

## **RESPONSIVE REGULATION THEORY: CORPORATE COMPLIANCE AND SUSTAINABILITY IN NIGERIA**

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### **Abstract**

*Regulation is a form of government intervention in economic activity and interference with the working of the free market economic system. An important determinant of government effectiveness is how well regulatory systems achieve their policy objectives. Most free marketers prefer to be in charge but avoid regulations because they dislike government intervention in socio-economic life. This study examines responsive regulation theory: corporate compliance and sustainability in Nigeria. It used exploratory research design focusing on systematic review of existing articles, journals, periodicals and other relevant literatures on fields of business, auditing, accounting, taxation and finance. The review shows that there is growth in regulations and awareness of compliance problems in the country, but action to improve compliance is not properly coordinated and systematic. The study recommends that improving regulatory compliance requires increased attention to all elements of the chain of government action from problem definition, policy formulation, and implementation and to compliance enforcement and monitoring.*

*Keywords: Responsive regulation, business regulation, corporate compliance, enforcement, policy formulation, implementation, sustainability*

### **Introduction**

Setting up a business in Nigeria is one of the roads to financial independence. As most persons who have started a business will know, the task of setting up shop is not an easy one as it is fraught with many false starts and setbacks. Most of the time, businesses do not do well because the business owners fail to take cognizance of key elements incidental to business success. One of the elements that can make or mar a business is legal compliance.

The corporate business environment is regulated by certain requirements to be met for the effective operation of its business in Nigeria. When the necessary corporate compliance is adhered to by

companies, it brings sustainable development to that organization. Legal compliance is the way and method through which a business complies with the legal requirements regulating the business environment, sector and geographical location of a business.

Laws are made to regulate the business environment as a means for the state to ensure a level playing field for all persons who seek to do business within the state. Laws generally help to ensure that there are certain guarantees within a state which makes business possible as there is an element of predictability. These legal requirements help to put business activity in

check in order to ensure that stakeholders will have the required assurances to invest in the state. Some of these regulations are also in place to ensure that businesses give some of the benefits derived from the use of government provided amenities utilized in the process of service creation and goods manufacture back to the state for redistribution to the people. Some other regulations are in place in order to ensure that consumers of goods and services can be assured of a certain level of value for their money. In all, the regulations are made as a corollary of government's duty to the people to ensure the welfare and security of lives and property are catered for.

Within the Nigerian business regulation landscape, a number of laws and regulations abound to regulate business activities which a business that falls under the scope of application of such regulation or law is duty-bound to observe. As a result of the multiplicity of such regulations, it is sometimes very difficult to keep up with them and this usually leads to sanctions such as fines and penalties, forfeiture of licenses, and sometimes even criminal prosecution.

Quite a number of institutions are set up by the government to monitor and enforce compliance with the requirements of laws and regulations affecting businesses. These institutions include the Corporate Affairs Commission, the Federal Inland Revenue Service, the Inland Revenue Service of the various states, the National Agency for Food and Drug Administration and Control, Securities and Exchange Commission, the National Information Technology Development Agency and the Standards Organization of Nigeria among others. There are also regulations monitored and enforced by local governments and their designated task forces. Businesses also have professional bodies that prescribe certain

requirements for regulating the activities of their members. This article focuses on the general compliance requirements for businesses (to specific regulations) that are or intend to setup within the Nigerian business environment.

### **Objectives of the Study**

The objectives of this study are to:

- i. Identify the specific regulations pertaining to corporate organizations in Nigeria
- ii. Ascertain their level of compliance with regulator regulations
- iii. Find out the implications of level of compliance with regulations
- iv. Ascertain the responsiveness of the enforcement agents to available regulations of the industries

### **Literature Review**

#### **The Concept Regulatory Compliance**

Regulatory compliance is an organization's adherence to the laws, regulations, or guidelines set in place by a governing body that might apply to that organization. Some regulatory compliance obligations pertain only to a few firms in a specific industry, or only to large firms but not small ones. Other regulatory compliance obligations apply to much broader groups. Contrary to popular belief, the consequences of failing to meet your compliance obligations aren't solely restricted to regulatory fines. Compliance failures can leave a company subject to civil litigation from third parties, bar a company from bidding on lucrative contracts, or ruin the company's reputation with would-be customers.

