



**Submission to the House of Commons Standing Committee  
on Industry, Science and Technology**

**on**

**Impacts of Canada's Regulatory Structure on Small Business**

**Ottawa, ON  
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The Independent Contractors and Businesses Association (ICBA) is pleased to make this presentation to the House of Commons Standing Committee on Industry, Science and Technology.

By way of background, ICBA has been the leading voice of British Columbia’s construction industry for 43 years, representing more than 2,100 members and clients who collectively employ over 50,000 people. ICBA advocates for its members in support of a vibrant construction industry, responsible resource development, and a growing economy for the benefit of all British Columbians.

On behalf of our broad membership, our organization undertakes public policy development; delivers apprenticeship and professional training; and provides individual group and retirement benefits programs. Our members are either non-union or non-affiliated union contractors and, taken together, these two segments of BC’s construction sector employment account for nearly 85 percent of BC’s construction industry workforce.

**Introduction**

We appreciate the opportunity to provide our suggestions on the critically important topic of impacts Canada’s regulatory structure has on small business. This study is timely and important for addressing the “silent” or “underpriced” costs that small businesses face with the myriad of laws, regulations, policies, and guidelines imposed by all orders of government. While the impacts of taxes on small business are easier to “price”, the stealthier and far-reaching costs of regulation on small business are too often overlooked as a bottom-line cost to Canadian businesses and society-at-large.

Today, my presentation is organized under the following headings, which I will address in turn:

- The Construction Industry, Entrepreneurialism, and Red Tape Reduction – The Need to Shrink “Opportunity Cost”;
- Government Regulatory Reform Architecture – Entrenching Culture and Commitment;
- A Few Notes on Pressing Federal Regulatory Issues Impacting ICBA Members; and,
- Conclusions.

**The BC Construction Industry, Entrepreneurialism and Red-Tape Reduction – The Need to Shrink “Opportunity Cost”**

The British Columbia construction industry contributes nearly 10 percent to provincial GDP. Every morning over 245,000 people in BC wake up, put on a hard hat and build British Columbia (and Canada). Our members are small business people; they are entrepreneurs who accept “bossing themselves” as a legitimate, risky and potentially highly rewarding way to earn a living. They also accept the long-hours of work that are required to build their businesses, which includes complying with a myriad of government regulatory requirements.

The reach of regulation affecting small business permeates all aspects of their operations, and includes very important societal objectives to ensure public health, safety and environmental protection. The effects of government regulatory activity, however, are often disproportionately felt by smaller businesses of zero to 20 employees where the majority of Canada's jobs are found. We hear every day from our members that the "cumulative effect" of government legislation, regulation, policy and guidelines can be crushing as they work to deliver construction services on time and on budget; as they develop their workforce in a rapidly changing business environment; and, as they simply struggle to meet their regular payroll.

When government enacts new regulatory measures, the cost to a small business often manifests as lost or foregone business that would otherwise have generated additional income, created more jobs, and provided incremental tax revenue to government. These "Opportunity Costs" are often hard to quantify, but are nonetheless very real as small businesses cope with filing out "one more form" or as they have to "make one more call" to determine what government is asking of them in existing or new regulation, policy or guidelines.

Important also – yet also easily overlooked – in efforts to improve the regulatory structure for business (and citizens) is the impact government service delivery has on generating "opportunity costs" for small business. It's not only the time spent complying with regulation or implementing specific requirements that costs business. Costs are also incurred in the form of unnecessarily complex and time-consuming processes that all Canadians experience with other routine government service delivery. Time "sunk" waiting in a Service Canada line or at a Passport Office, to name a couple of routine examples, also impose "opportunity costs" for small businesses and citizens.

Deployment of information technology and "on-line government" is always worthy of consideration in any effort to improve regulatory compliance and service delivery, but it is not a panacea nor is it a substitute for addressing the general architecture of regulation, processes, and continuous improvement. A commitment to getting the content of policy and regulation right is imperative. But equally important is the skill of people and the efficiency and effectiveness of processes within the public service. And also critical is entrenching a deep seeded culture and a lasting commitment to regulatory reform and process improvement within the federal public service that bridges from one mandate or government stripe to the next.

### **Government Regulatory Reform Architecture – Entrenching Culture and Commitment**

The Standing Committee on Industry, Science and Technology has an important opportunity before it to make recommendations for the architecture of regulatory reform. As the Standing Committee has heard from some previous witnesses, in 2001 British Columbia embarked on a comprehensive program to reduce the quantum of regulation on its books. Those efforts now span almost 18 years and are recognized as "best practice" by many jurisdictions throughout North America.

