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THE EFFECT OF REGULATORY COMPLIANCE ON SMMEs' ACCESS TO GOVERNMENT SUPPORT DURING COVID 19 LOCKDOWN: THE CASE OF KING CETSHWAYO DISTRICT IN KWAZULU NATAL

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Abstract

This paper analyzes the impact of non-compliance on distribution of government support to SMMEs in the King Cetshwayo district in South Africa during the Covid 19 lockdown. We use qualitative data from semi-structured interviews and thematic content analysis to analyze the experiences and perceptions of government employees and political representatives who were involved in distributing the goods or services. Our findings show that compliance and negative attitudes towards compliance requirements were a hindrance to government interventions to ameliorate the Covid 19 pandemic induced recession. The top-down structure of the compliance system also contributed to challenges as local, national, and regional regulators were not coordinated with each other. We therefore recommend alignment of compliance requirements across the distinct levels of government (regulators), and improvement in efficiency of the regulatory system. A complete online system can be used and made accessible to local regulators to improve service delivery. In addition, compliance requirements can be relaxed during times of crises to enable access to government support by SMMEs.

Keywords: Compliance, Government Intervention, Regulation, Qualitative

1. Introduction

Regulatory compliance is an indispensable requirement for both corporates and small businesses in today's economies (Min *et al.* 2020; Parker and Nielsen, 2009). Whilst compliance is at the center of the interaction between the regulator and the regulated, general consensus highlights negative repercussions of compliance on small businesses (Min *et al.* 2020). Compliance does not only result in higher fees and taxes payable to regulators but increases production costs for the firm, which forces small, medium and micro enterprises (SMMEs) to increase prices rendering them less competitive that large businesses (Celis, 2018; Nielsen and Parker, 2012). To further illustrate the complication that arises in ensuring compliance, Shiffman (2010) argues that compliance is a result of behavioral motivations, which are largely subjective. Therefore, whether a firm complies or not depends on how they interpret the impact of such compliance on business profitability and sustainability. On the other hand, regulatory compliance benefits the society at least in two ways. Firstly, governments use taxes, licenses, and other fees as tools for redistribution of wealth and provision of public services, thereby creating societal gains. The second gain arises through prohibition of harmful production methods and products, which also protects the society and results in positive outcomes for the society. Furthermore, Madzimure (2020) highlights that even where SMMEs are keen to comply, they often face hurdles that discourage them from complying, including lack of financial resources, limited information, and low levels of skills. On the backdrop of these conflicting views, we seek to account for contextual factors in application of regulatory laws and rules during the pandemic. This paper analyzes the role of compliance in the allocation of government relief during the Covid 19 pandemic.

Research on regulatory compliance has shown that it is complex process that draws interests of business, government and the general society together, and raises many challenges (Nielsen and Parker, 2012; Omar *et al*. 2017). Furthermore, the nexus between compliance and small business sustainability has received wider attention in the literature (Madzimure, 2020; Nieuwenhuizen, 2019; Shiffman, 2010). Small, micro, and medium enterprises (SMMEs) are more vulnerable to negative effects of regulatory compliance compared to larger enterprises. Government, which is the regulator, faces conflict of interest as it is both the regulator and distributor of wealth (and collector of revenue). Enforcing compliance would be difficult if it results in businesses also face challenges due to the need to make the compliance decision and action in view of possible risks facing the business. The Covid 19 pandemic lockdowns presented a global wide threat to survival of businesses and demanded government to intervene in markets (Farisani, 2022; Liu *et al.* 2022). Interventions to assist businesses to ameliorate the pandemic had to be made in consideration of available regulatory frameworks and compliance became one of the major requirements for small businesses to receive the assistance.

Du Preez and Meyburgh (2020) detail the government of South Africa's interventions to save SMMEs and increase production as businesses were grappling with the consequences of the pandemic. These included tax deference, grants, and loans. However, the interventions had to be made in line with existing laws and other compliance requirements. This increased the complexity of the interaction between regulators and the regulated. To assist SMMEs, the government deregulated some of the sections of business, including differing some taxes and extending expired licenses. Cash grants were distributed to small businesses and unemployment insurance was paid through the registered businesses (Zhou *et al.* 2022). Access to these interventions was to a large extent tied to compliance of the business. For instance, tax holidays only benefited registered businesses who were in good standing. Licenses also became a hindrance as unlicensed businesses found it inhibitive to access cash grants and other assistance. This was further complicated by the closure of licensing offices during the lockdown period.

