Smart Policy Decisions:

Implementing Smart Government in the Housing Sector

February 2007

Canadian Home Builders' Association

Executive Summary

'Smart' Policy Decisions: Implementing Smart Government in the Housing Sector

1. Smart Government

In recent years, more and more people around the world have been looking into how to make government action in the economy more effective.

2. Implementing 'Smart Government'

Over the years, there have been several initiatives to improve government and reduce its negative impacts. These have had varying degrees of success, but the problem still has not been resolved. In this paper, CHBA describes its recommended approach, which includes the following steps:

3. Approach issues as a team

No one group can see all the implications of policy proposals.

4. Prequalify and prioritize issues

- 4.1 Make sure there is a real problem and opportunity
- 4.2 Assess whether government should take any action
- 4.3 If action is appropriate, confirm that it will support the market
- 4.4 Perform 'Triage' to stream proposals

5. Properly Analyze Causes and Potential Solutions

- 5.1 Define the issues properly
- 5.2 Assemble and provide knowledge
- 5.3 Involve the right people
- 5.4 Identify and assess options
  - 5.4.1 Check whether the market can handle the issue without intervention
  - 5.4.2 If not, look at risk-appropriate actions that support market response
  - 5.4.3 Treat laws and regulations as a 'last resort'
  - 5.4.4 Make sure cost analysis is useful

6. Implement effectively

- 6.1 Use the least intrusive, cost effective options
- 6.2 Ensure accountability

The flow charts on the next two pages present this approach in visual form.

First Review (Internal, with confirmation from selected representatives of affected groups)

1. Is there a real problem?

- physical harm suffered by people (e.g., sickness, injury, death)
- other cases of physical harm
- economic harm suffered by people or businesses (e.g., unnecessary costs, impaired ability to compete, red tape)
- other cases of economic harm
- other significant harm or injustice

DISAGREEMENT → Review/research disagreement. Check problem definition, etc. See 4.

AGREEMENT

- NO PROBLEM → Dismiss
- PROBLEM EXISTS → GO TO 2

2. Does it warrant further research/ spending?

- legitimate public concern?
- high risks? to clients? industry? other?
- wide or unfair impact?
- market responding?
- government responsibilities/jurisdictions?
- likely government action -- and what impact?
- is government the cause? is industry the cause?
- initial costs and budget?
- do benefits outweigh costs?
- if solutions are proposed, do they support market mechanisms?

DISAGREEMENT → Review/research disagreement. Check problem definition, etc. See 4.

AGREEMENT

- NO ACTION → Dismiss
- ACTION WARRANTED → GO TO 3

3. (Triage) What level of risk/response/ review is required?

- immediate danger?
- low, medium or high risk?
- part of a bigger problem and if so, where is the best place to assess it?
- actual cases of harm or still theoretical?
- generally accepted science or disagreement?
- widespread impacts or not?
- proposed actions support or harm the market?
- who would bear the costs of addressing this problem and how significant are those costs?
- who would receive the benefits and how significant are those benefits?
- what are the costs of *not* addressing this problem, and who would bear those?

DISAGREEMENT → Review/research disagreement. Check problem definition, etc. See 4.

AGREEMENT (Level)

1: LOW to NO RISK → Simple process (pg 9)

2: MODERATE → Intermediate process - Go to 4.

3: HIGH → Full review (pg 10) - GO TO 4

Clear agreement that problem exists > **Clear agreement that further action is warranted** > **Agreement on appropriate process for review** >

Considerations

Any proposal which cannot show evidence of a real problem should be dismissed.

Any proposed action which cannot show a real potential to address the problem should also be dismissed.

If a proposal does not fit within the government's role, it should be dismissed.

