



Fáilte Ireland
National Tourism Development Authority

Reducing State Imposed Costs on the Tourism Industry: The Case for Better Regulation

POLICY ANALYSIS PAPER

Dec 2011

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1. Executive Summary

Introduction

The aim of this short briefing paper is to contribute to the regulatory reform process and to highlight the regulatory issues of most concern to tourism businesses. All of the views expressed come from the trade, not Fáilte Ireland.

Tourism & Transport Consult International (TTC), with Jim Power Economics, were commissioned by Fáilte Ireland to undertake the background research. TTC's consultations began with the industry's representative groups; input was sought from all of the established representative groups. The business level insights to generate the study's findings came from in-depth qualitative case studies with 20 businesses across the industry's breadth. TTC's report is contained in Annex 1 and much of it is summarised in this paper. The paper also draws on Fáilte Ireland's own research on this issue.

Background

The tourism sector is characterised by small businesses. It is overwhelmingly populated by restaurants, guest-houses, hotels, bars, visitor attractions, coach operators, heritage centres, etc. The burden of regulation is proportionately greater on SMEs than on large enterprises which tend to have substantial administrative systems and personnel. Very few are of sufficient scale to justify a range of in-house specialist functions.

Tourism businesses, like many others, have shed labour, cut wages, cut overheads where they can, negotiated fees down, sought greater efficiencies and generally addressed all cost headings within their control aggressively. However, certain state originating costs remain outside of their control and these costs are not showing the same degree of downward movement. This has caused tourism representative groups and individual businesses to become increasingly vocal on what they call 'regulatory burden'. The industry uses this term to cover a range of costs originating from the state. Their concern is that such state imposed costs are higher than they need to be. Plus, their concerns are not restricted to just regulations. For example, commercial rates – a tax – is cited as the industry's biggest 'regulatory burden'.

State Imposed Costs

A more precise term for the industry's complaint would be '*state imposed costs on businesses*'. The briefing paper concentrates on a relatively narrow set of state imposed cost drivers that are common to most tourism businesses. This shortlist of issues was agreed in consultation with the industry's representative groups and includes:

- Commercial rates
- Water charges
- Table and chairs licensing.
- Inconsistent enforcement
- Alcohol licensing
- Fats, oils & grease disposal licensing
- Employment regulation orders/the JLC system
- The wide range of oversight and inspection bodies
- The application of EU directives.

Findings & Recommendation

1. There is widespread approval of regulations. None of the participants in this study wanted to see regulation scrapped entirely, and all could see the benefits of most regulation, either to themselves or to their customer. However, they were conscious that things could be done better.
2. Future regulations should include a business impact assessment. While regulatory impact analysis is commonly used in assessing the effects of regulations, the assessment is conducted from the government's view point. A similar focus should be on the regulation's impact on businesses
3. In support of more streamlined enforcement the trade would like to see:
 - An overview of the various regulators (and their remit) in the tourism and hospitality sector so as to avoid fragmentation, duplication and resource dilution
 - Enforcement agencies taking a more coordinated approach to inspections so that inspection visits are clustered and/or take place sequentially
4. Most businesses engage independent commercial monitoring services to carry out regular audits. Acceptance of third-party reports could reduce (and potentially eliminate) the need for a number of regular inspections by public sector agencies. Spot checks would remain
5. There should be consistency between regulations, and consideration should be given to having one overall inspectorate instead of separate labour, health and safety, fire, and building and tourism inspectors
6. Operators particularly welcome the advisory role adopted by many inspectors. This significantly lessens the burden of regulation
7. Bar one or two limited cases, very little evidence was found to support the assertion that the ways in which we apply EU directives here places Irish businesses at a competitive disadvantage
8. Local authority costs are becoming a bigger burden on tourism businesses. With the pressure on public finance, central government funding of LAs is falling. The reduction in central government funding seems to be made up through an increased burden on the business sector
9. The commercial rates revaluation process is benefiting hotels and it needs to be speeded up. Where rate revisions have taken place, the commercial rates liability of hotels fell by 30% or more. However, this is a slow process and thus far only three of the 88 rating authorities have completed the process

10. Treated water charges in Ireland are in line with international norms. However, the lack of transparency in how water prices are set is a point of comment
11. The uptake of table and chair licences would be greater if securing approval was more straightforward and cheaper
12. The current alcohol legislation is unduly complex and procedurally costly for operators, especially in the restaurant sector. The process for renewal of licences could be simplified and moved from a court/legal basis to a more administrative basis
13. The introduction of a self-monitoring scheme for the disposal of fats, oils and grease, subject to spot checks, could save money and relieve the regulatory burden on those serving food
14. A derogation on the six-day rule would remove the anomaly regarding 'international' travel on the island of Ireland. This would remove a handicap on the coach touring industry in the Republic
15. The new coach test process is cumbersome, time consuming and costly for the operator due to historic regulatory and bureaucratic processes. It could be replaced with a one-stop shop system as operates in the UK.

Conclusion

The findings and recommendations arising from this research were presented to the High Level Group on Business Regulation and their input has been reflected in the paper, along with feedback from the trade.

The next steps involve Fáilte Ireland liaising with the relevant bodies so as to:

- a) Inform them of the difficulties some regulations impose of tourism businesses and
- b) Work towards a framework that can achieve the same outcomes, or better, but at lower cost to the industry.

2. Background

Introduction

Tourism representative groups and individual businesses have become increasingly vocal on what they call 'regulatory burden'. The industry uses this term to cover a range of state imposed costs. The issues noted include *inter alia* local authority rates and charges, various environmental regulations and the recently struck down employment regulation orders/JLCs.

This issue has gained prominence due to the greater focus on cost reduction. With the marked decline in demand and falling prices, firms have focused on controllable costs, e.g., staff hours, raw materials, etc. However, many state originating costs outside the control of business, e.g., commercial rates and public sector charges, have increased in both absolute terms and as a proportion of total costs. As a result regaining competitiveness has stalled, profit margins have declined and, in some cases, businesses have closed.