In this effort, Ministries and agencies of government were called upon to pursue public policy measures to improve business competitiveness, to strip out superfluous regulation, and to actually reduce in size and scope the overall burden of regulation on both businesses and citizens. Initial efforts saw a reduction of unnecessary regulations of 36 percent between 2001 and 2004 increasing to 49 percent by 2018. This was accomplished without compromising compliance or health, safety and environmental protection.

Between 2015 and 2017, British Columbia went beyond reducing the quantum of regulations on the books to broadening the scope of red tape reduction to include service delivery improvements within government. Both initiatives – maintaining a reduced quantum of regulation by instituting a one-for-one rule (i.e. if one regulation is added, another must be removed), while including business and citizen-facing red tape reduction and service improvement – built a lasting "architecture" and has entrenched a cross-government culture and commitment to continuous regulatory review, monitoring, improvement and accountability.

The BC experience offers a number of important lessons that could be of benefit to the Standing Committee on Industry, Science and Technology's current deliberations on the impacts of Canada's regulatory structure on small business and efforts to identify pathways to improvement. A summary of key features follows:

- Minister Mandate letters – A core focus on regulatory reform and continuous improvement in red tape reduction and service delivery to business and citizens begins with a commitment from the top and a requirement within all Ministerial mandate letters to fully participate in regulatory reform and improvement. This also sends a message throughout the public service that addressing regulatory reform and service delivery improvement is a priority.
- “What gets measured, gets done” – While it is important for government to conduct cost-benefit analysis when implementing any new laws and regulations, the BC experience demonstrates that reducing the quantum of regulation requires measuring the aggregate number of regulations, backstopped with a commitment to maintain and further reduce levels.
- Stakeholder engagement – this should be broad and ongoing with sectoral stakeholders, but it is also important to engage the public-at-large. On the latter point, harnessing the power of social media to engage the public and to identify “ideas” for small business and citizen red tape reduction proved very effective in BC.
- Secretariat and Actioning Ideas – A small secretariat with a designated Minister responsible should provide a “central agency” function to ensure ideas for red tape reduction are actioned and individual Ministries are held accountable. A secretariat within the Ministry of Small Business could work with other agencies to triage ideas for action and to ascertain whether they were green; i.e. easy to fix and immediately actionable; yellow – doable, yet more time consuming and complex; and red, not doable, usually for reasons of health, safety or environmental protection. A clear project management approach to execution is critical.
- Public servant engagement – The public service should not be overlooked for ideas to improve regulatory structure and processes affecting small business and citizenry. Government should give full license to public servants to bring forward ideas for red tape reduction whether regulatory or service improvement in nature. Public servants should not be cast as the problem; they need encouragement and full support to “safely” be part of the solution.
- People and Practices – in addition to policy (legislation, regulation and guidelines), the two “p’s” of people and practices are also critically important in improving regulation and regulatory processes for small business. In addition to getting regulation right, both “hard skills” (i.e. technical credentials) and “soft skills” (finding pathways to “yes”) of government personnel is critically important. Experience suggests that the competence of the people driving the review processes within statutory agencies is often the determining factor in whether a business is able to comply in a timely fashion with regulatory requirements versus being mired in “opportunity costs” (e.g. forgone business investment, job creation, incremental income for the firm, and tax revenue for all orders of government).
- Transparency and Legislated Annual Reporting: To make the regulatory reform process transparent and as part of building an entrenched commitment to continuous improvement, the Standing Committee is advised to recommend annual public reporting which identifies ongoing areas of focus, explains reasons for not undertaking reform in certain areas (e.g. where there are justifiable

health, safety, or environmental protection issues), and reports out and celebrates success in areas of improvement<sup>1</sup>.