#### **Why Is Regulatory Compliance Important?**

Technology has changed the way that companies conduct business operations.

Consequently, governments on a worldwide scale are executing controls/regulations to guide their constituents from harm, particularly as information protection, information security, and financial related fraud are becoming hot subjects for the average citizen. As organizations proceed to develop, it is basic that they stick to anything regulatory compliance mandates relating to their particular industry. The significance of regulatory compliance generally comes from the understanding that companies ought to keep up a least standard for the way they conduct their operations, such as how to handle client and worker information or how to conduct retail exchanges.

### **What Are the Challenges With Regulatory Compliance?**

Adhering to regulations isn't as simple as one might assume. After all, companies need to invest money and resources to implement compliance programs, in the form of internal company policies and training programs to assure that employees will follow the protocols demanded by the regulations. Adhering to directions is not as straight forward as one might expect. After all, companies got to invest money and resources to execute compliance programs, within the frame of internal company policies and training programs to guarantee that workers will follow the protocols demanded by the regulations. Other challenges with regulatory compliance include:

- i. Keeping pace with technology advancements, so companies do not fall behind on emerging risks or potential regulatory changes.
- ii. Encouraging internal staff to take the training required and plays their part in assuring that the compliance programs are followed.

- iii. It should be embraced as corporate culture to engage compliance officer whose primary responsibility to the organization is to assure that the business complies with all government mandated regulations;
- iv. There is a necessity for implementing [compliance software](#) in order to attain, and sustain compliance.

### **Responsive Regulation**

Ayres and Braithwaite (2017) conducted empirical research into the regulation of business activities in a wide range of industries, from mining and nursing, to pharmaceuticals and finance. They worked primarily with the first two models above, using an algebraic "prisoner's dilemma" game to explore dynamic interactions between regulator and firm. A punitive strategy alone, they argue, engenders a cat-and-mouse relationship, whereas informal, co-operative interaction risks regulatory "capture or corruption" should an officer begin to put business interests before public ones. They hold these two approaches in tension through regulatory practices that assume co-operation but employ a "tit-for-tat" response to a firm's actions. This "finesse at dynamic interactive deterrent escalation and at projecting an image of invincibility" is compared to the "regulatory accomplishments" of the dog: firstly, dogs are delightfully friendly to other creatures which cooperate with them. Second, dogs are convincing at escalating deterrent threats while rarely allowing themselves to play their last card. They bark so convincingly that a bite seems more inevitable and more terrifying than it is in a way that is strategically responsive to the advance or retreat of the intruder. Friendliness can turn to a warning bark, then a more menacing

growl, posture and raising of the fur when her teeth are bared. Slightly at first, the dog advances slowly but with a deliberateness that engenders irrational fears that a sudden rush will occur at any moment (Ayres and Braithwaite 2017:44).

Such interaction between firm and inspector requires a system that allows flexibility within a formal framework ensuring enforceability. Burdach and Kagan (1984) suggest that much of what is considered excessive in protective regulation springs from the over-inclusiveness of centrally formulated rules. Instead, Ayres and Braithwaite advocate systems based on firm-specific agreements to address a more general set of legal requirements, standards or outputs. They argue that allowing a firm to negotiate the detail of *how* the law will be complied with permits responsiveness to differences between operations and circumstances across an industry. That responsiveness to particulars, together with the personal involvement in negotiation, will, in their view, increase commitment to compliance.

### **Corporate Compliances**

The corporate business environment is regulated by certain requirements to be met for the effective operation of its business in Nigeria. When the necessary corporate compliance is adhered to by companies, it brings sustainable development to that organization. The major statute that imposed various compliances on companies is the Companies and Allied Matters Act 2020 (CAMA). These various corporate compliances in Nigeria are discussed below.

### **Incorporation of Companies and Filing Annual Returns**

**Business Premises Registration-** Businesses are required to undertake business premises

registration by the payment of business premises registration fees/levy in the first year of doing business and a renewal fee for every other year of carrying out business operations. The rate of fees varies on whether the business premises are in a rural or urban area and the state in which it is located.