It seems that the term 'regulatory burden' as used by the trade does not adequately fit the all-encompassing nature of the industry's complaint. When the term 'regulatory burden' is used by policy makers it generally only refers to the regulatory administrative burden, and not the substantive or efficiency costs. This narrow use of the term does not adequately cover the true nature of the industry's complaint. A more precise term for the industry's complaint would be '*state imposed costs on businesses*'. The industry's concern is that such state imposed costs on businesses are higher than they need to be. Plus, their concerns are not restricted to just regulations. Indeed, commercial rates – a tax – is cited as the industry's biggest 'regulatory burden'.

The Study's Objectives & Approach

The objectives of the study can be summarised as follows:

- 1) To identify, describe and analyse an agreed set of state imposed business costs on tourism businesses and draw comparisons with how such issues are administered and/or priced in other countries
- 2) To explain the reasons why the costs of regulation/state provided services in Ireland differ from such costs in other jurisdictions
- 3) To explain, in general terms, how European regulations/directives are transposed into law in Ireland
- 4) To make recommendations and suggest changes, where relevant, if the same outcome could be achieved at a lower net cost.

The study concentrated on a relatively narrow set of state imposed cost drivers that are common to most tourism businesses. This shortlist of issues was agreed in consultation with the industry's representative groups. The cost drivers on the shortlist broadly fall into two categories:

1. Direct costs or charges arising from legislation, regulation and public sector charges – such as commercial rates, registration fees and licence fees, etc. In addition, the cost of certain inputs controlled or regulated by the state, for example utility charges, have a direct impact on the cost of doing business
2. Compliance costs related to the time and expenditure in becoming compliant with regulation, for example putting in place technology, practices and procedures required by health & safety regulation, and administrative costs associated with compliance such as preparing reports, record keeping and such which would not otherwise be undertaken.

The business insights to generate the study's findings were based on in-depth qualitative case studies with 20 businesses across the breadth of the tourism industry. The case study group comprised:

- Five hotels and two hotel chains
- Four restaurants
- Three coach operators
- Three firms from the activities and attractions sector
- Two self-catering group schemes
- One B&B
- One language school and one large commercial hostel.

This shortlist of issues includes:

- Commercial rates
- Water charges
- Employment regulation orders (or the 'JLC system')
- Table and chairs licensing
- The wide range of oversight and inspection bodies
- Inconsistent enforcement
- The application of EU directives in Ireland
- Alcohol licensing
- Fats, oils and grease disposal licensing.

3. The Wider Context

Introduction

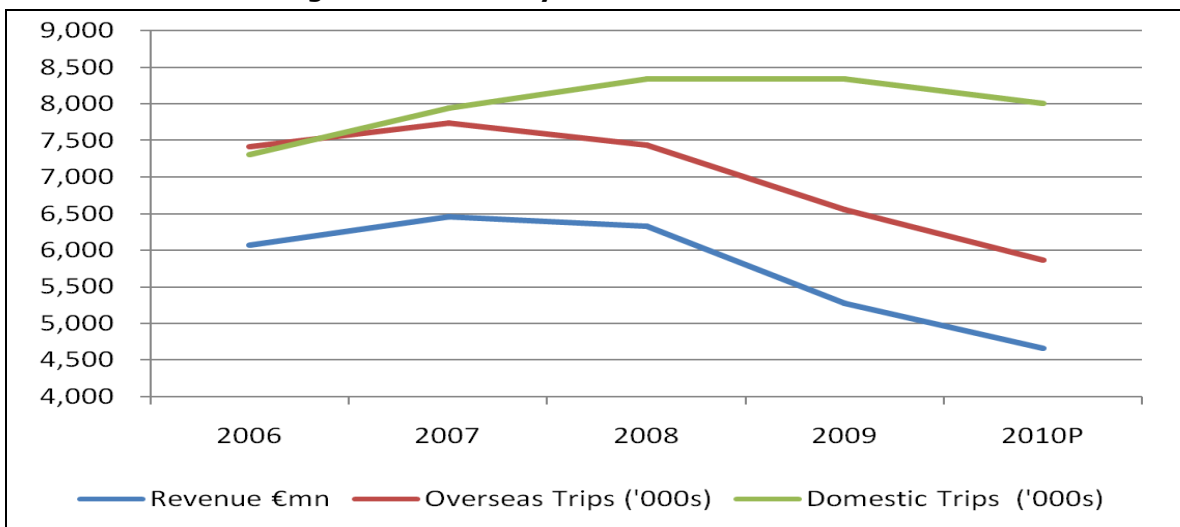
Before going into specifics on the state imposed costs that impact most adversely on tourism businesses, this section presents the wider context. It looks at the industry's recent performance and outlines the regulatory reform agenda which informs many of the recommendations arising.

The Economic Context

The tourism sector, characterised by small businesses, is one of the main indigenous drivers of the state's economy. The burden of regulation is proportionately greater on small and medium enterprises than on large enterprises which tend to have substantial administrative systems and personnel. The industry is overwhelmingly populated by small and medium enterprises as evidenced by restaurants, guest-houses, hotels, bars, visitor attractions, coach operators, heritage centres and other places of entertainment. Very few are of sufficient scale to justify a range of in-house specialist functions. It is common for owners and managers of small businesses to be distracted from their core business activities due to regulatory compliance efforts, with a potentially negative impact on productivity and competitiveness.

Since 2007, the high watermark in terms of international visitor numbers and revenue generation, the industry has experienced a very difficult few years driven by the global recession, the perception of Ireland (particularly in the UK) as an expensive destination and 2010's volcanic ash related disruptions.