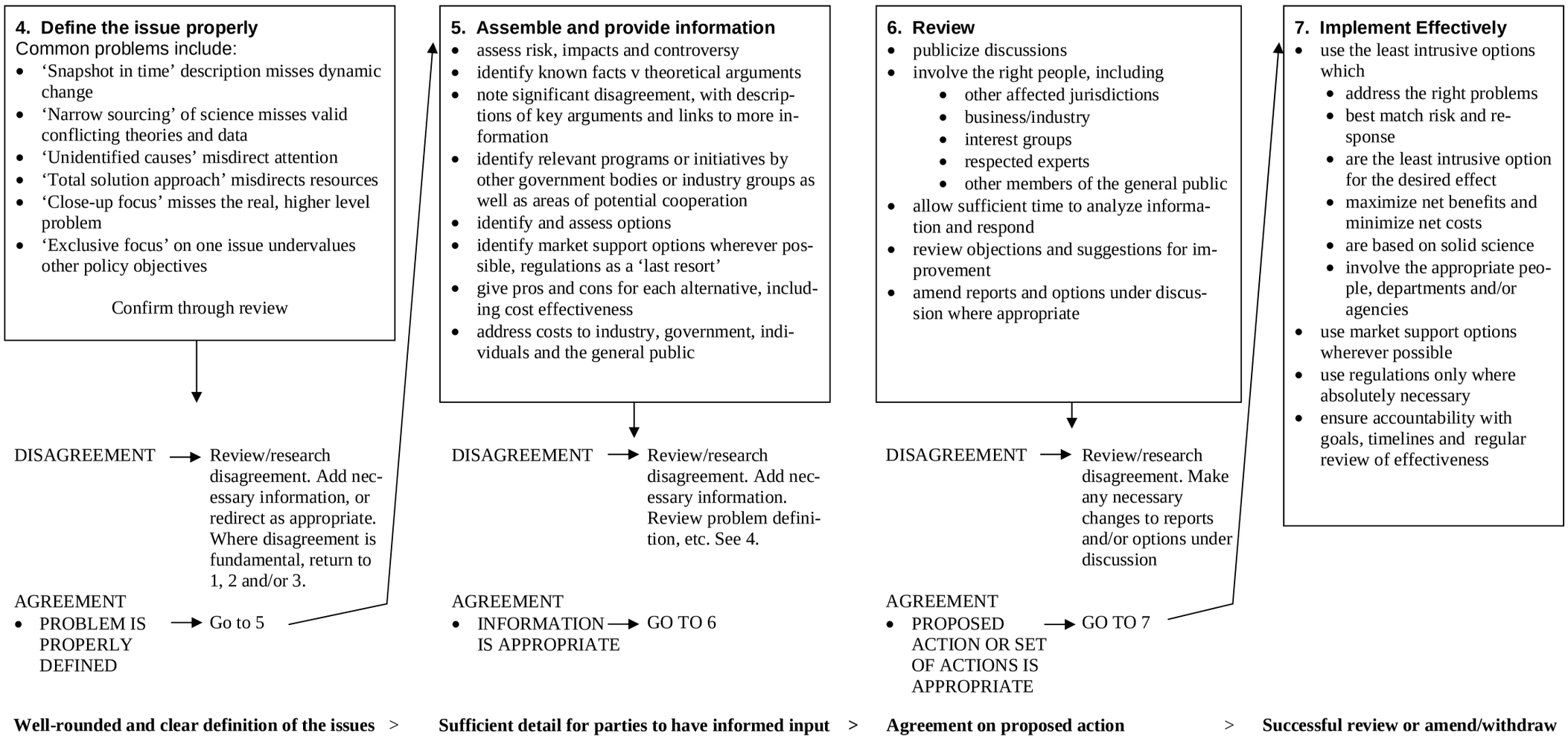
If the market can respond to the issue without additional action, the proposal should be dismissed.

If it is being discussed at the wrong place, it should be redirected.

If it does not fit within the government's current priorities and budget, it should be either dismissed or deferred for reconsideration at a later time. (If there is broad consensus that an issue requires government action, however, current priorities and budget may need to be reassessed.)

There should be a mechanism to adapt the problem definition and/or review process if initial decisions were incorrect.

Information preparation and review by affected groups



‘Smart’ Policy Decisions
Implementing Smart Government in the Housing Sector

In recent years, more and more people around the world have been looking into how to make government action in the economy more effective.

Earlier governments took a very interventionist “father knows best” approach. Using laws, regulations, and public sector enforcement, regulators in highly separated departments and jurisdictions assumed the role of experts who must define the ‘right’ ways of doing things and coerce people into following them.

There has been a growing awareness of the costs imposed by that approach, including:

- red tape inefficiencies
- duplication and/or conflicting requirements from different regulators
- the inability to overcome bureaucratic ‘silos’
- antagonistic relationships
- loss of important viewpoints
- waste of scarce resources
- stifling of innovation
- drain on the country’s productivity

1. Smart Government

Many voices, including industry, various governments and the Organization for Economic Cooperation and Development (OECD) have produced recommendations for improvement. A new approach has been envisioned – sometimes called ‘Smart Regulation’. Because it goes well beyond traditional concepts of legislation and regulation, we prefer to call it ‘Smart Government’.

In 2004, the Canadian External Advisory Committee on Smart Regulation defined its key elements as:

1. ***It is both protecting and enabling.***
   It involves using government action to generate benefits for society while enhancing the conditions for a competitive and innovative economy that will attract investment and skilled workers and sustain a high quality of life for Canadians. It is about making government action as effective as possible — and making sure it is never more complicated or costly than it has to be.

