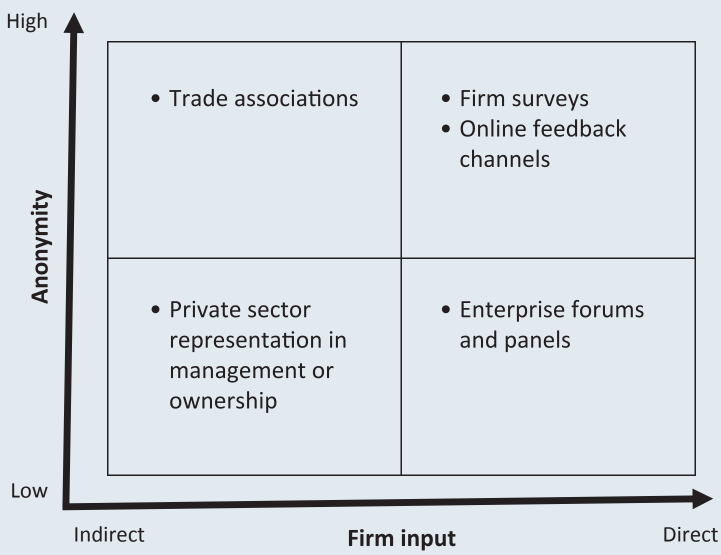
Leveraging trade groups and associations

The private sector typically coalesces around associations or trade groups, which can be leveraged by reform secretariats. Policy proposals can be circulated to the management of these bodies, which in turn gathers comments from its members. In the same vein, associations such as chambers of commerce can mobilize their members to attend discussions with the governments on policy proposals.

Trade associations are only as good as the members they serve. Therefore, leveraging trade associations is a good option when the private sector is well organized, and the associations are fully independent of government and divided (or subdivided) by industry, ownership type, and/or size. This then allows for reform secretariats to target the feedback they wish to collect. For instance, firms in the energy field can be consulted for feedback on policy proposals aiming to simplify environmental licenses. Conversely, in economies with few business associations and low membership, there is an increased risk of regulatory capture by special interest groups, particularly when MSME representation is low.

In Mauritius, for example, the private sector has been the major force driving the reform agenda through several associations,

Figure 4 Anonymity and the degree to which firms provide input directly vary across private sector engagement channels



Source: World Bank.

including Business Mauritius, an umbrella organization of sector-specific business associations, fully independent from the government. According to its website, Business Mauritius represents more than 1,200 local businesses, and meets regularly with the Prime Minister's office and formulates policy reform proposals. For example, the 2020–2025 Industrial Policy and Strategic Plan was developed in consultation with Business Mauritius, as well as other associations (such as the Mauritius Export Association and the Association of Mauritian Manufacturers). The plan contains a wide range of recommendations from the Ministry of Industry, such as developing accreditations or certifications for manufacturing requirements and food processing.

Kenya and Senegal provide other good examples of how associations can actively participate in the reform process. In Senegal, the country's most representative business association, *l'Union Nationale des Commerçants et Industriels du Senegal* (UNACOIS), engaged its SME members in dialogue with the government in 2011. UNACOIS divided its national membership into four regions and held business agenda forums that summarized local policy concerns in a document presenting policy recommendations (Herzberg and Sisombat 2016). In Kenya, the National Chamber of Commerce and Industry (KNCCI) is often relied upon for policy making. Members include Kenya's largest domestic firms (such as Safaricom) and international firms (such as Coca-Cola). Most members are SMEs—with more than 10,000 members country-wide, according to KNCCI's website. Moreover, the KNCCI has chapters for young entrepreneurs and women. The extensive private sector representation across industry and socioeconomic groups makes the KNCCI an important partner for the government when it comes to engaging the private sector. For example, in July 2022, the Ministry of Health announced a partnership with the KNCCI to accelerate reforms within the health sector.

Forums and panels

Public-private forums and panels can be effective during all stages of the regulatory governance cycle in getting private sector input. These take the form of wide-ranging or sector-specific meetings between government officials and business leaders.

Public awareness and the level of representation affect the dialogue. It is crucial to have high-level representation from the government to achieve credibility. In Bosnia and Herzegovina, for example, the involvement of the Office of the High Representative, which had the power to enact or repeal legislation, has led to the smooth passage of the tax reform package as part of the country's "Bulldozer Initiative." The involvement of MSMEs was achieved through media outreach by distributing a simple form on which entrepreneurs could submit reform proposals (Herzberg 2004).