Figure 3.1: Industry Performance 2006-2010P

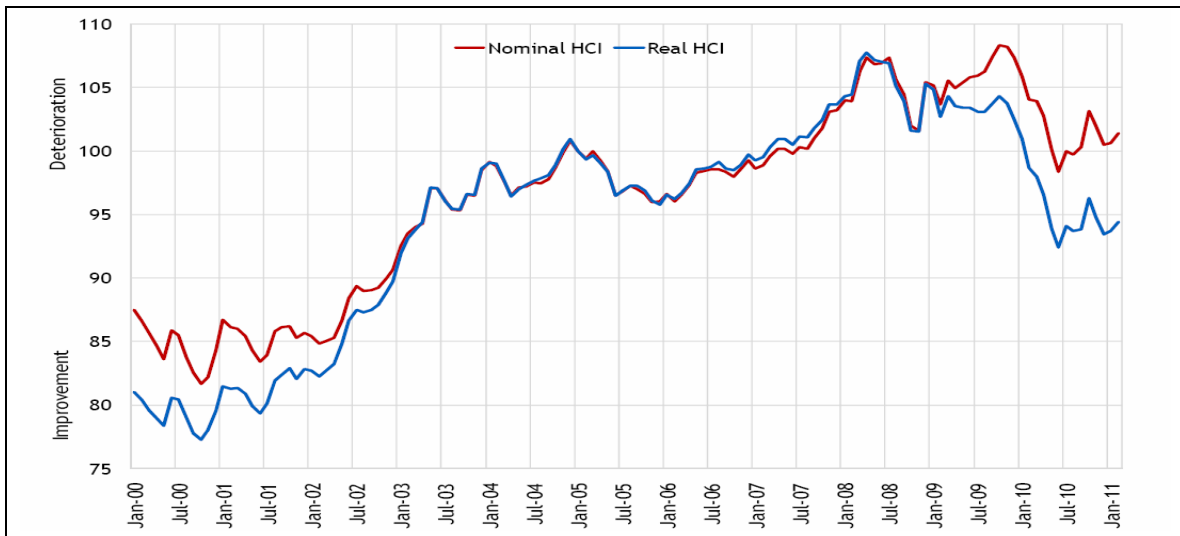


Source: Fáilte Ireland, 2010 Fact Card

Between 2007 and 2010 overseas visits fell by some 25% and earnings are down by slightly more. On a positive note, the rate of decline eased as 2010 progressed. The early indications are that 2011 is showing growth of circa 10%. The industry looks to have turned a corner.

The seeds of this decline were sown in the last decade when Ireland lost a considerable amount of its international competitiveness. This matters for tourism as it is an internationally traded service. Export earnings are generated every time international visitors come to Ireland and spend money here.

Figure 3.2: Price Competitiveness Indicator for Ireland



Source: The National Competitiveness Council, Ireland's Competitiveness Scorecard 2011

Between 2000 and 2008, our international competitiveness, as measured by the harmonised competitiveness indicator (HCI), fell significantly. The loss of competitiveness has reversed somewhat since the onset of the recession, as businesses got costs under tighter control.

That the outlook for tourism has improved is due in no small part to the industry's cost reduction efforts. Tourism business have shed labour, cut wages, cut overheads where they can, negotiated fees down, sought greater efficiencies and generally addressed all cost headings within their control aggressively. However, certain state originating costs remain outside of their control and these costs are not showing the same degree of downward movement. In fact, non-controllable costs are starting to make up an increasing share of total costs given the aggressive efforts to cut controllable costs.

The Regulatory Reform Agenda

Regulatory reform is the term that has been generally used to describe, 'changes that improve regulatory quality, i.e., enhance the performance, cost-effectiveness or

legal quality of regulations.’ The reform agenda has been in place for some time now. In 2008 the Government, along with the European Commission and other EU member states, agreed to target a 25% reduction in the burden of red tape by 2012. More urgency has been injected into the reform process recently. For example, the *National Recovery Plan 2011-2014* includes a renewed commitment to achieve the 25% target.

The *Programme for Government* includes commitments to undertake a series of measures to lighten the regulatory load on all SMEs. These include:

- Reducing the cost of Government imposed red-tape on business, in part by streamlining regulatory enforcement activities out of a merger and rationalisation of existing structures and agencies
- Creating a Business Inspection and Licensing Authority that absorbs the existing business inspection activities of the Health and Safety Authority, and the National Consumer Agency
- Creating a single food safety monitoring agency, building on the existing Food Safety Authority, responsible for food safety inspection from farm to fork
- Developing a unique business identifier for use by all government departments and agencies that will facilitate the sharing of information within Government and reduce repetitive information requests from businesses
- Requiring Departments to publish Regulatory Impact Assessments (RIAs) before Government decisions are taken, thereby offering a further channel to obtain the views of civil society on new rules and regulations.

The findings and recommendations arising from this research will feed into this reform process. Fáilte Ireland plans to present and discuss this study with the High Level Group on Business Regulation.

We will also bring to the High Level Group’s attention any issues of note that are not covered in the report, but arise from the industry’s feedback on this document.

4. Industry Views on Regulations in General

Introduction

Government regulation of business is often regarded as a necessary evil of the free market system. This section opens by looking at the rationale behind regulations that tourism businesses face and which they broadly support. It then highlights some of the general problems that the industry has with the way in which regulations are policed. The issues noted in this section are not so much about the regulations themselves – they are mostly about enforcement.

Why Government Regulate, Benefits Arising & Regulatory Reform

Regulation is used most often as a term to describe the wide set of instruments by which government, and all its branches, regulate economic and social activities. Regulation in this context includes general principles and specific rights laid down by the Constitution, Acts of the Oireachtas and statutory instruments. It also includes specific regulations made by local authorities and other regional authorities and rules issued by non-governmental or self-regulatory bodies to whom regulatory powers have been delegated.

Regulations have an important role to play in key areas of economic and social life, including:

- To protect and enhance people's rights
- To safeguard health and safety
- To protect consumers, employees and vulnerable groups
- To promote the efficient working of markets
- To provide a level playing field for businesses and competition
- To collect revenue and ensure that it is spent in accordance with policy objectives.

Regulations governing businesses, including the tourism sector, require them to conform to a range of requirements which result in what is commonly referred to as the compliance cost. This is seen as a burden on businesses as it directly adds to the cost of doing business. In addition to the direct costs of compliance, the regulatory framework can negatively impact on productivity by diverting resources away from core business activities.

While people may haggle over the finer details of various regulations, there is widespread approval of them. None of the participants in this study wanted to see regulation scrapped entirely, and all could see the benefits of regulations, either to themselves or to their customers. However, they were conscious that things could be better regulated. Some very good suggestions were forthcoming.

A Wide Range of Oversight Bodies & More Streamlined Enforcement

Regulatory bodies fall into a number of different categories, namely:

- Government Departments/Offices empowered to make primary or secondary legislation and who may also be responsible for enforcing legislation
- Local authorities empowered to make bye-laws
- Independent statutory sectoral regulators, such as the Financial Regulator
- Public sector bodies under the aegis of Government Departments/Offices such as Fáilte Ireland, the Food Safety Authority of Ireland, the Health Service Executive, etc. They are mostly responsible for enforcing or implementing legislation rather than making regulations.