The rationale behind analyzing challenges with compliance is captured in the drive to improve the easy of doing business by the South African government, especially for small businesses (DTI, 2020). In 2019, South Africa was ranked 84 out of 190 countries on the easy of doing business scale. The Doing Business project of the World Bank analyzes the regulations applying to small and medium enterprises and provides an aggregate measure that can be compared among different economies (DTI, 2020). Some of the indicators included in the index are easy of starting a business, registering a property, paying taxes, cross-border trading, and enforcement of contracts. Improving the easy of doing business is among structural reforms identified to stimulate economic activity and accelerate long term growth in the face of sluggish growth experienced in recent years (Ncanywa and Masoga, 2018). The National Small Business Amendment Act of 1996 amended with Act 29 of 2004, establishes the basis for regulating and promoting small businesses in South Africa. Among other objectives, the Act created the Small Enterprise Development Agency (SEDA) whose mandate includes promotion of entrepreneurship and creating of a conducive economic environment for small businesses to operate. In 2014, the Department of Small Business Development (DSBD) was established as a stand-alone ministry and currently houses the two agencies, Small Enterprise Finance Agency (SEFA) and SEDA. Its mandate includes improving the legal and regulatory environment for SMMEs and increasing access to both information and markets for SMMEs (Botha *et al.* 2021). The DSBD led various support initiatives for SMMEs across the country working together with other national and local government stakeholders. However, access to such support initiatives depended much on the level of compliance of the SMMEs.

Given this background, this paper, sets out to analyze the effect of regulatory compliance on SMMEs access to government assistance during the Covid-19 lockdown period. The extant literature on compliance of SMMEs, highlights the challenges faced by small businesses and suggest ways of attenuating these challenges (Clapper and Richmond, 2016; Madzimure, 2020; Parker and Nielsen, 2009). We find a large body of literature on tax compliance covering Southern Africa and the rest of the world (Kamleitner *et al.* 2012; Lubua, 2014; Maseko, 2014; Nieuwenhuizen, 2019). However, we do not find any evidence from the existing literature of an expose that discusses the interaction between small business compliance and governments interventions to ameliorate the Covid-19 pandemic. Therefore, our contribution lies in analyzing the nexus between regulatory compliance, government support and the Covid-19 pandemic. This study uses a qualitative approach, based on semi-structured interviews with government representatives and political leaders who were involved in allocating government resources to analyze the impact of regulatory compliance on access to government support during the pandemic.

This section introduces the paper, the rest of the study is as follows: Section 2 reviews literature on regulatory compliance among SMMEs. In section 3 we outline the methodology used in the study. Section 4 presents and discusses the results of the study, and section 5 conclude the study and proffers some recommendations.

2. Literature review

From the literature, we find the institutional and socio-economic theories more relevant to this study. The institutional theory of compliance provides the point of departure in understanding the complexity of compliance and regulation. According to Reynolds (1981) the institutional theory of compliance argues for consideration of the institutional environment in which the economic agent operates to fully comprehend their response choices to any given regulation. Responses of economic agents to explicit regulations are driven among other things by existing social institutions (Burdon and Sorour, 2020; Williams, 2020). The success of a given set of regulation in controlling the behavior of economic agents largely depends on existing social institutions, including such things as the implicit social norms and values, the rule of law, anti-corruption rules and market competition. In the South African case consideration should be given to the top-down 3-tier structure of the regulatory (compliance) system and how it impacts the response of economic agents to regulation. Furthermore, the prevalence of corruption and other self-serving activities does influence the way agents view regulation.