2. ***It is responsive.***
   Smart Government is acting to contain or prevent real risks, while enabling innovation and opportunity so that Canadians benefit from new approaches and knowledge. It is self-renewing and keeps up with developments in science, technology and global markets. It also gives the people affected more flexibility

in terms of how results are achieved, as long as high standards are upheld and the appropriate accountability measures are in place.

3. ***It is governing cooperatively for the public interest.***
   Smart Government means citizens, industry and government all have an active role to play in making the system more effective. Affected parties and citizens are consulted. Serious concerns are addressed. Government action is understood as part of a complex global system, which also requires governments and their departments and agencies to work better together towards common goals.

4. ***It reflects the degree of risk posed.***
   Decisions are based on an effective risk assessment framework, including risk-based policy analysis, based on consensus and open to public comment. New policy is guided by:
   - effectiveness
   - cost-efficiency
   - timeliness
   - transparency
   - accountability, and
   - performance.

5. ***It instills trust.***
   Smart Government must allay concerns by showing how the system safeguards the public interest, and deserves trust in its results, both in Canada and in other countries.

2. Implementing 'Smart Government'

But what exactly does this all mean, and how should government and industry pursue it when they have a specific issue in front of them? What is the best way to get the best outcome on serious public policy issues – without stifling the energy and creativity that make the market system so effective? There are a number of key elements:

A. Approach Issues as a Team

B. Prequalify and Prioritize Issues
- Make sure there is a real problem and opportunity
- Assess whether government should take any action
- If action is warranted, confirm that it supports the market
- Perform 'Triage' to stream high, medium and low impact proposals

C. Properly Analyze Causes and Potential Solutions
- Define the issue properly
- Assemble and provide knowledge
- Involve the right people
- Identify and assess options

D. Implement Effectively

- Use the least intrusive, cost effective options
- Ensure accountability

These may sound like motherhood statements, but it is surprising how often they are not done, or not done thoroughly enough.

The following sections discuss each of these key elements in turn.

3. Approach issues as a team

This paper deals first with consultation and consensus, because it is a general principle fundamental to effective policy decision-making. No one group can see all the aspects of an issue or proposed actions. Industry sectors and subsectors, researchers, consumers, other government departments and agencies, various associations and groups all can have important perspectives, practical experience and recommendations.

Industry and government should meet on a regular basis to discuss upcoming issues and trends and responses in the field. Proposals for action should be welcome from any group. Full recognition should be given to market responses and industry initiatives.

Sharing the load

More than ever before, CHBA builders are connecting with their customers on things that matter to us all, like the environment, community development, health and safety and many other issues.

We don't want our sector to carry the load for other people, but we certainly want to do our fair share.

It's all about living what we believe.

Dave Benbow
2006-2007 President, Canadian Home Builders' Association

All significant proposals on public policy should be reviewed through consultation. Consultation on public policy is the equivalent of doing mock-ups and bench testing on a new product invention. It is a crucial ongoing process to identify where the 'bugs' are – so they can be fixed before going into full production/application.

If an appropriate consultation process finds a broad consensus that a proposed action should be taken, the decisions are easy. Where there are objections, however, extra review is required. The degree of extra review depends on the amount and the kind of objections raised by affected parties.

Crucial to test and refine

If an inventor doesn't test and refine a proposed product at appropriate stages, any problems that appear later may cause that product to underperform or fail.

If governments don't test and refine their proposed policies at appropriate stages, any problems that appear later may cause whole market sectors to underperform or fail.

Richard Lind
2006-2007 First Vice President, CHBA
& Chair, R-2000 Builders Committee

Just like product trials, consultation programs should be appropriate to the stage of the proposal and to its potential implications. Assumptions about the scope and complexity of review required may need to be revised based on degree of consensus.

Proposals should be acknowledged as a work-in-progress. Change should be accepted and welcomed. Objections should be respected as signs of real potential problems. If individuals or groups can show serious negative effects which were overlooked earlier in the process, those need to be investigated. Equally, if they can suggest better alternatives which address the same objectives, those should be welcomed.

At the same time, time lines should be established for decisions, and a mechanism set up to identify and dismiss frivolous concerns. Transparency is important. Publishing lists of issues under discussion can be very helpful.

1. The initial idea should be reviewed internally to assess whether it warrants spending public resources (e.g., it seems to meet a real need, the science appears to make sense, resources are available, etc.)

2. Proposals which have passed step one should be reviewed with representatives of those most directly affected to confirm need/science, and identify any obvious problems. If significant concerns and/or objections are raised at this stage, they will need to be addressed.

3. Proposals which have reached initial consensus on need/science and general practicality should be reviewed more widely. Identifying affected groups may require some 'lateral thinking". Some groups may not need to be at the table for the discussions, but they may still want to know that an issue is being discussed and receive information to track developments. Again, if significant concerns and/or objections are raised at this stage, they will need to be addressed.