Effective panels and forums can build mutual trust and understanding between the public and private sectors. To this end, policy makers' treatment of stakeholders' input can either encourage or discourage further participation. Botswana provides a good example of how the private sector can become a legitimate partner in the policy process. Most recommendations raised at the Botswana National Business Conference are answered, followed up upon, and even implemented. Regular dialogue helps reduce barriers and creates an atmosphere of free opinions exchange. These mutual talks were instrumental in the adoption of a new public procurement and asset disposal bill and the removal of exchange controls (Land 2002).

Survey instruments

Surveys are a reliable tool to collect private sector feedback as long as the sample is representative of all firms—or the firms that a policy reform looks to target. Surveys typically reach firms beyond the main business cities and feedback tends to be not attributable, which allows policy makers to get candid feedback on regulatory bottlenecks. On the other hand, firm surveys typically require higher resources than other mechanisms due to data collection costs—especially when done regularly, so improvements can be tracked over time.

Several countries use firm surveys to assess the regulatory environment. The agriculture working group of Cambodia's Private Sector Forum conducted a nationwide survey of aquaculture farmers—most of whom are poor, small-scale, rural, and highly engaged in the informal sector—to discover the technical and economic factors that limited the sector's growth. Bulgaria (with the European Union) has commissioned the World Bank Group to conduct four separate rounds of enterprise surveys since 2007. Thousands of local firms have since provided input to identify the main obstacles, from infrastructure to government-to-business services.

Vietnam conducts an annual business survey—the Provincial Competitiveness Index (PCI)—that assesses the economic governance quality of provincial authorities in creating a favorable business environment sector. The PCI incorporates thousands of local SMEs into the policy-making process, and allows central and local officials to assess the effectiveness of their reforms. Many provinces have initiated Task Forces to analyze the PCI results and improve their regulatory environment. For example, at the local level, Quang Ninh launched a One-Stop-Shop for Administrative Procedures following the results of the PCI showing that the processing times of some government-to-business (G2B) services were a major hurdle. At the central level, Resolution 02 in 2019 aimed at improving the business environment and national competitiveness included the PCI as a target.

Online platforms for dialogue

Online feedback platforms for the private sector can make the legislative process more inclusive. The virtual nature of the platforms allows targeted users, situated anywhere, to provide feedback. Such platforms exist in economies around the world (box 1), easing and enhancing the provision of private sector feedback. Some are open only to firms (such as Singapore's Pro-Enterprise Panel). Others are open to a wider public. The Ghana Business Regulatory Reforms Consultations Portal (BCP), for instance, is an interactive portal that enables policy makers to consult the general public so that civil society and academia can provide input, as well as firms. In the United Kingdom, the government regularly requests feedback from businesses through open platforms. The Red Tape Challenge invited the public to comment through a website on 21,000 active statutory rules and regulations from 2011 to 2014, according to the UK civil service website (Heyward 2014).

It is crucial for the private sector to feel that platforms are trustworthy. Platforms that allow anonymous feedback can boost participation by reducing the fear of retaliation. The Pro-Enterprise Panel (PEP) in Singapore serves as a feedback and troubleshooting platform when new policies and public initiatives are rolled out. The PEP has a hotline and a website business can use to report regulatory problems as well as issues relating to red tape and public

Box 1 **Examples of online platforms for dialogue around the world**

- **Colombia: *Sistema Único de Consulta Públic* (https://www.sucop.gov.co/)**
- **Denmark: Business Forum for Better Regulation (https://danishbusinessauthority.dk/business-forumbetter-regulation)**
- **Estonia: *Osale e-participation* portal (https://participedia.net/case/1268)**
- **Finland: *otakantaa* "Have your say" consultation platform (https://www.otakantaa.fi/fi/)**
- **Ghana: Business Regulatory Reform Portal (https://www.bcp.gov.gh/new/)**
- **Greece: open gov (http://www.opengov.gr/en/)**
- **Macedonia: National Electronic Register of Regulations (https://ener.gov.mk/Default.aspx),**
- **Singapore: Pro-Enterprise Panel (PEP): https://www.mti.gov.sg/PEP/About**
- **Slovakia: Slo-Lex platform (https://www.slov-lex.sk/web/)**
- **Vietnam: VIB online (managed by the VCCI) (www.VIBonline.com.vn)**

service performance. Users can submit anonymous suggestions on how existing regulations can be better designed for businesses and industries, though the PEP also states that anonymity prevents further discussion.