There have been a number of estimates as to how many regulators are operating in Ireland. The 2004 Regulating Better White Paper for example, estimated that there were “over 500 public agencies/bodies in Ireland, many of which have a regulatory function – either as a ‘rule-maker’ or ‘rule-enforcer’.” More recently more than 213 regulatory bodies have been identified, of which 205 are public sector regulators.

In general, tourism businesses are required to interact with at least 24 different public, statutory and other bodies in operating their business. For example:

- A language school may have to deal with five government departments and its agencies – Education; Foreign Affairs; Justice and Equality; Jobs, Enterprise and Innovation; and Transport, Tourism and Sport
- Running a restaurant requires interaction with the following bodies:
 - i. The relevant local authority with regard to:
 - Commercial rates
 - Water
 - Fire safety
 - Planning matters
 - Street furniture
 - General Waste disposal
 - Fats, oil and grease disposal
 - ii. The Health & Safety Authority
 - iii. The Food Safety Authority and the HSE
 - iv. NERA and, if staff members hold work permits, the Dept of Jobs, Enterprise and Innovation
 - v. The Courts regarding alcohol licensing
 - vi. The Revenue Commissioners
 - vii. The Companies Registration Office
 - viii. The CSO.

The restaurateur may also interact with some or all of these bodies: Fáilte Ireland, REPAK, IMRO, and PPI.

Table 4.1 lists the main agencies and bodies with a remit in the tourism sector. Of the 24 bodies listed, 13 have inspection and/or audit power.

Table 4.1: Statutory, Public & Regulatory Bodies with a Tourism Remit

Body	Relevant Regulation	Inspection/ Audit Powers
Local Government	Commercial rates	N
	Water & waste charges	N
	Planning/outdoor signage & street furniture	Y
	FOG/Trade effluent licensing	Y
	Fire officer	Y
Health and Safety Authority	Workplace safety etc.	Y
Food Safety Authority of Ireland/HSE	HACCP	Y
National Employment Rights Authority (NERA)	Employment records	Y
Companies Registration Office	Company compliance	N
Central Statistics Office	Statistical surveys	N
Revenue Commissioners/ Collector General	Taxation	Y
Director of Corporate Enforcement	Company compliance	N
Dept of Jobs, Enterprise and Innovation	Work Permit Section	N
Court Services	Licensing Applications Section	N
REPAK	Recycling	N
FAS/Solas	Training/Education	N
PPI (Phonographic Performance Irl)	Licensing	Y
IMRO (Irish Music Rights Org)	Licensing	Y
Fáilte Ireland	Registration & Approvals	Y
Environmental Protection Agency	Licences & permits	Y
Waterways Ireland	Safety/environment/heritage	N
The Labour Court	Employment/dispute resolution	N
An Garda Siochana	Licences & permits	Y
The Carriage Office	Licences	Y
Vehicle Testing Network	Commercial vehicle testing	Y
FETAC & HETAC	Education Awards Council	N
Fisheries Boards & Commissioners	Licences & permits	Y

While most operators are convinced of the need for and value of oversight by way of inspections and audits, the adverse comments centre on the efficiency of that oversight. Several accounts arose of unnecessary overlap and duplication of inspections which suggest that efficiency can be improved.

Case Study Box: Inspections

'Following a full-day inspection by NERA inspectors I was told that I might have another inspector call to review non-EU employment records.' – Hotelier

'The coach inspection process, based on antiquated legislation, is cumbersome and is dependent on the availability of the inspectors. It would be possible to do it more efficiently and reduce the time and costs involved.' – Coach operator

In a limited number of instances the need for and value of multiple 'approvals' was questioned. For example, the benefit of Fáilte Ireland approval of coaches might be queried as the technical and operational compliances with national and EU regulations are already endorsed by the relevant regulatory agencies.

Interacting with all of these agencies and bodies is time consuming and costly, as the examples below show.

Case Study Box: Compliance Costs

Case Study Business Type	Compliance Costs
Hotel in West of Ireland	Health & safety compliance €15,000-€20,000 p.a. in direct outlay. 'Red tape' admin. compliance is estimated to take up 1.5 staff members or €30,000 p.a.
Camping & Caravan Park Operator	General admin takes up 50% of a staff member's time annually or approx. €18,000 p.a.
Various	Sample costs to operators of NERA inspection: <ul style="list-style-type: none"> ○ Small urban hotel – up to €1,500 ○ Mid-sized rural hotel – up to €4,000 ○ Large city restaurant – up to €2,000.

What businesses would like by way of regulatory reform on the enforcement side includes:

1. Enforcement agencies taking a more coordinated approach to inspections so that inspection visits are clustered and/or take place sequentially. This, businesses say, would make more efficient use of their peoples' time at no additional costs to the enforcement bodies
2. Several businesses would argue for greater self-regulation. A case in point would include water quality monitoring, as well as other health and environmental compliances. Most businesses engage independent commercial monitoring services to carry out regular audits. Acceptance of such reports could reduce (and potentially eliminate) the need for a number of regular inspections by public sector agencies. This would result in saving for both the public and private sector.

Inconsistent Enforcement

Another factor that emerged in the in-depth interviews is an apparent inconsistency in the interpretation of rules and procedures by individual inspectors. Plus, there is inconsistency between regulations for different activities/purposes. This has led to confusion in some instances and would appear to result in varying compliance requirements between regions.

Case Study Box: Inconsistent Application of Regulations

'NERA requirements are quite complex and the demands of record keeping particularly in regard to rates, breaks, and so on, but they are not helped by varying interpretation by different inspectors – I have had different advice for NERA inspectors on what should be recorded on pay slips.' – Hotelier.

'The last inspector insisted that the display on the cigarette machine could not feature the colour of the brand namethis had previously been approved by another inspector.' – Hotelier

ITIC has pointed to examples where hotels which are built to the required building regulations only for the owners to then find that different health regulations override the building regulations. Interpretation of regulations varies between areas.

There should be consistency between regulations, and consideration should be given to having one overall, inspectorate instead of separate labour, health and safety, fire, and building and tourism inspectors.