The socio-economic theory of regulation acknowledges the need for government intervention in market economies to deal primarily with market failures (Sutinen and Kuperan, 1999). Regulations are created by the government and firms are expected to follow the rules and regulation. At the heart of this mechanism is the responsibility of government or quasi-government organizations to monitor and enforce compliance. Enforcement of compliance is a resource intensive exercise and requires regular training on the side of law enforcers. On the other hand, businesses are expected to comply with the stipulated regulations, regardless of how they impact business activity and profitability. Nomlala and Oluka (2021) argue that compliance is largely a behavioral issue, which is influenced by economic, intrinsic moral motivation and extrinsic social motivation.

Economic motivations for deciding whether to comply or not are based on the comparison between legal and illegal gains that can be earned on the same transaction. Higher gains associated with an illegal operation compared to legal activity drives economic agents to take the illegal route. Discouraging this behavior requires regulators to stipulate a greater punishment for violation to compensate for the difference between the two. Intrinsic motivation argues for behavioral control from within an individual as guided by their moral beliefs. Compliance in this case is driven by the belief in the general good of the society rather than personal gains. Furthermore, intrinsic motivation is driven by legitimacy of the authority in the eyes of the economic agent, which largely depends on the legal framework and the ability of the authority in question to provide positive outcomes. Extrinsic social motivation argues for compliance behavior that is driven by one's public relations. Individuals can maintain certain behaviors to create a good image for themselves in society.

On the backdrop of these two theories, we formulate a model of compliance during the pandemic in which the complexity of compliance is worsened by the pandemic. In our model, compliance is related to both internal (intrinsic) and external (extrinsic) factors to the business. Since our paper is focused on analyzing the role of compliance in access to government support, we illustrate that compliance or non-compliance has an influence on channels through which the business interacts with the regulator. Non-compliance could result in the business missing out on important information, which is distributed through formal government channels or directly to those who are compliant. Furthermore, the fear of facing consequences for non-compliance discourages economic agents from seeking assistance during difficult times. Others may choose to remain unknown just to avoid future regulatory obligations. Our model, which we name ZMCA (for Zhou, Masuku, Chimucheka and Ayandibu) is shown in Figure 1.