4. All proposals with a potential for wide impacts should receive full public review.

Other comments on appropriate consultation processes will be included in the upcoming sections.

4. Prequalify and prioritize issues

4.1 Make sure there is a real problem and opportunity

Industry and government – and the general public – are bombarded with claims and recommendations about potential problems every day. Some of these concerns are real; some reflect flawed theories or misapplied science; some are important; some are trivial. Some even involve a type of marketing – trying to create demand for new services, products, approaches, or political philosophies where none currently exists.

It's not always easy to determine which ones require action, or what type of action.

That is why the first step in any decision-making process should be to identify and assess the goals of a new proposal. What underlying problem is it designed to address? How important is the problem? What impact can government action have? Generally, proponents of any proposed government action should have to identify the problem and how it could be addressed.

Evidence of a real problem generally should include one or more of the following:

1. physical harm suffered by people (e.g., sickness, injury, death)
2. other cases of physical harm
3. economic harm suffered by people or businesses (e.g., unnecessary costs, impaired ability to compete, red tape)
4. other cases of economic harm
5. other significant harm or injustice

What are the real objectives?

All legislation should have to identify its real goals and objectives.

Too often, the real intent gets overlooked, and governments just end up doing what's easy, and what's visible politically.

We owe a duty to, and as, the citizens of this country – to guide governments in the right direction

Victor Fiume
2005-2006 President, Ontario Home Builders' Association

Where a specific action is proposed, it must be accompanied by evidence of a real opportunity to reduce or eliminate the problem:

1. reduction in physical harm, economic harm, or other harm or injustice
2. specific and quantifiable benefits
3. supported by experience, reliable science and/or economics

At the end of this stage, there should be a clear statement of the specific problem(s) to be reduced or eliminated. Any proposal which cannot show evidence of a real problem should be dismissed. Any proposed action which cannot show a real potential to address the problem should also be dismissed.

4.2 Assess whether government should take any action

The initial assessment of any proposal for government action should also include a look at whether the issue comes within the government's role. In some cases, this will be perfectly straightforward – especially during regular review and updating for such things as building code regulations or municipal official plans. In other cases, it can be more complicated.

Considerations include:

1. is the issue a legitimate public concern? (e.g., affects shared public objectives, has high risks or a wide or unfair impact rather than individual or small group benefit)
2. can the market address the issue itself over time or will it need additional action by government? (see Section 5.4 for more discussion)
3. does government have responsibilities/programs in this area already and if so, which department(s) or agency(ies)?

4. did government create the problem? (e.g., inappropriate programs/regulations, red tape)
5. what are the potential costs to government of addressing this issue and would there be a budget to cover them?
6. do the potential benefits outweigh the costs?

At the end of this stage, there should be a clear agreement that further government exploration of the proposal is warranted.

If the proposal does not fit within the government's role, it should be dismissed. If the market can respond to the issue without additional action, the proposal should be dismissed. If it is being discussed at the wrong place, it should be redirected. If it does not fit within the government's current priorities and budget, it should be either dismissed or deferred for reconsideration at a later time. (If there is broad consensus that an issue requires government action, however, current priorities and budget may need to be reassessed.)

Power of informed consumers

No regulation can demand as much from us as informed and motivated customers. And that's the way it should be.

Dave Benbow
2006-2007 President, CHBA

4.3 If action is appropriate, confirm that it will support the market

The whole Smart Government approach recognizes how industry, consumers, government and outside experts can be most effective when they work together.

Proposals for specific action should be reviewed for how effectively they will support a healthy market. Industry working in a properly functioning market offers great efficiency and creativity. If the market is not functioning properly, government has many different kinds of tools to help it work better. They include joint action with other departments or with industry groups, removing impediments or red tape, supporting information programs, training or marketing, providing seed money for research, etc. Laws and regulations have their place, but should usually be considered a last resort. Generally, the most effective choices are the least intrusive. See Section 5.4 for more discussion.

At the end of this stage, there should be agreement that the options appear appropriate to the market.

4.4 Perform 'Triage' to stream proposals

The term Triage is used frequently in medical emergency situations. It refers to the classification of patients into one of three treatment streams, depending on the severity of their condition and the urgency of medical response.

For governments, a similar triage classification is used to direct further review and action through an appropriate process. It is intended to avoid both overreaction to proposals which are straightforward, and inadequate review of those which need more examination.

To support that classification, initial assessment of a proposal should check most of the following (See Appendix A for more information):

1. does the problem present an immediate danger?
2. is the risk level low, medium or high?
3. is it part of a bigger problem and if so, where is the best place to assess it?
4. have there been actual cases of harm or is the problem still theoretical?
5. are theories generally accepted in the scientific community or is there disagreement?
6. does the problem have widespread impacts or are only a few people involved?
7. who would bear the costs of addressing this problem and how significant are those costs?
8. who would receive the benefits and how significant are those benefits?
9. what are the costs of *not* addressing this problem, and who would bear those?