More Advisory, Less Adversarial

Operators particularly welcome the advisory role adopted by many inspectors. Several operators reported that they maintain on-going communications with inspectors, particularly in the area of health and safety. This appears to lessen the burden significantly and can be very helpful to businesses in improving the quality of their operations and adherence to regulation.

Case Study Box: Consultative & Advisory Approach

'We worked with the inspectors to arrive at a solution that was satisfactory to them – they were very helpful.' – Attraction operator

'We always consult the inspector before we carry out any work or change procedures – it really helps in the end.' – Restaurateur

'I have noticed a more conciliatory approach in recent times, which is most helpful and has improved the relationship.' – Hotelier

The Application of EU Directives in Ireland

There is a fair degree of commentary from the trade regarding how EU directives are transposed into Irish law and how the resulting legislation is subsequently enforced.

Such comments almost always end with a statement that the way in which we apply EU directives here places Irish businesses at a competitive disadvantage because:

- We are too quick to implement directives
- We apply directives in the wrong ways
- We enforce the directives more vigorously.

When asked to give specific examples of where this situation actually arose, most respondents were unable to give any. It seems that most of these comments apply to regulations around food safety, but they are not backed up by objective evidence that any harm is being done to Irish businesses.

One individual consulted, quoted below, was very strongly of the view that regulations (particularly food safety regulations) can help the trade to manage their businesses better and to ensure that they are focusing on the right things.

Case Study Box: In Support of Regulations

'The HACCP regulations (a system of identifying and controlling hazards that could pose a danger to the preparation of safe food) are generally a very good thing. They certainly are not a generator of costs. In fact, the rules can work for you by pointing out the areas that need attention.' – Business mentor

Findings & Recommendation

1. **There is widespread approval of regulations.** None of the participants in this study wanted to see regulation scrapped entirely, and all could see the benefits of most regulation, either to themselves or to their customer. However, they were conscious that things could be done better
2. **Future regulations should undergo business impact assessments.** While regulatory impact analysis is commonly used in assessing the effects of regulations, the assessment is conducted from the government's view point. A similar focus should be on the regulation's impact on businesses.
3. **In support of more streamlined enforcement** the trade would like to see:
 - An **overview of the various regulators** (and their remit) in the tourism and hospitality sector so as to avoid fragmentation, duplication and resource dilution
 - Enforcement agencies taking a **more coordinated approach** to inspections so that inspection visits are clustered and/or take place sequentially
4. Most businesses engage independent commercial monitoring services to carry out regular audits. **Acceptance of third-party reports** could reduce (and potentially eliminate) the need for a number of regular inspections by public sector agencies
5. There should be **consistency between regulations**, and consideration should be given to having **one overall inspectorate** instead of separate labour, health

- and safety, fire, and building and tourism inspectors
6. Operators particularly welcome **the advisory role** adopted by many inspectors. This significantly lessens the burden of regulation
 7. Bar one or two limited cases, very **little evidence that EU directives place Irish businesses at a competitive disadvantage.**

Action Point Arising:

- With regard to business impact assessments and more streamlined enforcement, Fáilte Ireland will follow up with the High Level Group on Business Regulation
- Fáilte Ireland will liaise with the other public agencies with inspection powers to see if routine pre-planned inspection visits could be coordinated to facilitate better those inspected
- On the acceptance of third-party reports, Fáilte Ireland to follow up with the relevant enforcement agencies, particularly local authorities
- On consistency between regulations, Fáilte Ireland will follow up with Department of Jobs, Innovation as they bring together a grouping of agencies with inspection powers.

5. Industry Views on Local Authority Charges

Introduction

Most of the costs of doing business are adjusting to the changed economic environment, but one notable exception is local authority rates and charges, where little flexibility has been in evidence from local authorities. Such charges now represent a significant issue for businesses across the economy. Any initiatives that would have the effect of reducing local authority charges, especially commercial rates, would be of major benefit to business and job creation.

Commercial Rates

Rates are a local property tax, the income from which is used to fund local authority (LA) revenue expenditure. Like any tax, rates do not represent payment for a particular service provided to any specific ratepayer. Rates are payable on commercial/industrial properties and other non-domestic properties (bar agricultural premises).

Rates are calculated by multiplying the rateable valuation on a property by the annual rate on valuation.

Rateable Valuation	*	Annual Rate on Valuation	=	Commercial Rates Liability
<i>Set by the Valuation Office and currently being updated</i>		<i>As determined by the local authority</i>		

The rateable valuation (RV) of a property for rating purposes is carried out by the Valuation Office. Given that the RVs are currently being updated, there are two groups of RVs:

- a) Those based on long-standing valuations and bear no resemblance to today's rental value. RVs in most LAs fall into this category
- b) Updated valuations based on factors such as the business location, square footage, and the nature of the business. The purpose of a revaluation is not to increase the total amount of commercial rates collected but to provide for an equitable redistribution of commercial rates between ratepayers. So far only three LAs – Fingal, Dun Laoghaire Rathdown and South Dublin – have had their valuations updated.

The annual rate on valuation (ARV) is arrived at when the total shortfall in a local authority's income is divided by the cumulative total of all valuations of rateable premises in the county. A local authority's expenditure is part funded by government grants and income from goods and services. The gap between expenditure and

income is funded from the rate base - in essence *a local authority's funding shortfall is financed by the business community*.

With the pressure on public finance, central government funding towards LAs is falling. In 2010 central government funding accounted for 24.5% of total council expenditure, down from 31.8% in 2006. Over the same period the business contribution from rates and water charges increased from 25.7% to 30.2%. It looks as if the reduction in central government funding is made up through an increased burden on the business sector.

To see the practical impact of this on the industry look at Table 5.1.

Table 5.1: Local Authority Rates on Selected Hotels

Local Authority	2011 Rates €	Number of hotel rooms	Rates per room €
Laois County	242,233	103	2,352
Wexford Town	289,584	157	1,844
Galway City	352,750	195	1,809
Cavan County	132,613	85	1,560
Laois County	158,246	110	1,439
Dublin City	414,585	304	1,364
Cork City	129,587	101	1,283
Limerick City	254,471	199	1,279
Kildare County	104,375	82	1,273
South County Dublin	934,740	774	1,208
Dublin City	109,934	92	1,195
South County Dublin	128,650	119	1,081
Dublin City	98,044	92	1,066
Galway City	116,865	113	1,034
Wexford Town	101,490	108	940
Sligo County	82,793	92	900
Dublin City	107,070	126	850
Laois County	71,093	90	790
Clare County	145,980	213	685
Mayo County	176,369	263	671
South County Dublin	81,340	129	631
Galway County	75,646	124	610
Total	4,308,458	3,671	1,174

Source: Data provided by the Irish Hotel Federation.