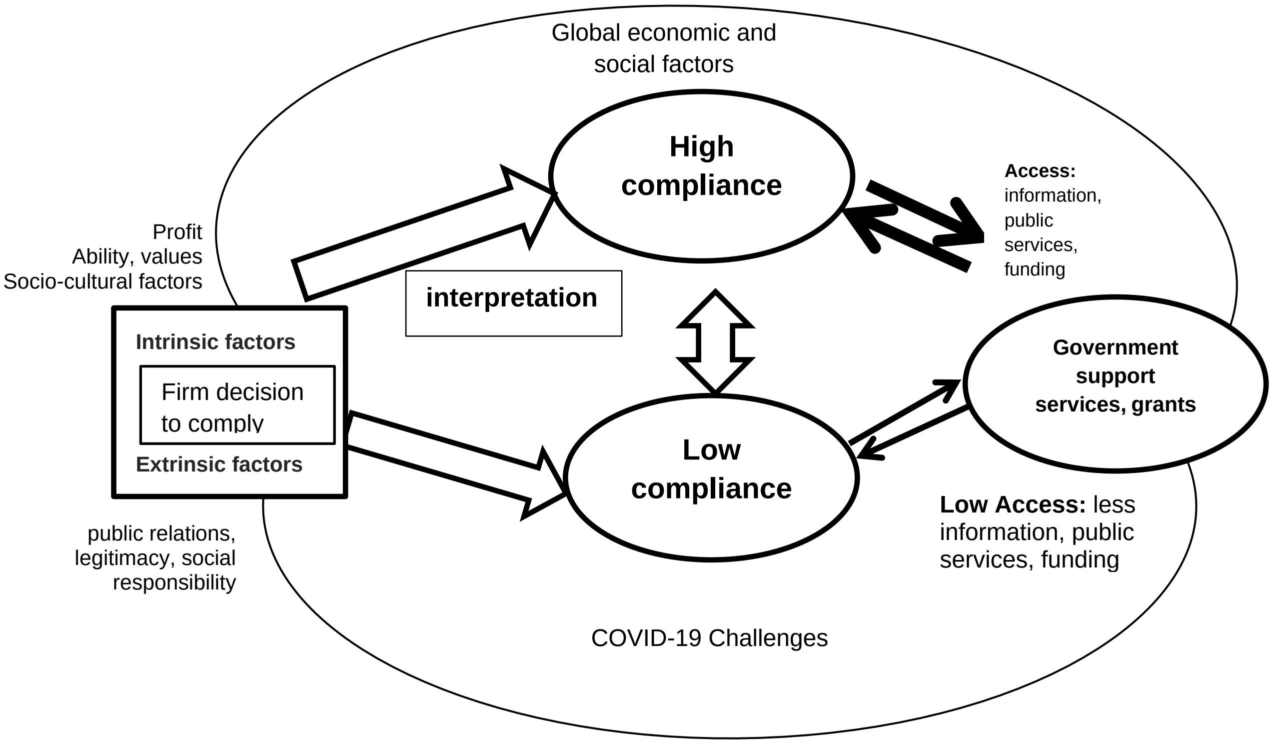

Figure 1. Business compliance during economic turmoil (ZMCA model)
Source: Author's own preparation

At the center of our model is the interpretation of regulation by economic agents. How agents interpret regulation is driven by both intrinsic and extrinsic factors. For instance, a firm with a rich ethics culture is expected to be driven towards high compliance and vice-versa. Also, if a regulation is interpreted as decreasing the firm profitability, compliance might be lowered. However, low, and high compliance are not static positions for firms, there is continuous movement in between these states as firms respond to different kinds of regulations at different times. Global socio-economic risk factors such as Covid-19 worsen the already complicated interrelationships between the firm and the regulator. However, we envisage that the government would respond to the crisis by increasing its services, which benefits firms that are found in the high compliance state. Whilst our model captures the interaction between compliance, institutional and socio-economic factors, and government interventions, we acknowledge the simplicity in disregarding exceptional cases such as those that arise due to high corruption and rent seeking behavior. If firms benefit from government through corruption and rent seeking activities, the model becomes more complex. In general, however, firms are driven to comply for them to get access to government support services and funding.

We further analyze empirical literature on regulatory compliance, starting with South African studies, and then looking at the rest of the world. In the South African context, Nieuwenhuizen (2019) qualitatively investigates the effect of regulation and compliance on small business start-up and growth. The study finds that excessive regulation and red tape inhibits growth of small businesses. The same finding is reported in Madzimure (2020), who analyzed challenges faced by small, micro, and medium enterprises related to compliance. These studies show that small businesses are generally overburdened by regulation and most of them have lower capacity to comply compared with large corporates. Regulation becomes inhibitive to their growth and a threat to their survival. In turn, these firms find ways to avoid complying with available regulation.

Venter and De Clercq (2007) also investigate whether the size of a business has an impact on its tax compliance or not. Their study demonstrates the various taxes that SMMEs are subjected to, which include personal income tax for sole proprietor, corporate income tax for private limited companies and various indirect taxes collected by government. Indirect taxes are collected at different levels of the value chain and have an impact on pricing of the final good or service. This complicates pricing arrangements of these firms, result in loses and failure of small businesses due to pricing competition with established corporations. Venter and De Clercq (2007) find that small and medium enterprises are burdened by tax regulation. Their result is corroborated by Nomlala and Oluka (2021) who investigate the costs of tax compliance among small businesses in KwaZulu Natal. Their study finds payments to tax practitioners, lawyers, and transport fees to be the main financial costs of compliance. In addition, other costs were related to administrative effort and time used in preparing and submitting required documents. Venter and De Clercq (2007) find that the proportion of employees engaged in tax administration was found to be high in small and micro enterprises compared to medium enterprises. The implication being that smaller enterprises do not have enough resources even to outsource tax administration to qualified tax professionals.

The high costs of compliance in South Africa are further documented in a literature review by Chamberlain and Smith (2006). They benchmarked South Africa with the United Kingdom and New Zealand and find similar challenges facing small businesses in all the three countries. In particular, tax burden is found to be the leading compliance challenge for SMMEs. In addition to tax compliance, their study identifies government red tape and lack of policy coordination as major elements that increase the cost of compliance for small businesses. The same challenges are also recorded for other African economies (Carsamer and Abbam, 2020; Lubua, 2014). Carsamer and Abbam (2020) analyze the impact of religion on regulatory compliance in Ghana and do not find any significant relationship between the two. Instead, they recommend for regulations to be administered impartially. Lubua (2014) discusses the use of information technology to enhance tax compliance in Tanzania and argues that ICT can have a positive influence on tax compliance.