The CAMA is the principal statute that governs corporate activities and stipulates regulations that must be complied with before commencing business operations, and during operations in Nigeria. Before the commencement of business operations, to incorporate a company in Nigeria, companies are to comply with the requirements of the Corporate Affairs Commission (CAC). There are also post incorporation compliances to be met by Companies registered with the CAC; they are also to comply with the requirement of filing annual returns at the CAC. It is statutory compliance that all registered companies must submit their annual returns yearly to the CAC, to enable the commission to have up-to-date records of the company. The annual returns are yearly statements evidencing the performance of the company for the year and its financial position.

**Company Registration-** Every business in Nigeria must be registered with the Corporate Affairs Commission (CAC) within 28 days of commencement of business activity by virtue of Section 574(1) CAMA. A business can register as either a business name or a company. Companies can be a limited liability company or an unlimited liability company. Companies can also be either a private limited/unlimited company or public limited/unlimited company. While a business name can be registered with only one person as a sole proprietor, a company must have a minimum of two shareholders.

Apart from incorporation and post-incorporation, there are other several statutory compliances imposed by the virtue of CAMA and Companies Regulations. Some of these compliances are statutory meetings of the companies, filing of company resolutions with the CAC.

**(a) Taxation-**There are various taxes to be paid by companies operating in Nigeria and failure of companies to comply with the various tax requirements will be tantamount to non-compliance by the company. The company tax obligations to be complied with are as follows:

**i. Company Income Tax-** A company in Nigeria is to comply and register with the Companies Income Tax imposed and levied by the Government through the Federal Inland Revenue Service (FIRS). The Company Income Tax is governed by the Companies Income Tax Act (CITA), Cap C21, LFN 2004 (as amended). It is imposed on the profit of a company from all its sources. The rate of tax is 30% of the total profit earned by the company in the accounting year ending preceding assessment for companies with more than N100 Million turnover; companies with a turnover between N100 Million and N25 Million are liable to pay 20%; while companies with less than N25 Million turnover are exempted from taxation. Some profits are exempted from CIT provided they are not derived from the trade or business activities carried out by the company. Every company is required to comply and pay provisional tax not later than three (3) months from the beginning of each year of assessment which is an amount equal to the tax paid in the previous year of assessment.

**ii. Capital Gains Tax-** The governing legislation of the Capital Gains Tax is the Capital Gains

Tax Act. It is imposed on companies by the FIRS to pay Ten Percent (10%) of company gains realized upon the disposal of chargeable assets or exchange of certain kinds of interests. The most common capital gains tax payable by companies is realized from the sale of stocks, bonds, precious metals, real estate, and property investments. Capital gains tax accrues yearly.

**iii. Petroleum Profit Tax (PPT)-** Petroleum Profit Tax is imposed on the income of companies in the petroleum operations (upstream) sector of the economy. The tax is governed by the Petroleum Profits Tax Act, Cap P13 LFN 2004 (as amended). The Act regulates the financial activities of oil companies comprising of those in crude oil production, petroleum marketing, and also servicing companies involved in the survey, drilling, and data collection. It is the profits generated by companies that engage directly or indirectly in petroleum operations that are subjected to tax under the Act, while profits generated by marketing and servicing companies are taxed under the Companies Income Tax Act. Companies engaged in petroleum operations are chargeable to tax under the PPTA. It is also important to note that companies liable to comply with payment of PPT are not liable to comply with payment of Companies Income Tax on the same income.

**iv. Value Added Tax-** Companies in Nigeria are to comply and register with the Value Added Tax (VAT) imposed and levied by the Government through the Federal Inland Revenue Service (FIRS). This category of tax is governed by the Value Added Tax Act and it is imposed on goods and services sold to the public. The current tax payable is 7.5%

on the supply of goods and services, however, zero 0% tax rates compliance applies to goods and services in Nigeria which includes;

- non-oil exports, commercial aircraft, and spare part imports;
- certain humanitarian initiatives;
- machinery and equipment used in the solid minerals sector;
- exports, agricultural equipment, and commercial vehicles;
- basic foodstuffs;
- postal;
- residential rents; medical and pharmaceutical supplies;
- education and related materials and;
- Books and newspapers.