This initial assessment should be confirmed through informal discussions with representatives of those who would be affected by the proposed change.

Proposals with a low risk and impact can be handled through a relatively simple process. This could include:

- proponents identify the problem to be addressed
- proponents identify their proposed solution (whether that is something like an information change, or updates to training, or an uncontroversial amendment to regulations)
- proponents identify the anticipated benefits which can be achieved
- proponents identify the anticipated costs
- government confirms that the proposal represents a non-intrusive approach
- government publishes the proposal in a publicly available form, and informs those who could be affected
- time is given for comments
- decisions are published in a publicly available form

This process should not consume significant government resources unless a proposal becomes controversial.

At the other extreme, where the risks and impacts are high and there is significant disagreement as to the definition of the problem or the advisability of the solution, the process would be much more detailed. In addition to the above, it could include:

- proponents provide the scientific reports and costing information supporting their proposal
- information is reviewed informally with affected parties
- full investigation of alternative government or joint approaches may be required
- new research may be required
- risk analysis and trend analysis may also be required
- government reviews conflicting scientific and/or economic information and assembles reliable information on the problem and alternative approaches for public review, including areas of uncertainty
- interested parties are invited to participate, make presentations, or attend working groups
- proposals are revised or dismissed
- further participation by interested parties may be invited
- resulting recommended proposals are published for a final specific period of public review and comment
- final recommendations are prepared, together with a report on the public review

An intermediate process is used for proposals judged to present moderate risk, impact and controversy.

At the end of this stage, there should be agreement as to which review process is appropriate to the proposal's level of risk and controversy. If the assessment later turns out to have been wrong, there should be a mechanism to adapt the review process accordingly.

This paper assumes that low- and no-risk/controversy proposals will go through a process similar to that outlined above. The discussion in the next sections relates to proposals which have moderate- to high-risk/controversy.

5. Properly Analyze Causes and Potential Solutions

5.1 Define the issues properly

The way an issue is framed can fundamentally affect perception and discussion. If a problem is not defined properly, the solutions will not be appropriate. Where a proposal arouses controversy, it may be because the issues are being defined too narrowly.

Issue papers and backgrounders should be reviewed to make sure they avoid common shortcomings. For example:

1. **'Snapshot in time' description misses dynamic change**
   Many backgrounders and issue papers give a static description of problems – a kind of 'snapshot' at a particular time. This can miss very important elements of the issue and developing trends. For example, the market may be in the process of dealing with a problem itself. This kind of response does take some time. Even a strong, growing momentum can be completely overlooked in a 'snapshot' description. Useful questions can include:
   - what direction is risk going?
   - what direction is public awareness, interest and demand going?
   - is the market resolving the problem, or portions of it?
   - how long will that take?
   - what are the costs/benefits of allowing that process to take its course?

2. **'Narrow sourcing' of science misses valid conflicting theories and data**
   More often than one would expect, public policy discussions are based on scientific theories and/or data from a very few experts – or even just one source. Issue papers based on such 'narrow sourcing' can easily give too much weight to one particular theory or interpretation of the data, while ignoring valid alternative ones.

3. **'Unidentified causes' misdirect attention**
   If the real causes of a problem are not properly identified, the chance of finding optimum solutions drops significantly. Where there is disagreement, it is important to look more deeply into why the problem is happening and/or why the desired alternative is not happening.

4. **'Total solution approach' misdirects resources**
   There's an old 'saw' that you can solve 80 to 90% of most problems for a reasonable amount of money and effort, but the further you try to go beyond that the more difficult and expensive it gets. The final percentage points come at an extremely high cost. Unless a very high risk factor justifies demanding a 100% solution, the money and resources are usually better spent getting the first 80 to 90% resolution of other problems.

5. **'Close-up focus' misses the real, higher level problem**
   When a specific department, agency, industry sector or interest group examines an issue, it can easily get so focused on its own sphere of interest that it misses the larger picture. It is important to identify how the perceived problem relates to the overall one. If the focus is broadened, the issues in the narrow sphere may be far better understood. Rolled into a broader program, proposals may be better crafted to meet the overall objectives. Priorities may become far different. Or, as in the 'Total solution approach' described above, it may turn out that resources can be directed in far more effective ways in other sectors entirely.