We find a large amount of literature on compliance during the pandemic (Brown *et al.* 2021; Liekefett and Becker, 2021; Moaddel *et al.* 2021). However, these studies focus more on compliance with the virus containment measures instituted by the authorities in most countries.

Fewer of these studies analyzed business compliance with the regulations (Andriyani *et al.* 2021; Haas *et al.* 2021). Andriyani *et al.* (2021) analyze sustainability of SMMEs during the Covid 19 pandemic and find that compliance was a crucial factor in ensuring long term business sustainability. An important aspect of their study is that compliance is accompanied by honesty and transparency, which shows how institutional factors are linked to compliance. Haas *et al.* (2021) illustrate how communication breakdowns and changes in methods of communication threatened compliance with fishing regulations for the Regional Fisheries Management Organizations. These examples highlight the impact that the pandemic had on regulatory compliance across different industries.

3. Methodology

The study used qualitative data analysis where data was collected using semi structured interviews. The main unit of analysis were government officials and para-government officials who participated in the distribution of government finances and other interventions during the pandemic. We conducted 14 interviews, which involved participants from the King Cetshwayo district municipality in South Africa. The participants included officials from each of the five municipalities except for Nkandla and District officials. Content analysis was used to analyze the data. The process involves organizing the data systematically and logically to maintain original signification and manifestation of content for the purpose of interpretation (Sgier, 2012). Rigour in this method of analysis is ensured through the demonstrable and replicable nature of processes involved, which play a vital and fundamental role in strengthening confidence and conclusions reached, as postulated by Sgier (2012). The study used NVivo 12 software to identify the main themes and construct meanings from the original data to analyze the data. To ensure Trustworthiness of the analysis, the study took measures to ensure content validity, credibility and conformability and transferability of findings by means of presenting the results and communicating them back to the participants. Sharing the results with participants ensures that misinterpretations of their contributions are corrected, and further explanations can be given.

4. Results and discussion

This section presents and discusses the results of the thematic content analysis. We divide the analysis into four main themes that were identified: firstly, non-compliance and refusal to comply by firms. Secondly, segregative allocation of services that left out non-compliant SMMEs. The third sub-section evaluates compliance challenges experienced by SMMEs, which hindered access to government services. Lastly, the study analyzes government regulatory and service inefficiencies that limited access to the services by SMMEs. Compliance was found to be a major problem that hindered access to government support for most SMMEs in all the five municipalities, namely uMhlathuze, Mthonjaneni, uMlalazi, Nkandla and uMfolozi. Table 1 shows the number and location of participants.

Table 1. List of participants

Participant	Participant general role
KDM1	King Cetshwayo District Municipality official
KDM2	King Cetshwayo District Municipality official
KDM3	King Cetshwayo District Municipality official
KDM4	King Cetshwayo District Municipality official
KDM5	King Cetshwayo District Municipality official
KDM6	King Cetshwayo District Municipality official (water)
KDMW	King Cetshwayo District Municipality official
UMLM	uMhlathuze Local Municipality official
MLM1	uMlalazi Local Municipality official
MLM2	uMlalazi Local Municipality official
MfLM1	uMfolozi Local Municipality official
MfLM2	uMfolozi Local Municipality official
MtLM	Mthonjaneni Local Municipality
SEDA	SEDA official

4.1. Non-compliance and the refusal to comply

There were views that some potential beneficiaries resisted any attempts to comply with regulations and requirements despite this being critical for accessing funding and support. The participants identified a large number of SMMEs that were not registered, lacking permits and not willing to cooperate with government representatives. Some micro enterprises lacked information and the capacity to upscale and run formal businesses. This non-compliance impacted negatively on access to government support during this period as indicated by participant MLM2:

"The intervention for spaza shops came from the Department of Small Business Development and to them to start with the main challenge was compliance "– MLM2