The table above shows that the rates paid by the case study hotels range from

€2,352 per room to €610, with the average being €1,174. This is at time when hotel room rates have fallen by 25%, occupancy is much lower and profits per room have more than halved.

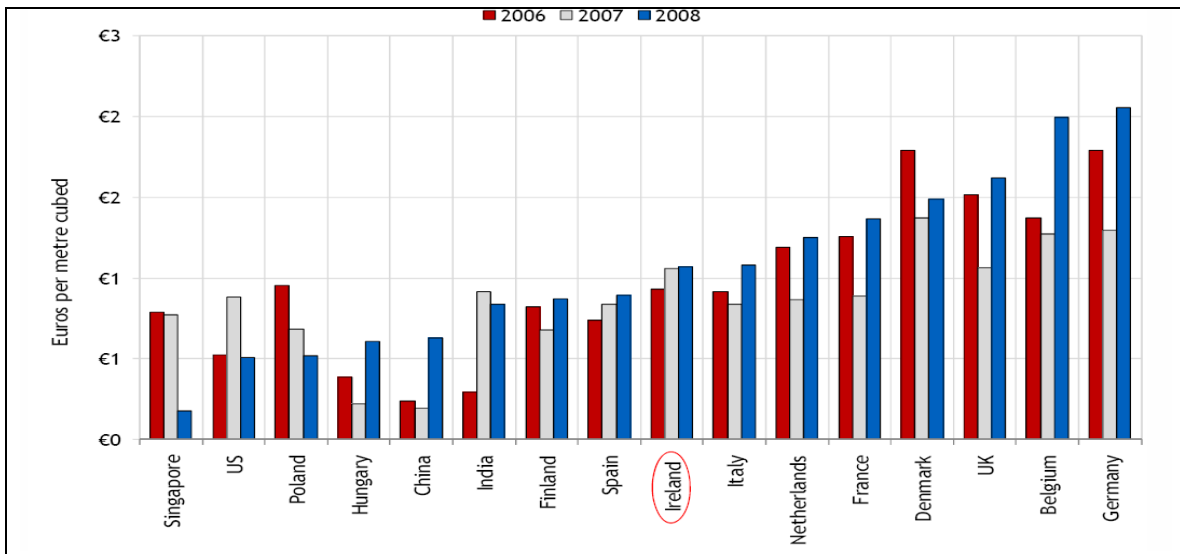
Water Charges

National and EU policy requires LAs to recover the cost of providing water services from non-domestic users. This policy provides for full cost recovery without a profit, with charges based on actual metred consumption.

Charges for water services differ between local authorities, depending on the cost of water services infrastructure, operating treatment plants and billing. Customers' bills are calculated by means of a metred charge based on the volume of water used. This charge includes treated water supplied and sewage collection and disposal on the basis of the "water in/water out principle" – for every unit of water supplied to a premises it is assumed that one unit of waste water will arise. However, the pricing models adopted mean that there is not much transparency in how water charges are set.

At present the average cost of treated water, i.e. water in, is €1.09 per cubic metre and the average cost of waste water services, i.e. water out, is €1.22. This brings the average consolidated water services charge per metre cubed to €2.31. The 2011 Competitiveness Scorecard from the National Competitiveness Council examined water charging. It found that, based on the internationally comparable data (2009 is the most recent data available and it only covers water in), Ireland is competitive with our main trading partners with regard to water pricing for treated water.

Figure 5.1: 'Water In' Costs per Metre Cubed, 2006-2009



Source: National Competitiveness Council, 2011

Table & Chairs Licensing

Several local authorities, including city councils in Dublin, Cork, Limerick and Galway, have introduced a 'Table and Chairs' licence for cafés, restaurants, bars and hotels placing tables and chairs on the public footpath outside their properties. In order to qualify for this scheme onsite food must be served to the public. Granting of a licence is dependent on the suitability of the space outside the business premises.

In order to understand the process involved in securing such a licence, the situation in Dublin is as follows:

- Step 1: Arrange a consultative meeting with Dublin City Council's street furniture unit to discuss the business's plan for the on-street space.
- Step 2: Publish a notice in a public newspaper (minimum estimated cost €60) of the intention of install on-street table and chairs.
- Step 3: Place an A4 size notice on the premises of the intention.
- Step 4: Complete the application forms and submit a detailed 1:100 scale drawing of the area with: full specification of all above ground utilities and services within 10 metres of the proposed area; the dimensions of the proposed area; and the location and dimensions of tables, chairs and other furniture, plus details of the barriers or screens that will enclose the seating area. Payment of €100 fee to the council on top of the circa €2,000 professional fees required regarding the inspections, drawings, etc.
- Step 5: The Council considers the application. The criteria in evaluating the application includes the safety of pedestrians, width of the footpath, pedestrian traffic volumes; street furniture in the area; reports from Planning Department, Chief Fire Officer, Roads & Traffic Department; observations from An Garda Síochána; and comments from the public.

Case Study Box: Typical Table & Chair Licence Costs

The approximate licence cost for five pavement tables and chairs in Dublin City Council is €1,500. This is made up of

- 'Table & Chairs' licence application fee: €100
- Annual fee per table: €125
- Annual space rental charge per square metre priced on a zonal basis:
 - Less than 4 metres squared: €200
 - Greater than 4 metres squared: €200 to €500.

Professional fees of €1,500 could be easily incurred in the application process.

Plus, if a licence is granted then the business must ensure that it has public liability insurance cover of €2.6mn. One must also factor in the cost of the furniture, screens, parasols, heaters etc.

The industry's difficulties with table and chairs licensing is twofold:

1. The process is overly bureaucratic, time consuming and costly, particularly in a climate that is not conducive to year round outdoor café operation.
2. The licensing and compliance costs are excessively high in international terms and disproportionate to the earning opportunity. Authorities are seen as penalising small businesses instead of incentivising businesses to create a tourism/café culture on city streets. The comparable licence cost for a similar outdoor space in Vienna is currently €85.