6. **'Exclusive focus' on one issue undervalues other policy objectives**
   Public policy discussions often have to deal with competing priorities – all of which are valid. People focused on a single issue can end up discounting the importance of other objectives which might conflict with their preferred solution. It is important to examine impacts on all relevant policy objectives. In the housing sector, these include such things as:
   - health and safety
   - affordability
   - choice
   - practicality/availability

Look at relative progress in different sectors

The housing industry and its buyers have done a huge amount to improve the energy conservation of new homes. And new products and systems are being taken up all the time.

But every year we get proposals for more regulation.

I think it's because the building code is an easy tool.

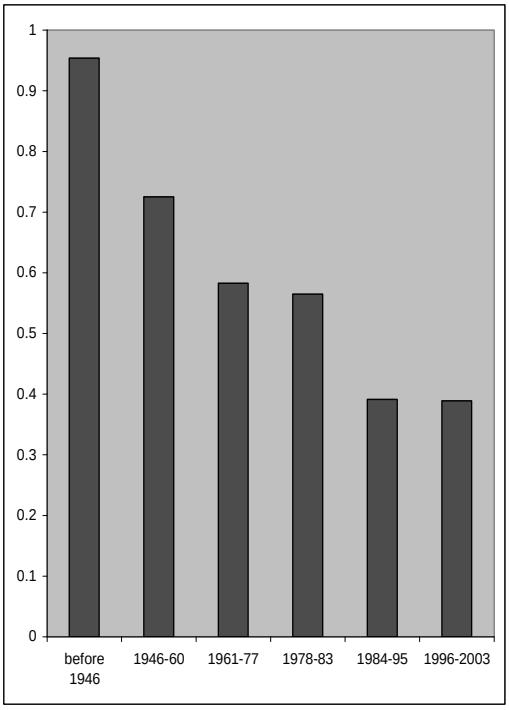
If you really want to address energy conservation now, you need lasting change in existing homes, office buildings, industries, transportation, and the energy sector itself.

Our customers are already doing their share.

Richard Lind
2006-2007 First Vice President, CHBA
& Chair, R-2000 Builders Committee

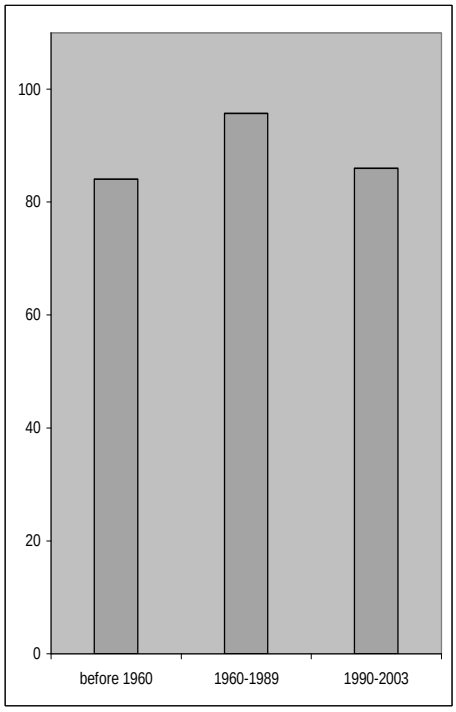
Check how parts of an issue relate to the overall problem[1]

Energy Intensity: Residential space heating use by year of construction (GJ / m^2) Canada 2003



Source: Comprehensive Energy Use Database Natural Resources Canada (graphed by CHBA)

Energy Intensity: Commercial buildings energy use by year of construction (1,000 Btu / ft^2) United States 2003



Source: Commercial Buildings Energy Consumption Survey US Energy Information Administration (graphed by CHBA)

Completing this type of review should help ensure a well-rounded and clear definition of the issues, avoiding common problems such as inappropriate focus and/or missing information. Where problems of definition are discovered later, they should be addressed as soon as possible.

[1] While the data in these two charts are not exactly comparable, they do show that energy use has been falling in newly constructed residential buildings over time, but staying the same in new commercial buildings. This suggests new measures to reduce energy use would be more effective if directed to the commercial sector, rather than new housing.

5.2 Assemble and provide knowledge

It is paramount that all facts as they are known are available to everyone wanting to review and comment. No group should have any cause to feel that they have been denied information. Interested parties and members of the public all should be able to access reports and data easily, including over the internet, in user-friendly formats.

Reports should include an assessment of risk, impacts and controversy. Known facts should be identified as such, as should those arguments which are more theoretical. Areas of significant disagreement should be noted, with descriptions of key arguments and links to more information. Relevant programs or initiatives by other government bodies or industry groups should be identified, as well as areas of potential cooperation.

Proposals for action (or non-action) should include a discussion of pros and cons for each alternative, including costs and benefits, and an assessment of how it supports operation of the market at the least intrusive level. See the discussion of options in Section 5.4, below. Where one or more of the options are recommended over the alternatives, the decision rationale – and any areas that may still be in question – should be made clear.