**(b) Employee Compensation Scheme** - The Employee Compensation Act 2010 was established to guarantee and impose obligations to employers in both the private and public companies to deduct 1% from the monthly salary of its employees and remit it to an Employee Compensation Fund, in event of death, injury, disease, or disability of the employee arising in course of employment. The Nigerian Social Insurance Trust Fund Board (NSITF) has the power to implement the fund. The Scheme is targeted at protecting private-sector employees and their dependents from financial difficulties in the event of either old age, cessation of employment, diseases, invalidity, or death associated with the employee's employment. The NSITF is not a tax but insurance which is an obligation for companies and failure to comply with the provisions can give rise to legal actions. This employee compensation contribution is for the benefits and interests of the employees and their employers of a company.

**(c) Industrial Training Fund (ITF)** - another important corporate compliance for

companies is the registration with the Industrial Training Fund (ITF). **Industrial Training Act, 2011** establishes the Industrial Training Fund and its purpose is to promote the acquisition of relevant skills in industry or commerce to generate a pool of indigenous manpower to satisfy the needs of the economy. Every employer that is liable to comply under the ITF Act by contributing 1% of the amount of its annual payroll to the Fund not later than the 1<sup>st</sup> of April every year. The ITF is established to utilize the contributions to the funds for skills in management, technical and entrepreneurial development in the private and public sectors of the Nigerian economy. Employers that are required to comply by making contributions under the Fund are:

- Employers having five (5) or more employees in their establishment;
- Employers who have less than five (5) employees but having a turnover of N50 Million Naira and above per annum;
- Suppliers, Contractors or Consultants who bid for contracts from any federal government agency or parastatals or private companies; and
- Companies operating in the free trade zone which seeks approval for Expatriate Quota or makes use of any custom services.

In the determination of the contributions to be made to the Fund, all employees including those who work part-time and temporary employees are included in the assessment. Also, all allowances and entitlements paid to such employees within or outside Nigeria are calculated when considering the total payroll of an employer.

The IDTF Act further imposes a duty on employers to provide training for their indigenous staff to improve their job-related

skills. It also provides that the Fund's Council may make a refund of up to 50% of the amount paid by an employer where it is satisfied that its training program is adequate. Failure to comply and make contributions within the stipulated period in a calendar year attracts a penalty of five per cent (5%) of the amount unpaid for each month or part of a month after the date on which payments should have been made.

**(d) Nigerian Immigration Service (NIS)** - filing of expatriate returns with the Nigerian Immigration Service (NIS) is also important compliance for companies having foreign employees. The returns are submitted at the NIS headquarters and the sections within the State where the company operates. For companies with expatriate employees who reside and work in Nigeria, they are required to comply and submit to the NIS a monthly expatriate monthly report on how the company has utilized the expatriate quota approval granted to them by the Ministry of Interior. The report is to contain information on any visiting expatriate to the company, their nationality, arrival or exit, and their area of residence in Nigeria. Failure to comply with the requirements of the NIS and submit the expatriate monthly returns to the relevant offices amounts to a violation and attracts a fine or conviction on the defaulting company. Section 105 of the Immigration Act 2015 provides that “any corporate body that refuses to render expatriate monthly returns shall be liable on conviction to a fine of N3, 000,000 (Three Million Naira) or its Dollar equivalent”.

**(e) Financial Reporting Council (FRC)** – this is another corporate compliance which mandate companies’ registration with the Financial Reporting Council. The FRC is empowered to oversee compliance with accounting, auditing, corporate governance,

and financial reporting standard in Nigeria by companies, therefore, all companies that are involved in financial reporting activities must be registered and comply with the requirements of the FRC.

**(f) Special Control Unit against Money Laundering (SCUML) Registration-** The SCUML is charged with the responsibility of monitoring, supervising and regulating the activities of Designated Non-Financial Institutions (DNFIs) in line with the Money Laundering (Prohibition) Act ML (P) Act 2011 and the Prevention of Terrorism Act (PTA) 2011. A DNFI must register with the SCUML and give regular reports to it.