It is for these reasons that many potential users of on-street space have been put off taking out such licences. The case study box below relays one such restaurateur's rationale for not following up on a licence enquiry.

Case Study Box: Extract from letter from Restaurateur to Dublin City Council

"We decided not to proceed...principally due to cost. I could not see a financial return for the outlay of additional rates, furniture, screens etc.

On a point of principle, I disagree with the 12 month charge when we have maximum three months possible 'outdoor' weather. Is it not possible to get a licence for the summer months only? In other European countries this is normal practice."

Having vibrant, attractive streetscapes only adds to the attractiveness of our cities and towns. It would be a pity if establishments were disinclined to add to the vibrancy of urban street life due to administrative arrangements.

Findings & Recommendation

1. **Local authority costs are becoming a bigger burden on tourism businesses.** With the pressure on public finance, central government funding towards LAs is falling. In 2010 central government funding accounted for 24.5% of total council expenditure, down from 31.8% in 2006. Over the same period the business contribution from rates and water charges increased from 25.7% to 30.2%. The reduction in central government funding is seemingly made up through an increased burden on the business sector
2. **The rates revaluation process is benefiting hotels and it needs to be speeded up.** Where rate revisions have taken place the commercial rates liability of hotels has fallen by 30% or more. However, this is a slow process and thus far only three of the 88 rating authorities have completed the process
3. **Treated water charges in Ireland are in line with international norms.** However, the lack of transparency in how such charges are arrived at makes it difficult to rationalise (a) the observed rates and (b) the rates differences across

seemingly similar authorities. For example, why is the consolidated water charge in Kilkenny 45% more expensive than that in neighboring South Tipperary?

4. **The uptake of table and chair licences would be greater if securing approval was more straightforward and cheaper.** Businesses would be more inclined to take these licences if the costs involved were proportionate to the incremental revenue arising and if the process was more straightforward.

Action Point Arising:

- The rates revaluation process could be expedited if the Valuation Office was to be provided with more resources and/or deployed its existing resources differently.
- On table and chair licences, Fáilte Ireland will follow up with the relevant local authorities.

6. Industry Views on Specific Regulations

Introduction

This section concentrates on a few 'problem' regulations where the issue is with regulations themselves rather than enforcement.

Labour Market Regulations

At the time this study was commissioned the legal status of the three Employment Regulation Orders (more commonly referred to as JLCs within the industry) was unknown. They have since been declared unconstitutional.

Tourism businesses' issues with the JLC system were as follows:

- The hourly wage premia over the minimum wage, as the rates set by the JLCs, were above the statutory minimum wage
- The obligation to pay statutory overtime rates, including time and a third on Sundays
- The additional administration burden owing to the documentary requirements needed to show compliance with the employment orders. Plus, tourism businesses were subject to more onerous, and more time consuming, inspections by NERA

The Government has announced plans to reform the JLC system, but given that these are currently at consultation stage, nothing has been agreed yet.

Alcohol Licensing

The licensing arrangement governing the sale of wine and beer are very convoluted, particularly for the restaurant sector. In order to sell alcohol a restaurant requires one of the following types of licence:

1. A **full publican's licence**. This is an ordinary pub licence which can only be obtained through 'purchasing' an existing licence and transferring it to another site. The application must be made through the Circuit Court. The Restaurants' Association of Ireland recommends that pubs with a restaurant should also hold a restaurant certificate as it more readily satisfies the other regulatory requirements.
2. A **special restaurant licence**. This licence permits the sale of a full range of alcoholic drinks to the patrons of a restaurant. It is obtained by way of an application to the Circuit Court without the surrender of any existing licence. Table service is permitted and the premises cannot have a public bar. The sale and consumption of liquor is confined those who have ordered a meal.

In order to get a special restaurant licence an architect must give evidence as to the suitability of the premises and the existence of proper planning permission. An excise stamp of €3,800 must be put on the initial application. Legal and architectural costs on such an application, including the outlay, could be €18,000.

3. A **wine retailer's on licence**. Any person who keeps a 'refreshment house' may apply for a wine retailer's licence. This licence allows for the sale of wine for consumption on or off the premises. The wine can be sold on its own and need only be sold with food after normal pub hours if the applicant holds a restaurant certificate. Cost of application of wine retailer's licence is €500 p.a.

A wine retailer's licence does not permit the sale of beer in the restaurant. In order to sell beer a holder of a wine retailer's on licence applies to the District Court for a **restaurant certificate**. The beer must be consumed at the same time as a meal and paid for at the same time as the meal. However, the premises may not contain a bar. A wine retailer's on licence does not have this restriction.

In order to get a **restaurant certificate** one applies to the District Court. The Court has regard to the following criteria in hearing the application:

- Physical aspects of the building and facilities.
- Range and availability of meals.
- The premises must be trading as a restaurant.
- Receipts from food sales should be substantial as against alcohol sales.
- The number of staff employed, their qualifications and their training.

Between legal costs, outlay and architects' costs the average restaurant certificate costs approximately €8,000 to obtain. And it must be renewed annually by the district court.

Special exemption orders, known colloquially as exemptions, permit longer opening hours being granted to licensed premises. A special exemption order may be applied for by the holder of an on-licence to permit the licence holder to be exempt from normal licencing hours to the extent as specified by a District Court Judge. Hotels would often seek an exemption for a wedding, but again this requires an interaction with the courts service. Plus, each time an exemption is sought one must return to the District Court.

The current legislation is unduly complex and procedurally costly for operators, especially in the restaurant sector. The process for renewal of licences could be simplified and moved from a court/legal basis to a more administrative basis.

Simplification of the process of licensing, for example, liquor licence applications for

extensions and dances would reduce costs of court appearances by applicant, witnesses, fire officers and Gardai.

Fats, Oils & Grease (FOGs) Disposal

In 2008 Dublin City Council introduced a fats, oil and grease programme, requiring all food businesses to be licensed under the Water Pollution Acts. The FOGS programme is being extended to other local authorities within the Greater Dublin Area, and has been recently mooted for Galway City.

The scheme is designed to reduce discharges to the city's sewers. The programme applies to approximately 2,000 businesses in the city, mostly restaurants, pubs, hotels, fast-food outlets and supermarkets. In Dublin city the annual licence charges have ranged from €590 to €1,630, depending on the type and scale of the food outlet. The most common charge was €870.