At the end of this stage, the appropriate government department or agency should have available an information package with sufficient detail that all interested parties can hold informed discussions and make informed decisions on the issue.

5.3 Involve the right people

As discussed in Section 3, policy discussions benefit from the involvement of a wide variety of people. Setting up and maintaining a contact list of interested parties is an art in itself. Choices should be appropriate to the assessment of proposal risks, impacts and controversy.

Published lists of upcoming initiatives are important to alert interested parties who might be missed on formal lists. It is also important to have information readily available for other interested people and members of the general public.

Key groups include:

1. **Other jurisdictions**
   Where other federal government departments and agencies, provincial or municipal bodies have an interest in an issue, they should

Overcome jurisdictional 'silos'

We have had really good, well-thought-out initiatives for joint industry-government action fail at the last moment because another department won't cooperate.

That is a total waste of our time, and completely unacceptable. Jurisdictional issues must be worked out cooperatively, early in the discussions.

David Wassmansdorf
2005-2006 President, CHBA

be informed of any investigations and/or proposed action and invited to participate. The 'silo' mentality must be overcome. Potential cooperation should be explored and potential conflicts removed early in the process.

2. **Affected businesses**
   It is important to identify those who are most directly affected by an issue. Representatives of these groups should be invited to participate in the review process. This would apply as well to significant sectors such as the housing industry, whose members can be affected indirectly by issues in other sectors (e.g., those affecting the products and services they hire or rely on)

3. **Interest groups**
   Many groups have been established to concentrate on specific sectors or interests. Those directly affected by a proposal should be identified and given an opportunity to review and have meaningful input.

4. **Respected experts**
   Especially where there is disagreement over technical or scientific issues, it can be very worthwhile to seek expert input and advice.

Handling meeting discussions

1. Give everyone full information
2. Use a respected facilitator
3. Define the issues and the impact of any competing priorities
4. Establish ground rules for discussion
5. Give everyone an opportunity to be heard
6. Politely but firmly quash any unruly behaviour
7. Ask for sources of disputed claims
8. Invite follow up written comments

5. **Other members of the general public**
   In many cases, publicly accessible websites with full information will be sufficient to connect with members of the public. However, especially for issues of local significance, meetings can be helpful to raise issues, exchange information and seek input.

At the end of this stage, representatives of all key groups should be informed of the policy discussions, and have access to relevant information with sufficient time to analyze it and respond.

5.4 Identify and assess options

As mentioned in Section 4.3, governments have a wide array of tools which can be used to further public policy objectives – ranging from providing consumers with information to introducing new laws. Different options or mixes of several options can provide a program tailored to the specific issue being addressed.

5.4.1 Check whether the market can handle the issue without intervention

Unless the issue risk analysis rules it out completely, one option that should generally be assessed is 'No Action'.

The market has its own response systems to deal with problems. Any problem also represents an opportunity to devise a new and better product, service or system. Steps can include:

- normal problem/response/quality improvement cycle
- firms update their internal quality control
- innovation (new products/ systems responding to new need)
- producers or designers provide information for their clients
- industry also provides consumer information
- early adopters respond quickly to new demand
- competitive pressures bring more and more of the middle market along
- training may be developed where necessary
- new industry standards and guidelines may be drafted
- firms may provide/update market warranties
- innovations become widely accepted and achieve economies of scale

An assessment of how this process is working for the issue at hand is vital to understanding the problem. If it is demonstrably started and expected to gain sufficient momentum, then 'No Further Action' should always be the first choice for government response, because:

- it recognizes and encourages market response mechanisms
- it allows public and/or industry awareness to create demand
- change gets internalized in the market, and once internalized it is very deep

Just as other options should provide an estimate of costs and benefits and who bears/receives them, the impacts of the 'No Action' option should also be estimated.

Are regulations necessary?

In Saskatchewan, Nova Scotia and New Brunswick there are no requirements in the building code for any insulation at all.

Today, houses in those provinces have the highest standard of energy efficiency in the whole country.

Richard Lind
2006-2007 First Vice President, CHBA
& Chair, R-2000 Builders Committee

5.4.2 If not, look at risk-appropriate actions that support market response

If an analysis of market response mechanisms identifies problems or obstacles that need to be addressed, that information should be used to determine which government tools may be appropriate to overcome the problems.

These could include such things as:

- helping to publicize information to industry and/or consumers
- removing regulatory impediments
- participating in research
- providing seed money or loans
- supporting industry initiatives
- providing leadership in its own purchasing programs
- supporting training
- supporting appropriate standards and guidelines
- changing tax policy
- removing disincentives
- rebalancing other government programs

The analysis will identify which options are most likely to be effective to this specific issue. Others can be dismissed.

