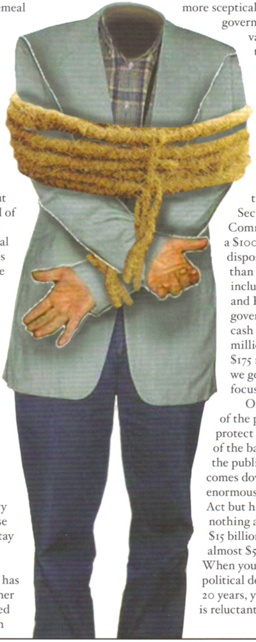
Regulators Regulated

Stephen Mayne assesses the government's chequered record on corporate regulation

ABC Television's *Four Corners* program this week concluded with a plea for Australian regulators to seize back control of drug administration in Australia in the wake of the Vioxx drug recall controversy. The message was clear. The Therapeutic Drug Administration is soft and conflicted, partly because it receives funding from levying the industry that it regulates and therefore is reluctant to jeopardise sales with heavy-handed market intervention.

Sadly, limp-wristed or piecemeal regulation of Australian companies is something that's all too common. Remember when all the state banks and building societies lost billions in the recession we had to have? Somehow our federal system meant that the prudential regulators at the Reserve Bank were not responsible for this portion of the banking system. The states all got out of banking but the Reserve Bank was stripped of prudential regulation after the Wallis inquiry into the financial system. A new body APRA was formed, which turned out to be completely asleep at the wheel as HIH collapsed owing more than $5 billion.



APRA's forebears in insurance regulation had recommended in the late 1970s that HIH's nemesis FAI be stripped of its licence. But then Treasurer John Howard met personally with company founder Larry Adler (Rodney's dodgy dad) and decided in his wisdom to overturn the decision of his bureaucrats. It's a lax regulatory system indeed when you can use political interference to get a stay of execution.

The Howard government's record on corporate regulation has been chequered indeed. No other country in the world has allowed its stock exchange to transform itself from a mutually-owned not-for-profit regulator, to a voracious publicly listed monopoly which has generated 150-fold returns for investors over the past decade. ASX Ltd, now a company worth $2 billion, is hopelessly conflicted as its quest for revenue outweighs its role as protector of the public interest and regulator of the broader market.

While Labor governments are philosophically more sceptical of big business, the Hawke government managed to cosy up to various dodgy entrepreneurs in the 1980s and simultaneously provide the corporate regulator with a puny budget of just $6 million. This was back in the days when stock exchanges and corporate laws were state-based, but it contributed to the damage caused by the decade of greed.

The federal laws of 1991 saw the creation of the Australian Securities and Investment Commission which suddenly had a $100 million-plus budget at its disposal and has since jailed more than 200 white collar crims, including Alan Bond, Rene Rivkin and Ken Jarrett. But the Howard government actually uses ASIC as a cash cow, collecting more than $430 million a year when it only needs $175 million a year to operate. Here we go again, another regulator overly focused on bringing in revenue.

Of all the regulatory failings of the past decade, it's the failure to protect consumers from the excesses of the banking cartel which angers the public the most. And this all comes down to Peter Costello, who has enormous powers under the Banking Act but has chosen to sit back and do nothing about it. With gross profits of $15 billion a year, bank licences deliver almost $5 billion a year to Canberra. When you tally up the $20 million in political donations by banks over the past 20 years, you can see why the government is reluctant to upset the applecart.

smayne@crikey.com.au

CHONG