Table 6.1: Dublin City Council FOGS Annual Licence Charge 2010

Type of Food Service Establishment	Annual Charge
Full Service Restaurant	€870
Public House	€870
Hotel	€1370
Hospital	€1630
Fast Food Restaurant	€870
Supermarket	€870
Convenience Stores	€610
Guest House	€590
Canteen (less than 150 seats)	€590
Canteen (more than 150 seats)	€1370

In 2011 the charges have been reduced. In accordance with the polluter pays principle, the charges for licencees that are fully compliant with their licence conditions have been reduced significantly. Charges for non-compliant premises have increased due to the increased need to monitor these premises. The charges are based on a risk based categorisation of the food service establishment with regard to FOGs generated on the premises.

Table 6.2: Dublin City Council FOG's Compliance Fees Scale 2011

Risk	Description	Annual Charge
Low	Low FOG generators	€165
Low	Fully Compliant premises	€330
Low	Fully Compliant premises but have not paid annual charges	€760
Medium	Almost compliant	€495

Medium	Almost compliant but have not paid annual charges	€925
High	Non Compliant premises	€1255

The costs of disposal from licensed premises can vary from approximately €40 to €50 where the premises owner hires in a portable vacuum suction unit up to between €250 and €500 at locations where there are very large grease traps and access difficulties.

The Restaurants' Association of Ireland and the Irish Hotels' Federation have criticised aspects of the licensing regime. The opposition has been hardened by a recent proposal by the Council to seek private-sector tenders for an inspection system, at an estimated cost of €4mn p.a. Their objections to the programme are based on challenging:

- The need for another intervention by the local authority into the regulatory regime, which appears to be counter to the Government's commitment to reducing 'red tape' and the 25% reduction target
- The need for another inspection of food outlets which are already the subject of several inspections
- The cost of the licence and the new proposal for a more costly inspection scheme which will add to the cost of doing businesses.

The introduction of a more cost efficient self-monitoring scheme, as most businesses already employ a contractor to service the discharge of fats, oils and greases or at a minimum the incorporation of grease trap inspection within existing inspection remits. A self-monitoring system in which businesses have to regularly submit samples and could be subject to spot checks by the Food Safety Authority or the Health Service Executive could save money and relieve the regulatory burden.

The 6 Day & 12 Day Rule for Coach Drivers

Under EU regulations coach drivers can only work for six consecutive days on a domestic tour, but may work for 12 consecutive days on an international tour. The regulations state that the 12-day rule applies only to drivers "engaged in single occasional service(s) of international carriage of passengers", with a six-day rule for domestic carriage.

The 12 day rule has had serious consequences for coach touring within the Republic. These include:

- Employing an extra driver on each tour that lasts more than six days, or unnecessary expense and complication of diverting tours of more than six days to Northern Ireland to take advantage of the 12-day rule and subsequent loss of tourism revenue to the Republic. Dislocating coach tourists spending power by just one-day is estimated to cause an annualised loss of €21million in export

earnings and €5.1m in tax revenues

- Loss of competitiveness to Northern Ireland coach companies and further loss of business and jobs based in the Republic. Northern Ireland coach operators already enjoy a lower cost base as they can reclaim VAT on inputs, including the leasing of vehicles, purchase of parts, fuel, etc. Operators in the Republic are subject to full VAT rate on all inputs
- Unnecessary disruption of personal life of drivers who will have to take their rest days 'on the road' instead of at home.

A derogation of the six-day rule to remove the particular anomaly regarding 'international' travel on the island of Ireland, which was most likely an unintended consequence of the European regulation. This would remove a handicap on the coach touring industry in the Republic.

Coach Testing

Each new coach vehicle, manufactured to stringent EU standards, is required to undergo three separate inspections, as a part of a five step process before it can go into use. The steps are as follows:

- | | |
|--------|---|
| Step 1 | Take the new coach to vehicle testing network centre where its tachograph and speed limiter are calibrated. |
| Step 2 | Take the new coach to NCT centre where it is inspected on behalf of the Revenue Commissioners for registration. |
| Step 3 | Take coach to the designated PSV centre for another inspection and to obtain a PSV licence. |
| Step 4 | Take paperwork issued by NCT and An Garda Síochána to local motor tax office to tax the coach. |
| Step 5 | Submit copies all documents together with original operator's licence to Department of Transport in order to have the operator's licence updated. |

The process is cumbersome, time consuming and costly for the operator due to historic regulatory and bureaucratic processes. It can take several weeks as appointments in the first three stages of the process are at the discretion of each agency and are dependent on availability. For example, PSV inspections in the Dublin area are usually limited to Saturdays.

The process above contrasts with the one-stop shop system which operates in the UK which issues a Certificate of Initial Fitness (COIF). The process consists of submitting an application, supported by evidence of compliance with certain EU directive standards, to the Vehicle and Operator Services Agency which is then forwarded to the nearest certifying officer, who will make arrangements for the COIF

examination to be carried out.

In addition to the annual Department of the Environment safety test private sector coach operators are required to present their vehicles to be tested by a PSV officer every three years. This is a duplication of the Department of the Environment test and an extra cost on both the state and the private operator.

Findings & Recommendation

1. **The current alcohol legislation is unduly complex and procedurally costly** for operators, especially in the restaurant sector. The process for renewal of licences could be simplified and moved from a court/legal basis to a more administrative basis
2. **The introduction of a FOGs self-monitoring scheme**, subject to spot checks, could save money and relieve the regulatory burden
3. **Relaxing the six-day rule would remove the anomaly regarding 'international' travel on the island of Ireland**
4. **The new coach test process is cumbersome, time consuming and costly** for the operator due to historic regulatory and bureaucratic processes. It could be replaced with a one-stop shop system as operates in the UK.

Action Point Arising:

- With regard to alcohol legislation, Fáilte Ireland will follow up with the High Level Group on Business Regulation
- Fáilte Ireland will follow up with Dublin City Council and other local authorities with FOGs systems to assess the practicality of self-monitoring scheme
- The High Level Group on Business Regulation has expressed some interest in following up on the six-day rule issues and new coach testing. This will also be taken up with the Department of Transport, Tourism and Sport.