Australians live in a highly regulated society. From the moment we rise in the morning until we turn in at night, there is scarcely anything we do that is not subject to regulation. As this important book makes clear, however, our regulatory state is not a recent development. It was embryonically present from the First Settlement (and arguably before). But the volume, range and variety of regulation have greatly expanded over time. The Income Taxation Act, for example – sometimes regarded as a regulatory ‘barometer’ – has grown from around 100 pages in the 1930s to several thousand pages today. Based on the same crude indicator, more regulations have been made in the past few decades than in the entire preceding period since Federation.

It has been said that no regulation is an orphan. The unremitting growth of regulation can be seen as a response to forces within our own society. More regulation is effectively being demanded and more supplied. It is democracy at work.

That does not mean that the regulatory accretion in Australia has all been for the good. For example, some of the pressures for new regulation have come from self-serving interests, while regulatory actions by our governments have not always been properly considered or well designed. In such cases, regulation may end up bringing more costs than benefits to the community – a proposition supported by independent reviews by the Productivity Commission and other sources. So while changes in our economy and society inevitably give rise to new regulatory needs, important questions remain about when and how regulation should apply if it is to truly enhance the wellbeing of the community as a whole.

Resolving these questions can be seen as the primary purpose of government itself. And if, as Arie Freiberg has argued, regulation needs to be interpreted broadly to encompass all interventions that involve regulatory authority, the importance of getting the answers right is clear.

Against that backdrop, this book is an important resource for anyone engaged in the regulatory endeavour. It provides a comprehensive account of regulatory forms, their origins, rationales, administrative approaches and effects. In so doing it lays bare the reach and complexity of the regulatory state, while providing balanced assessments and insights to help the reader navigate and understand key areas within it.

In addition to setting out in some detail the various dimensions of current regulatory frameworks in Australia, Professor Freiberg provides an account
of recent pressures for change, the challenges they pose and how these are being responded to. Ensuring regulation can remain fit for purpose in a rapidly changing world is no trivial task. This is shown by the relatively recent phenomenon of digital disruption, with innovative new services such as Uber and Airbnb placing as much pressure on established regulatory settings as on industry incumbents operating under them. Governments have responded in different ways to these challenges and are learning by doing, as well as from each other.

The reality is that in these and other areas, regulatory initiatives are essentially experimental. We can never know exactly how they will pan out. What we do know is that unintended consequences and failure to achieve regulatory goals are more likely the less that such initiatives have been informed by evidence, consultation and deliberation.

Thus much attention in Australia has gone into devising processes and institutions to support properly informed regulatory decisions, while acknowledging that these will ultimately be taken politically. Australia has led the world in areas such as regulatory impact assessment and ‘ex post evaluation’, with the OECD’s best practice manuals drawing on its experience. It is also true that Australia’s own regulatory measures are increasingly influenced by international developments, including in financial market regulation and consumer protection.

In grappling with the scale and complexity of this evolving area, there is considerable comfort in having access to a single source of information that is comprehensive in its coverage, factually reliable and wise in its analysis. Arie Freiberg’s long and distinguished career as academic and practitioner gives this work an authority and relevance that is apparent on every page.

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