"These people refuse to comply. They are spaza shop owners and they need to have the business license, but they did not have the business license. They were supposed to have a certificate of acceptability from environmental health which is a health certificate they also did not have so most of them. I worked with about 152 spaza shops and only two were able to access the grant "– MLM2

This non-compliance confirms results of previous studies and expectations of our theoretical model, where non-compliant firms end up with little or no access to government support (Bimha and Primrose, 2021). Andriyani *et al.* (2021) for example also argue that long term survival of small businesses depends on their level of compliance. Compliant businesses are expected to become more resilient as they can access external support easily compared to non-compliant businesses. On the other hand, non-compliance promises high return as no license fees or taxes are paid to operate. Therefore, firms choose to be non-compliant in order to remain profitable, which may also confirm the argument by Madzimure (2020) that small businesses are overburdened by regulation. The implication is lack of capacity to comply with available regulation. In the long term however, non-compliant small businesses collapse as they cannot access external assistance to weather period of economic turmoil such as the one created by the Covid-19 pandemic.

Furthermore, the study finds SMME owners unwilling to engage with government officials. Whilst this unwillingness could be a result of ignorance on available government services, owners could be unwilling to cooperate due to fear of being victimized for non-compliance and being forced to close business. Furthermore, unwillingness to comply with relevant regulations and operational rules stems from the fear of losing out on business profit, experiencing further reductions in profit and increases in operating costs that may arise (Bimha and Primrose, 2021; Murphy *et al.* 2022). Madzimure (2020) highlights a number of challenges with compliance in small businesses. Their work shows that lack of capacity, skills and knowledge to comply with relevant regulations limits SMMEs even where there is willingness to comply. In the below example, the participant saw non-compliance as a general resistance to normal business practices by local businesses – formal and informal:

"The proper answer is not 100% when we are looking at those challenges because they are some issues to look at. It helps because people do not want to come forward, we like easy things as people"- MtLM

While the above participant discusses this problem from a spaza and small-scale retailers' perspective, the problem was rampant across sectors including in small-scale farming and tourism. The problem of refusing, rather than failing to comply is viewed as a general problem that however became more consequential during the COVID-19 era where compliance became a critical survival factor for most SMMEs wishing to access support.

4.2. Compliance challenges and lack of support systems to enable compliance

To drive SMMEs towards becoming compliant, government should provide programs that are targeted at educating businesses owners and managers on the importance of compliance and also the process of compliance. However, in most of the cases identified, there were no support systems from government to encourage SMMEs to comply. In such a case compliance becomes an expensive and time-consuming exercise due to the need to search for information. Consequently, only a few businesses would manage to comply. In contrast, Kim and Kim (2017) find compliance knowledge and support to be important determinants of compliance in information technology use. In the below example, non-compliant businesses in uMhlathuze who needed to access government services during the pandemic were not only excluded from accessing the needed services but also could not get support to comply. There was no system put in place to assist such businesses, which could have led to failure of many enterprises even though they could have been willing to comply. The municipalities were reported as not offering any compliance support to SMMEs despite the emergency nature of COIVD-19:

"You find that the city of UMhlathuze were very honest and upfront that ok, it was COVID-19, and they are encouraging entrepreneurs to do business. The city of UMhlathuze was maintaining or taking a stance that if you have been operating as a business you cannot say you do not have a permit because of COVID-19, automatically if you want permit now it means that you were not complying" – KDM6

In addition, the lack of support could be construed as punitive measures against non-compliant firms. In the above case, non-compliance was seen as a reason to further get back on businesses that were not compliant with municipal by-laws before COVID-19. Punitive actions against non-compliance may not work against small businesses due to the nature of factors that drives their non-compliance. Instead, small businesses tend to suffer more when they are given hush penalties for non-compliance, which could lead to business closure (Adams and Webley, 2001). Using access to services and resources as tool against non-compliance without providing the channels for firms to become compliant does not promote both government and business interest. Instead, it will further entrench non-compliance and negatively impact business growth, which reduces economic growth.

