

What is “credible regulation”?

The term “credible regulation” had recently crept into the vocabulary of regulators. Unfortunately, this term is often used without any genuine understanding of what it means. This ultimately can result in it becoming just another management buzz phrase and undermine the benefits that a true credible regulatory program can offer.

To be “credible”, a regulatory program must satisfy two fundamental characteristics for both those being regulated and the broader community:

1. The motivations and actions of the regulator must be transparent and trusted, and
2. There must be confidence that the regulatory program will achieve the desired outcomes.

Satisfying both these characteristics can be difficult, especially when considering the competing priorities and limited resources that many regulators have. However, it can be done.

What are the key components of a credible regulation program?

Regardless of the industry, or the scope of a regulatory program, a credible regulatory program will always have all the following key components:

- **Thoroughly researched** – So that the nature and scope of problem or issue that needs to be resolved is fully understood.
- **Outcome focused** – Identifying what success will look like and the measures that will be used before starting the program.
- **Targeted** – The program is primarily focused on the highest risks first. That is, it is directed towards groups involved, or at risk of being involved, in the undesirable behaviour.
- **Realistic** – Both the outcomes of the program and the program itself are achievable. Resourcing is often a critical factor with an under-resourced regulatory program sometimes being worse than no regulatory program at all.
- **Communication** – While ignorance of law no excuse, clear communication regarding about the undesirable behaviour being targeted by

the regulatory program has many benefits. This includes building trust with the broader community and enabling proactive compliance action of targeted groups.

- **Measured** - Sometimes people make mistakes, do not fully understand their obligations or situations occur beyond their control. These people cannot be treated the same as those that deliberately fail to meet their regulatory requirements.
- **Consistent** – the program, and the application of any sanctions or penalties for non-compliance (based on the severity of the non-compliance) must be applied consistently. Nothing undermines a regulatory program quicker than accusations of inconsistency in application.
- **Continuously improving** – A regulator’s work is rarely done. It is important to take the learnings from a regulatory program (ie. what worked well, what did not work and what could be done differently) and apply it to future regulatory programs.

What are the benefits of credible regulation?

A true credible regulatory program has the support of the broader community and acknowledgement from the regulated group of its importance. It is focused on resolving a particular issue and directs efforts to the areas of highest risk. This can lead to the delivery of the desired outcomes, even with the constrained resources of the regulatory agency.

Who can you talk to about developing a credible regulatory system or program?

Get in touch with JS Regulatory Services. We love making regulation work best, for everyone.



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