The best options should be described in detail, including a clear statement of how they respond to the problem(s) and the identified risk level. Discussion should include clearly defined goals, with appropriate reachable targets and timelines. Triggers for ending the program(s) should be included. Pros and cons and any areas of disagreement or uncertainty should be identified.

Where a package of two or more tools is recommended, the relationships between them may need to be described. Where other parties are participating (e.g., industry groups, interest groups, workers, educational institutions, other government departments/agencies) their roles and responsibilities should also be spelled out.

5.4.3 Treat laws and regulations as a 'last resort'

Regulatory measures are by their nature the most intrusive tools government can apply. They use the force of law to demand specific actions and prohibit others. Whether intentionally or not, they limit choice and present often insurmountable impediments to innovation.

They should only be used where market support measures will not be effective in addressing the identified risk in an acceptable time frame.

This would include, for example, cases such as building codes where there is a clear need for all buildings to meet a minimum standard of health and safety. However, each individual requirement in the code should also have to prove that it is essential to protection of those minimum standards, and cannot be left up to the market.

Proposals for new laws or regulations – or amendments to them – should have to provide solid information on the problem they are designed to address, including a risk assessment and an analysis of why market support measures are not appropriate. Proposals should have to allow for alternative solutions to reach the defined objective.

Detailed information on costs and benefits should be mandatory, including government enforcement costs.

As above, discussion should also include clearly defined goals for the laws or regulations, with appropriate reachable targets and timelines. Triggers for ending the measures should be defined. Pros and cons and any areas of disagreement or uncertainty should be clearly identified.

At the end of this stage, all parties should be able to access information on options, with sufficient detail to hold informed discussions and make informed decisions on the issue.

5.4.4 Make sure cost analysis is useful

Where proposals call for an estimate of costs and benefits, the level of detail should reflect the level of risk, impact and controversy. Estimates should address the following potential costs:

1. **Industry**
    - direct money costs
    - costs in flexibility
    - impact on innovation
    - information cost
    - training cost
    - impact on availability of inputs
    - impact on practicality
    - opportunity cost (competing priorities)

2. **Government**
    - direct money costs
    - staff time
    - enforcement capacity
    - duplication – is another department or agency involved or already taking measures?
    - political will
    - opportunity cost (competing priorities)

What price is safety?

One of the top fire researchers in the country told me that when smoke alarms were introduced, they cost $280 each – and he didn't buy any for his home.

But when they got cheaper, he bought lots.

Bruce Clemmensen,
Past President, CHBA

3. **Society in general**
    - information cost
    - opportunity cost (competing priorities – e.g. housing affordability – how consumers want/need to spend their money, economy in general)
    - too early introduction/freezing of market responses
    - unintended impacts

If cost is a controversial issue, the analysis may also need to examine who bears the costs and whether they are spread fairly.

6. Implement effectively

6.1 Use the least intrusive, cost effective options

After consultation and public review, options should be chosen which:

- address the right problems
- best match risk and response
- are the least intrusive option for the desired effect
- maximize net benefits and minimize net costs
- are based on solid science
- involve the appropriate people, departments and/or agencies

6.2 Ensure accountability

The success of government actions and programs should be assessed on an ongoing basis. Recent suggestions that proposals should include goals, targets and timelines, and similar measures for assessing progress are welcome.

Appendix A – Triage Tools

Triage consists of two related decision trees. Both should be confirmed through discussion with affected parties:

- comparison of problem risks to net benefits
- rating of risk, uncertainty, costs and controversy

The rating of problem risks to net benefits gives a picture of the overall desirability of action. In simplified graphic form, it would look something like this:

NET BENEFIT OF PROPOSED CHANGE	PROBLEM RATING: HIGH	PROBLEM RATING: MEDIUM	PROBLEM RATING: LOW
HIGH	Take action	Take action	Take action or review alternatives
MEDIUM	Take action or review alternatives	Take action or review alternatives	Review alternatives or no action
LOW	Review alternatives or no action	Review alternatives or no action	No action
NEGATIVE	No action	No action	No action

The chart below identifies some of the elements to be taken into account when deciding which procedures to use in reviewing proposals for action.

TRIAGE ASSESSMENT FOR SMART GOVERNMENT ACTION	
Element to be rated	Rating *None, Low, Moderate, High*
Type of change (basic score based on change type) *Technical (1); Policy application (5); Scope (10); Political(15)*	
Risks of the problem	
Anticipated net costs of proposed action *(costs minus benefits)*	
Degree of disagreement on science	
Difficulty of implementation *(industry/consumer/government)*	
Significance of other problems and/or concerns raised	
Overall degree of controversy on proposal	
Other	
TOTAL	