Furthermore, Licensing, registration and grading issues were part of the compliance challenges that SMMEs across various sectors faced in their attempt to access relief and support assistance. The grading issues were a tourism industry problem associated with demands from the Tourism Fund that entities needed to be graded by the Tourism Grading Council of South Africa:

"We always work with local and provincial tourism umm... on the local level with businesses when funding became available from national treasury from national and provincial levels what we have done is to ensure that those applications and advertisements regarding the funds are distributed to everybody we called them and told them. We have done our best, however, the criteria for applications included a few things then they needed to be registered they needed to be graded" – KDM1

As highlighted, these compliance requirements became major inhibitor to access government assistance for many SMMEs. The following are some of the registration, licensing and grading requirements that emerged throughout the interviews:

- Tourism Grading Council of South Africa - small scale tourist operators
- South African Revenue Services – tax registrations for SEFA relief funds and some government funds
- Land occupation documentation for small scale farmers
- Companies and Intellectual Property Commission – formal business registration
- Health certificates for food businesses

- Operating licenses vendors/hawkers/spazas
- Special permits to operate during lockdown restrictions
- Identity documents and proof of legality for foreign nationals operating a business
- Proof of association memberships

Municipalities were responsible for the three: health certificates for food businesses, operating licenses for vendors/hawkers/spazas and special permits to operate during lockdown restrictions. As highlighted these documents formed the basic compliance needs as individual businesses needed to prove that they had complied with required payments and obligations that came with each on top of being registered.

Another challenge identified with the regulatory system was lack of flexibility. With compliance being identified as a major challenge, one of the points made was that in times of disaster and crises, municipalities and other parties assisting in Local Economic Development (LED) and SMME relief efforts should consider relaxing their compliance needs. SMMEs find it difficult to comply with regulations during normal times. Complications of crises further worsened this compliance challenge and created exclusion risks for beleaguered SMMEs:

"It's true these funds are targeting these SMMEs but because of stringent compliance requirements the minimum requirements you find that most of the SMMEs fall out or they cannot be part and parcel unless some of these requirements are being relaxed in a way, because you find that an SMME does not have the necessary or the requisite requirements" – KDM5

At the local level, municipalities could also relax their permits and licensing demands, especially when there is evidence that they are making it impossible for some businesses to get assistance:

"The business license and also the business permits the rights, so those permits were renewable so if you have not renewed you are not permitted and you are not allowed to do the business. We relaxed those conditions so that they can be able to function though they have not renewed their permit" - MfLM

These identified challenges with compliance corroborate the findings in previous studies (Farisani, 2022; Madzimure, 2020; Yi, 2020) and demonstrate how compliance can discourage SMME growth and survival during times of crises.

4.3. Challenges with the three tier compliance system

Another compliance issue raised in the interviews is the different approaches to compliance between municipalities as COVID-19 relief coordinators and district, provincial and state entities as regulators and funders. For instance, while municipalities could relax the permits and licensing regimes to allow SMMEs to operate as well as apply for assistance, other non-local stakeholders could not be counted to support this and would still demand full compliance from would-be beneficiaries:

"It is true in terms of most of the black small businesses they don't comply but what we normally do or what we did is just to call them and make them aware that need to comply because the inspection is not only done by the local municipality, but it also done by the district and the provincial governments. We as the local municipality can understand the conditions under which they are operating but when the district inspectors come, they are not going to understand. The same with the provincial representatives they will require full compliance. Therefore, in our meeting with them we try to encourage and motivate them that it is good that they comply so that the stock that they have is not going to be thrown away" – MfLM

This lack of coherence in the system leaves firms disenfranchised as government officials at the local level cannot assist them. Such incoherence reveals institutional distortions that impact negatively on the ability and willingness to comply. According to Burdon and Sorour (2020) and Williams (2020), the institutional theory argues that firms' willingness to comply is a determinant of institutional factors. Thus, failure of the regulatory system results in low levels of compliance, which further alienate small businesses from government services. In this regard, local municipality officials viewed themselves as disempowered as the compliance environment became a barrier for them to reach out to struggling SMMEs. Burdon and Sorour (2020) show that when formal institutions such as these regulatory bodies or systems fail, an asymmetry is created between regulation and the beliefs of the society about such regulation. The resultant actions are further non-compliance, which impact negatively on survival of SMMEs.