Transparency and interactive features can boost the legitimacy of online platforms. By providing details on the number ofsuggestions received and implemented, online platforms can enhance the acceptance of the rule-making process by the private sector. Online platforms can be made more effective by providing responses and explanations to comments received. The PEP, for example, allows providers of feedback to see whether their feedback translates into effective decision making on regulatory changes in the business environment. Each submission receives an acknowledgment email. Moreover, the suggester is informed whether their decision is accepted or rejected—or whether further discussions or clarifications are needed with relevant agencies. For example, based on feedback received through the portal, PEP eased the licensing regime and lowered entry costs for micro-breweries during their early stages of being established. Similarly, a user suggestion prompted PEP and the Inland Revenue Authority of Singapore to extend of the validity period from three to five years for the renewal of the application for the Major Export Scheme, substantially slashing compliance costs for firms that trade non-dutiable goods.

Inclusion in management/ownership

Including the private sector in the managerial body of reform committees vests them with shared ownership in the decision-making process. Shared ownership enhances the inclusivity of the consultation process and sends a strong signal to firms.

Empowering the private sector with agenda-setting and decision-making power enhances the private sector's incentive for active participation. For instance, the institutional structure of the Malaysian Special Task Force to Facilitate Business (PEMUDAH) made stakeholders from the different sectors equal players in the business regulation reform agenda. As a result, the private sector has not only actively influenced but driven reforms in the country. Today, PEMUDAH has 12 technical working groups, co-chaired by a senior government official and representatives from the private sector. Through its technical working group, PEMUDAH has led initiatives to streamline the process of business incorporation, implement e-payment facilities, and facilitate trade, among others. More recently, PEMUDAH provided players in the health care industry with the requisite information on the submission process and harmonization of technical requirements for setting up private hospitals in Malaysia (Kuriakose and Eknath 2020).

Risks of monopolization, regulatory capture, and representativeness of the private sector are concerns common when including the private sector in the managerial body of reform committees. Regulatory capture can be avoided by rotating the management regularly and giving a final say to the government. The members of PEMUDAH are rotated frequently and the co-chairs report to the Office of the Prime Minister (Kuriakose and Eknath 2020). Similarly, these representatives must be carefully chosen to ensure that the diverse interests of the private sector are well represented. Table 1 summarizes the strengths and weakness of various approaches and instruments.

Consultative and collaborative decision making enhances legitimacy, but there is no silver bullet

To fully benefit from public-private engagement, economies need to engage the private sector across different regulatory areas. Moreover, policy makers must make an informed decision to identify the measures and mechanisms that are better suited locally. Future research could consider studying which mechanisms work better given some key country characteristics—including informality, trust in government (or lack thereof), penetration of information and communication technology (ICT), and social norms.

While consultative decision-making enhances the legitimacy of reforms and ensures they are embedded in the practical realities of the private sector, it is equally important for governments to perform regular and objective diagnoses of the business environment relative to other economies. To this end, the Business Enabling Environment (BEE)—the new benchmarking exercise of the World Bank's Development Economics Global Indicators Group—can help governments identify where the regulatory framework falls short of international best practices and how other regulatory bodies are adapting to paradigm shifts.

Ultimately, benchmarks such as the BEE and private sector advocacy go hand in hand. Establishing key institutions such as reform committees can be crucial to address the regulatory gaps identified by the BEE. At the same time, institutional arrangements will be pivotal for the BEE to achieve its intended impact on the business environment and provide value for policy makers. Combining BEE data with the instruments and approaches highlighted in this Brief can help governments better design and implement reforms beneficial to firms—and society at large.

Table 1 Strengths and risks associated with instruments and approaches for private sector engagement

Instruments/approaches	Strengths and opportunities	Weaknesses and risks
Trade groups/ associations	• Can pool thousands of firms • Enables consultations with players within a sector • Allows the government to get quick input	• Possible regulatory capture • Lack of independence from government • Key private sector concerns may not get properly relayed by associations
Firm surveys	• Can pool thousands of firms • User input can be made nonattributable to get honest feedback • Allows governments to reach firms throughout the country and across demographic groups	• Require significant resources • Take several months to get input • Regulatory improvements and reform impact evaluation may be hard to track unless data are collected often
Online feedback platforms	• Firms can provide feedback anonymously • Highly inclusive: remote firms and MSMEs can provide input • Feedback can be received in real time	• Can be used by the private sector to vent unrelated frustrations • Firms need reliable access to the internet to provide input
Panels and forums	• Build in-person collaboration and set examples of openness • Comments can be collected on short notice	• Risk of limited representation • Lack of perceived progress may lead to frustration. • Can degenerate into long and unfocused discussions when not properly moderated
Inclusion of private sector on boards and management	• Private sector representatives can be informally consulted at any time • The private sector has decision-making power	• Possible regulatory capture • Private sector interests may not be well represented, particularly MSMEs

Source: World Bank.
Note: MSMEs = micro, small and medium enterprises.

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