Section 25 of the ML (P) Act defines DNFIs as dealers in Jewellery, Cars and Luxury Goods, Precious Stones and Metals, Real Estate, Estate Developers, Estate Surveyors and Valuers, Estate Agents, Chartered Accountants, Audit Firms, Tax Consultants, Clearing and Settlement Companies, Hotels, Casinos, Supermarkets, Dealers in Mechanized Farming Equipment and Machineries, Practitioners of Mechanized Farming, Non-Governmental Organizations (NGOs) or such other businesses as the Federal Ministry of Trade and Investment or appropriate regulatory authorities may from time to time designate as such.

All DNFIs must file a Currency Transaction Report on transactions that involve amounts in excess of N10, 000,000 (Ten Million Naira) and N5, 000,000 (Five Million Naira) for corporate bodies and individuals respectively with SCUML. DNFIs must also give Cash Based Transaction Reports on each deposit, purchase or sale and other payments, by a customer to the DNFI, which involves cash transaction in excess of \$1,000 or its equivalent in Naira or other currencies.

It is essential for businesses to ensure that they fully comply with all requirements of law, in order to ensure that the business can enjoy full legitimacy and maximise every single economic and even political opportunity.

**(g) Tax Identification Number (TIN)** - Every person that does business has a duty to pay taxes. Consequently, it is required that every business must register as a taxpayer and get a tax identification number either for the proprietor(s) in the case of business names or the company in the case of corporate. The tax identification number is required for the payment of taxes. Paying taxes is a major requirement of law. Business names are required to pay Personal income tax while corporate must pay Companies Income Tax and Withholding Tax. Both companies and business names must both pay value added tax on vatable goods and services.

**(h) NAFDAC Registration number-** This is required for businesses in the packaged food and drugs business. It is a mandatory requirement that producers of these products obtain a NAFDAC registration number for each of their products. The National Agency for Food and Drug Administration and Control is the regulatory body charged in ensuring the quality and standard of packaged foods and drugs. They carry out an inspection of both facility and product before issuing a number. The Agency is responsible for controlling, maintaining the distribution, advertisement, exportation, importation, manufacturing, and the registration of the categories of products such as drugs, chemicals, consumable goods, cosmetics, biological, and medical services.

**(i) Environmental Impact Assessment-** Section 2 (1) of the Environmental Impact

Assessment Act requires an assessment of public or private projects likely to have a significant (negative) impact on the environment. Section 2 (4) of the Act also specifies that an application in writing to the National Environmental Standards and Regulation Enforcement Agency (NESREA) before embarking on projects for their environmental assessment to determine if approval will be granted or otherwise. This is mandatory for businesses taking up development activities such as creation of parks, mining, quarries, agro-allied, fisheries, and related industries. This assessment is required in order to produce a report on the effect of the development activity on the environment.

**(j) Data Privacy-** The National Information Technology Development Agency (NITDA) is the statutory body with the responsibility to develop regulations for electronic governance and monitoring of the use of information technology and electronic data by the NITDA Act of 2007. The Nigerian Data Protection Regulation creates restrictions around the collection and processing of personal data and as such there is a requirement that such activities must comply with lawful purpose consent by the Data subject (Customers and Staff). Every business that processes the private data of staff and customers must ensure that it gets a lawful basis to so do, keeps the data safe and also has a clearly defined privacy policy that guides its use of such data. A business that processes the personal data of more than 1000 data subjects and 2000 subjects within a period of 6 months and 12 months respectively must file a data audit report with the NITDA.

**(k) Pensions-** Section 120 of the Pensions Reform Act 2014 defines an employer as any organization or business that employs three



persons or more. By virtue of the act, every business that employs a minimum of 3 workers is mandated to partake in a Contributory Pension Scheme in which the employers and the employees contribute minimum percentages of the employees' salary to the scheme every month. For the employer, the minimum contribution is 10%, and for an employee, it is 8%.