### **A Few Notes on Pressing Federal Regulatory Issues Impacting ICBA Members**

Before concluding, ICBA would be remiss if we didn't briefly comment on three current areas of red tape that are of considerable concern and consequence to our membership: Bill C-69, the *Impact Assessment Act* now before the Senate; US Executive Order 232 and consequential federal government retaliatory tariff and safeguard measures; and, the potential for the direct or indirect application of "union-only" hiring in Community Benefit Agreement frameworks related to procurement in the federal jurisdiction. Each of these policy measures will impose significant direct costs, and "opportunity costs" for business of all size in the BC construction industry:

- 1) Bill C-69: This is a deeply flawed piece of legislation that, if left to stand without substantial amendment, will further stymie major project investment and development in Canada. Our members are very concerned that the legislation will effectively preclude major linear project development from proceeding in what is already an extremely difficult permitting and approval context. Earlier last year, ICBA made a detailed submission to the House of Commons Standing Committee on Environment and Sustainable Development<sup>2</sup>. We will be making further submissions this spring to the Standing Senate Committee on Energy, the Environment, and Natural Resources.
- 2) Steel Tariffs (US Executive Order 232): The federal government's imposition of retaliatory tariffs and "safeguard measures" – while somewhat understandable given duties instigated by the US President in Executive Order 232 – arrive the heels of a 25 percent tariff imposed on imports of US steel earlier last summer and previous measures imposed on steel imports from China, Korea, Japan and Hong Kong in 2015. As a result, construction service providers have been on the receiving-end of substantial cost escalations which, in the final incidence, must be passed on to consumers or absorbed by firms through layoffs or cuts elsewhere in their businesses.

These measures also occur amidst two long-standing – and fundamental – "supply-side" constraints facing BC-based construction firms sourcing steel and related products: 1) There is no steel production in BC and there is very little elsewhere in Western Canada, except for a small mill in Edmonton, AB; and, 2) BC must continue to source its steel from the US, Turkey, and Asian markets – steel sourced from Eastern Canada typically costs four times to ship versus sourcing from external markets<sup>3</sup>. We urge policy makers to find a resolution with the United States to this issue generally, while monitoring closely the ongoing differentiated impacts federal retaliatory measures have on supply-constrained BC and Western Canadian construction material markets.

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<sup>1</sup> See for example: Government of British Columbia, Annual Report 2017/18 Regulatory and Service Improvements for British Columbians, June 2018.

<sup>2</sup> Ms. Deborah Schulte, Chair, House of Commons Standing Committee on Environment and Sustainable Development, ICBA Submission Re: Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, April 6, 2018.

<sup>3</sup> For more explanation of ICBA's position on Steel Tariffs, Safeguard Measures and their implications for BC's construction industry, please see: ICBA Letter Submission to Honourable Bill Morneau, Minister of Finance Re: Public Consultation on Safeguard Actions (Tariffs/Quotas) for Imported Steel Products, August 29, 2018.

- 3) Community Benefit Agreements<sup>4</sup> and Open Tendering of Federal Contracts: ICBA is increasingly concerned that federal construction contracts may be awarded without full, open and transparent tendering, in some cases with bidding restricted to contractors affiliated with Building Trades Unions. Given that the federal government is planning to invest \$180 billion in infrastructure over the next 12 years, small businesses in the non-union and non-affiliated union construction sector should not be precluded from participating fully in these significant opportunities. At the same time, the public should have the opportunity to get full value for their tax dollars.

ICBA is firmly of the view that construction projects financed with federal funding should be tendered without precondition, including (building trades) “union-only” hiring requirements on certain public projects<sup>5</sup>. In other words, small businesses should be allowed to bid federal work whether they are non-union, non-affiliated union, or building trades union without being fettered by preferential bidding requirements at the federal, provincial or local level.

## Conclusion

To conclude, on behalf of ICBA, thank you for the opportunity to outline our perspectives on the impacts of Canada’s regulatory structure on small business. This is critically important – and timely – work to help improve the competitiveness of small business in Canada. According to the World Economic Forum, while Canada ranked 12<sup>th</sup> overall in 2018 for competitiveness among 140 countries studied, our nation ranks a very concerning 53<sup>th</sup> for the overall burden of government regulation.<sup>6</sup> This serves underscore the urgency of the Standing Committee’s work to assess – and deal with – Canada’s regulatory burden on small business.

Thank you again for the opportunity to present today. I am pleased to answer any questions you have and should committee members or staff have further questions after today’s session, please do not hesitate to contact me.

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<sup>4</sup> In recent years, the term Community Benefit Agreements has been used as a synonym for “Project Labour Agreements”. Using either phrase, these measures generally seek to impose (Building Trades) Union-only hiring which limits or eliminates fair and open procurement on public projects.

<sup>5</sup> In British Columbia, non-union and non-affiliated union firms account for 85% of the construction workforce in the province.

<sup>6</sup> Klaus Schwab, The Global Competitiveness Report, 2018, World Economic Forum, 2018.