

## Conference: Safety 2 and beyond - Resilience meets regulation

**The regulatory response: how regulation might help or hinder organisational innovation, resilience, safety and improvement?**

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**FLORIDA LAW REQUIRES THIS  
NOTICE TO BE POSTED ON  
ALL FOOD AND BEVERAGE  
VENDING MACHINES.**

Report any machine without a  
notice to 1-800-352-9273. You  
may be eligible for a cash reward.

**DO NOT USE THIS NUMBER TO  
REPORT PROBLEMS WITH THE  
VENDING MACHINE SUCH AS  
LOST MONEY OR  
OUT-OF-DATE PRODUCTS.**

## **Section 212.0515, Florida Statutes (2010), Chapter 2010-138, Laws of Florida. (Section 6, CS/HB 7157, 1st Engrossed)**

Effective July 1, 2010, the notice that **MUST BE POSTED** on ALL FOOD AND BEVERAGE **VENDING MACHINES** will change.

Operators must post the following statement on each machine:

**NOTICE TO CUSTOMER:**

**FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. Report any machine without a notice to 1-800-352-9273. You may be eligible for a cash reward. DO NOT USE THIS NUMBER TO REPORT PROBLEMS WITH THE VENDING MACHINE SUCH AS LOST MONEY OR OUT-OF-DATE PRODUCTS.**

The prior notice with specific vendee information must be removed from the food and beverage vending machines and replaced with the **NEW** notice by July 1, 2010.

The notice must be displayed on the upper front of a **vending** machine so it is easily read by the public, unless the placement impairs the use of the machine. The notice must be attached to the machine so it is not easily removed. A penalty of \$250 can still be imposed on the operator for each **vending** machine without the notice. Interest will accrue on the \$250 penalty, according to Chapter 212, Florida Statutes.

The Department of Revenue is authorized to compensate persons who provide information leading to the recovery of unpaid taxes from the operators of coin-operated **vending** machines in Florida.

Persons who provide information showing that a **vending** machine operator has failed to attach the required notice to the machine may be eligible for a reward. The reward can be up to 10 percent of the previously unpaid taxes recovered from the operator. Call 1-800-352-9273 to report violations.



# The main themes

- The purposes of regulation
- A conventional regulatory regime
- A conventional critique of regulatory regimes
- Developments in thinking about the regulatory regime
- Ideas about developmental regulation

# The purposes of regulation

- Collectivising agency; statutory authority; third party to relationships in market or elsewhere
- Born of scandal, failure and crisis – food, drugs, transport, environment, health, social care...
- Applied to “wicked problems” not amenable to other forms of control
- A contract for control between government, society and often powerful groups or organisations
- Both symbolic and functional purposes
- Part of a wider “performance regime”

# A conventional regulatory regime

- Direction
  - Setting out expectations or requirements
  - Standards, guidelines, regulations
- Detection
  - Checking compliance with direction
  - Inspections, permits/authorisations, investigations
- Enforcement
  - Dealing with non-compliance
  - Penalties, shaming, controls, more regulation

# A conventional critique of regulatory regimes

- Costs – regulatory burden, duplication of oversight
- Fairness – consistency, transparency, due process
- Ineffectiveness – absence of evidence, low added value, limited predictive ability, continued failure
- Adverse effects – distraction, ritualistic compliance, prevention of innovation, barriers to entry, reduced competition
- Governance – accountability of regulators, capture, regulatory creep/ratchet

# Thinking about the regulatory regime

- Deterrence and compliance regulation
- Responsive, smart or intelligent regulation
- Safety-net or improvement regulation
- Outcome focused regulation
- Proportionate and risk-based regulation
- Problem solving regulation

# Developmental regulation

- Better understanding of the nature of regulated organisations – control, internal power/dynamics, heterogeneity of interests, history and context
- A dynamic capabilities perspective – how organisations acquire, use and sustain organisational capabilities
- The regulatory diagnosis – beyond measurement to judgement and sensemaking
- The regulatory intervention – beyond performance improvement to organisational development

# Developmental regulation

- Diagnosis – organisational capabilities
  - Leadership, culture and climate
  - Improvement capability
  - Absorptive capacity and organisational learning
  - Fit to resilience, innovation/exnovation, safety-2...
- Intervention – organisational development
  - Reflection, explanatory narrative, constructive challenge
  - Few specific “must do”s – more difficult “should be”s
  - Backed by regulatory authority and enforcement powers

# Developmental regulation

- The intellectual framework needed – organisational capabilities and organisational development
- The skills and abilities needed in regulatory teams/staff – facilitation, engagement, content expertise, credibility
- The nature of the regulatory engagement – relational, longitudinal, non-adversarial, negotiated
- Part of the regulatory regime toolkit – most useful for large, complex organisations with significant performance issues
- Costly – but less costly than forms of enforcement

# Developmental regulation: a case study

Three inspections in one  
year

Endemic and multiple  
problems of poor  
performance

Deep and sustained  
organisational  
dysfunction



**Barts Health NHS Trust**

**Quality Report**

Trust Executive Offices, Ground Floor, Pathology and Pharmacy Building  
The Royal London Hospital  
80 Newark Street  
London  
E1 2ES  
Tel: 020 7377 7000  
Website: <http://www.bartshealth.nhs.uk/>

Date of inspection visit: 11-14, 23, 30 November, 20 - 23, 30 January, 4, 6 February 2015  
Date of publication: 22/05/2015

This report describes our judgement of the quality of care at this trust. It is based on a combination of what we found when we inspected, information from our 'Intelligent Monitoring' system, and information given to us from patients, the public and other organisations.

**Ratings**

<b>Overall rating for this trust</b>		Inadequate 
Are services at this trust safe?	Inadequate	
Are services at this trust effective?	Inadequate	
Are services at this trust caring?	Requires improvement	
Are services at this trust responsive?	Inadequate	
Are services at this trust well-led?	Inadequate	