**(I) Standards Organization of Nigeria-** The Standards Organization of Nigeria is the apex body charged by virtue of the Standards Organization Act with the responsibility of certifying that locally manufactured products comply with industry standards. Before a product is certified, the organization ensures it complies with the requisite industrial standards as applicable to each product or service. Businesses must ensure that manufactured products get the requisite certification from the SON before selling the products to consumers. Manufacture, sale, and importation of products without the requisite certification attract various degrees of fines.

Consequent upon this, Companies that fail to comply with the various requirements that regulate a company in Nigeria face the risk of being sanctioned by the relevant authorities regulating it. Sanctions for non-compliance of companies could be in form of fines and penalties which could, in turn, affect the revenue made by the defaulting company; it can also have a negative impact on the cash flow of the company and disruption of the business activities of the company.

Non-compliance can also bring bad publicity to the company, thereby affecting the brand integrity of the defaulting company. It can also lead to revocation and withdrawal of the license, permits, or grants

issued by relevant authorities in the applicable sector of the company.

### **Corporate Sustainability**

Corporate sustainability is an approach targeting to establish long-term stakeholder value through the implementation of a business strategy that focuses on the ethical, social, environmental, cultural, and economic dimensions of doing business. The strategies established are purposed to drive longevity, [transparency](#), and proper staff development within corporate organizations. Sustainability affords businesses to make inter temporal trade-offs to protect [intergenerational equity](#). Short-termism is the bane of sustainability. Sustainability facilitates meeting the needs of the present without jeopardizing the ability of future generations to meet theirs. It has four main pillars: human, economic, environmental, and social. The purpose of corporate sustainability strategy is to afford business the commitment of using natural resources responsibly, investing for the long-term wellbeing of the planet and ensuring that all people involved in the business process are treated fairly.

### **Theoretical Framework**

Two applicable theories underpinning this topic under study are discussed as follow:

**Responsive regulation:** Responsive regulation is a leading approach to describing and prescribing how regulatory enforcement action best promotes compliance (Ayres & Braithwaite 1992; Braithwaite 2002). It proposes that in order to be effective, efficient, and legitimate, regulatory policy should take neither a solely deterrent nor a solely cooperative approach. Ayres and Braithwaite argue that strict, government-led, command-and-control

regulatory policies are often not the best way to address societal problems. Still, neither are laissez-faire policies that rely on market competition. Ayres and Braithwaite introduced responsive regulation as a general regulatory strategy that seeks to build on the strengths of both these approaches and overcome their weaknesses. Before zooming in on responsive regulation, it is essential to keep in mind that Ayres and Braithwaite introduced responsive regulation as “an attitude that enables the blossoming of a wide variety of regulatory approaches” and not “a clearly defined program or a set of prescriptions concerning the best way to regulate” (Ayres & Braithwaite, 1992, 5).

Elsewhere, Braithwaite explains: The basic idea of responsive regulation is that governments should be responsive to the conduct of those they seek to regulate in deciding whether a more or less interventionist response is needed (J. Braithwaite, 2002, 29). Responsive regulation assumes a general willingness of citizens and firms to regulate them. The challenge is to find those regulatory interventions that provide the best mix of government intervention and self-regulation. Ayres and Braithwaite argue that meeting this challenge is possible.

Governments must have in place a set of escalating forms of government intervention that come into force if delegated forms of market regulation or less intrusive ways of government regulation do not yield desirable outcomes. Responsive regulation, as conceptualized by Ayres and Braithwaite, is one of the most widely discussed regulatory theories and approaches to regulation discussed in the academic literature. It is also widely followed in regulatory practice around the world (J. Braithwaite, 2011; Parker, 2013).

### **The Theory of Regulatory Compliance**

The Theory of Regulatory Compliance (TRC) by Richard Fiene deals with the importance and significance of complying with rules or regulations. The Theory of Regulatory Compliance was first proposed in the 1970's when the relationship between compliance with rules was compared to compliance with best practice standards and outcome data. This theory has implications for all rule, regulatory, and standards development throughout human service and economic domains although the research is being drawn from the human services field. The TRC has developed over the past 40 years. It has particular significance now as the need for either more or less oversight has become politically charged. What is important about the TRC is its emphasis on selecting the right rules rather than having more or less rules and the nature of these rules as being significantly predictive of positive outcomes by being in compliance with said rules. From this comparison, it became clear that as facilities were in 100% compliance with all rules, there overall best practice scores and positive outcomes began to drop off. It was also found that there was a "sweet spot" at a substantial compliance level where best practice scores and positive outcomes were at their highest levels.

In statistical terms, the relationship was curvilinear rather than linear. This initial result has been confirmed many times over the past 40 years in different forms of human service facilities. This result also led to the conclusion that possibly being in full compliance with all rules was not necessarily a good policy and that all rules or regulations are not created equal, thus the development of two methodologies dealing with risk assessment and key indicators of regulatory compliance. In both of these methodologies,

the focus is on identifying a more targeted group of rules that either statistically predict overall regulatory compliance or reduce risk.

But what is the underlying reason for the TRC? It appears from data collected in various regulatory systems that the nature of the rules themselves may be the real problem. When rules are too minimal to comply with, it is far more difficult to discriminate between the really good facilities and the mediocre facilities. This unfortunately is the nature of regulatory data; it is dramatically skewed data with the majority of facilities being in compliance with all the rules. The solution to the above dilemma is not to de-regulate or to over-regulate but to come up with the "right" balance of rules or regulations. We do not want to make the mistake of the old proverbial "throwing out the baby with the bathwater". We need to have some form of oversight but it needs to be the right balance of oversight based upon risk and predictive targeting of specific rules or regulations. The statistical methodologies exist to identify these specific risk and predictive rules and regulations.

### **Methodology**

This study used exploratory research design focusing on comprehensive and comparative systematic review of existing articles, journals, periodicals and other relevant literatures on fields of business, auditing, accounting, finance and other relevant social sciences.

### **Discussion of Findings**

A fundamental factor for government effectiveness is how well regulatory systems put in place achieve their policy objectives. There is an increase in numbers of regulations and government formalities in Nigeria since the 1980s which has produced remarkable gains in some sectors of the

economic and social well-being of the citizenry, but too often the results of regulation have been disappointing. Dramatic regulatory failures tend to produce calls for more regulation, with little assessment of the underlying reasons for failure. Though there is little hard evidence, a growing body of anecdotes and studies from scholars on the topic suggests that inadequate compliance underlies many such failures. This is a common but little understood form of regulatory failure.

In recent years, governments have doubled up their efforts to examine how they can attain policy objectives more cost-effectively through better practicable regulation. The Organisation for Economic Co-operation and Development (OECD) published in 1993 a report on "Improving Regulatory Compliance: Strategies and Practical Applications in OECD Countries," that opened the OECD's discussion of the issue. A reference to this new report shows an overview of emerging issues for regulatory compliance, and focuses on assessing the level of compliance with regulations by target groups, and possible explanations for why compliance levels are low or high. The explanations for the level of compliance include the degree to which the target group: (i) knows of and comprehends the rules; (ii) is willing to comply either because of economic incentives, positive attitudes arising from a sense of good citizenship, acceptance of the policy goals, or pressure from enforcement activities; and (iii) is able to comply with the rules. The Government actions required to promote regulatory compliance must take each of these facts into consideration. However, even full compliance with a specific rule will not result in the achievement of regulatory objectives if the rule has underlying design flaws.

Continuous adherence to regulatory details by the target group will not achieve the regulatory objectives if the policymaker did not choose appropriate policy instruments. The traditional regulatory approach of establishing standards of behavior and legal enforcement mechanisms is not the sole means for governments to influence the behavior of citizens and enterprises and may not be the most effective. In order to achieve regulatory objectives, regulatory policymakers need a clear understanding of the nature of different policy instruments, of the habits of the regulated target group, and of the regulatory context, to achieve regulatory objectives. A common assumption is that the target group will be aware of, and understand how to comply with a rule when it is published.

However, rapid increases in the complexity and volume of new regulations can make this basic assumption unrealistic. The responsibility of policymakers does not end with publication of the rule. New rules may need to be accompanied by information campaigns to ensure that they are brought to the notice of and made comprehensible to the target group. A focus on the feasibility of compliance is also needed. For small businesses in particular, the burden of assimilating and complying with many complex and technical rules can be unreasonable and undermine confidence in regulators and the regulatory structure. Governments have a clear long-term interest in maintaining positive attitudes toward the regulatory system among citizens and businesses, since these attitudes largely determine the level of "voluntary compliance".

Enforcement cannot substitute for low levels of voluntary compliance. In the longer-term, widespread non-compliance

will undermine respect for the rule of law. Work to support good compliance outcomes should begin at the regulatory design stage, for instance, need to carry out *ex ante* evaluation of compliance factors. This report discusses some promising methods developed in Member countries that can help improve the likely level of future compliance.

These methods demonstrate that, by enhancing a range of contributing factors, policymakers are able to develop and implement more realistic and compliance-friendly regulatory designs. Monitoring compliance trends should also be a key part of *ex post* evaluation programs for existing regulations. Monitoring compliance is an inevitable activity in country but there is little evidence at present that the results of compliance monitoring are used to adjust the ineffective policies and make enforcement more functional. However, it is encouraging that a growing number of inspection/monitoring bodies acknowledge the significance of gathering reliable compliance data. Regulatory Agencies need to move away from outdated performance measurements, such as measuring inputs. They need to embrace output measures, such as behavioral outcomes that impact more directly on social welfare, environmental results, health effects, and declines in injury rates.

### **Conclusion and Recommendation**

The main conclusion of this report is that awareness of compliance problems is growing in the country, but that action to improve compliance is not properly coordinated and not systematic. Improving regulatory compliance requires increased attention to all elements of the chain of government action from problem definition, policy formulation, and implementation and

to compliance monitoring. All the Bodies, Agencies and those involved in the process of formulating and enforcing the resulting regulations need to be aware of the interdependent nature of their actions, and the need for consistency and proper coordination. In order to achieve compliance-friendly regulation; an integrated and synergized strategy is crucial.

The challenge for governments, not only in developing regulations but all policy instruments, is to move toward more results-oriented policies. Regulatory drafting, execution, monitoring, and enforcement ought to be planned to maximize the existing/potential target groups to realize substantive policy objectives. Sustainability of our corporate world requires feasible and holistic government policy measures as a function of satisfactory compliance facilitated by the attendant commensurate enforcement.

### References

- Ayres, I. (2013). Responsive regulation: A co-author's appreciation. *Regulation & Governance*, 7(1), 145-151.
- Bardach, E., & Kagan, R. A. (1982). *Going by the book: the problem of regulatory unreasonableness*. Philadelphia: Temple University Press.
- Braithwaite, J. (2017). Types of responsiveness. In P. Drahos (Ed.), *Regulatory Theory: Foundations and applications* (pp. 117-132). Canberra: ANU Press.
- Braithwaite, V. (2007). Responsive Regulation and Taxation: Introduction. *Law & Policy*, 29(1), 3-10.
- Bryer, T. (2007). Toward a Relevant Agenda for a Responsive Public Administration. *JPART*, 17(3), 479-500.
- Mascini, P. (2013). Why was the enforcement pyramid so influential? And what price was paid? *Regulation & Governance*, 7(1), 48-60.
- National Information Technology Development Agency
- National Agency for Food and Drug Administration and Control
- Nigerian Social Insurance Trust Fund Board (NSITF)
- Nigerian Immigration Service (NIS) Immigration Act 2015
- Parker, C. (2006). The "Compliance" Trap: The Moral Message in Responsive Regulatory Enforcement. *Law & Society Review*, 40(3), 591-622.
- Parker, C. (2013). Twenty Years of Responsive Regulation: An Appreciation and Appraisal. *Regulation & Governance*, 7(1), 1-151.
- Petroleum Profits Tax Act, Cap P13 LFN 2004 (as amended)
- Silbey, S. (1984). The Consequences of Responsive Regulation. In K. Hawkins & J. M. Thomas (Eds.), *Enforcing Regulation* (pp. 147-170).
- Securities and Exchange Commission, Standards Organization of Nigeria
- States Inland Revenue Service