The challenge of system failure is its ability to mold economic agents' beliefs, which are also a component of the decision by firms whether to comply or not. Once agents believe that the regulatory framework is biased or ineffective, their compliance levels decrease as they start to feel alienated from the governance system. Furthermore, this finding is in line with Haas *et al.* (2021), who find that disruptions in communication for example had a negative impact on compliance during the pandemic. In this case, changes in the institutional environment tend to impact compliance negatively due to asymmetric information between the regulator and the business.

4.4. Government process inefficiencies and non-compliance

Non-compliance can be a result of perceived weaknesses in the regulatory regime and lack of support. Koo (2019) argues that perceived inefficiencies and incompetence in government leads to the belief that regulation is unenforceable. Participants reported delays and confusion in identifying businesses that were compliant and deserving of government assistance. Information movement between government departments and government agencies such as SEFA and SEDA created delays and may have put off some businesses which were intending to benefit from government services. These delays and inefficiencies slowed down the actual processing and approval of relief and support. Such inefficiencies convey poor administration on the part of the regulator and can discourage firms from complying with regulation. One participant had the following to say:

"Inefficiency in the sense that we say can we just say they request a list of people that need to benefit, and you submit the list. Later, they say we confused your list with uMkhanyakude list can you please resubmit the list again while people are expecting to receive something they say that after 3 weeks or after a month that is why I decided to call it inefficiency. If I resubmit the list, they say we confused that list with another municipality's list to me that is inefficiency"- MfLM

In most cases, the slow rollout of support programs long after some SMMEs had suffered the effects of COVID-19 impacted their survival. Therefore, there was no difference between compliant firms and non-compliant firms as they both suffered the negative consequences of the pandemic without any cushion. At the onset of levels 4 and 5 for example, there was no direct or coordinated support from the three spheres of government. Whilst the mortality rate of non-compliant firms could have been higher compared to those that are compliant, the lack of immediate support for compliant firms could discourage businesses from complying in the future.

Apart from compliance with normal government business regulations such as registration, permitting and tax requirements, the pandemic also required business owners and employees to comply with Covid-19 regulations. These regulations raised challenges as they affected both government officials and businesses. All businesses that were not classified as suppliers of essential services for example were required to close during lockdown level 4 and 5. This form of compliance, as important as it was destroyed many small businesses who generally have low capital and savings, and are less likely to get support from the financial sector, which among other things assess compliance documents for credit access. One participant said the following:

"During levels 4 and 5 there were no special programs for them because even those we called so to say they wanted to do their businesses we told them to go home because there was

no program….No there was no one because us as the official we needed the permit to go out so it was very difficult that we could come up with some program to assist them because ourselves we were having a problem when it comes to going out" – MfLM

Furthermore, municipal, and other government offices were closed for a protracted period of time. That implies businesses that wanted to apply for compliant documents could not get assistance. As part of the weaknesses of the system, even LED and municipality officials indicated that they were not always authorized to travel and assess as well as assist the situation. Therefore, even small businesses with the intention to comply and those who were compliant could not receive support. This indiscriminate way in which the pandemic impacted and destroy businesses discourages firms from complying with available regulation.

5. Conclusion and recommendations

This paper evaluated the extent to which being compliant with government regulations influenced a business' access to Covid 19 business assistance from government. Based on perceptions of both officials from local government and government agencies, our findings show that compliance was a critical component in the determination of which businesses could access government funding and other in-kind assistance during the pandemic. The study also finds inconsistencies in the regulatory framework to have a negative influence on both regulation and the interaction between business and government. Due to the fast-paced way in which regulations were being drawn during the pandemic, some of the businesses could have failed to pace-up. The top-down structure of the compliance system also contributed to challenges as local, national, and regional regulators' actions were not well coordinated.

However, this paper is not without weaknesses. Our analysis is based on interviews of government officials and employees in government agencies, who might lack understanding of the views of business owners and managers. Furthermore, whilst our study considered regulation from a broader perspective, it can be beneficial for future studies to consider specific regulations and the implications these have on compliance and access to government services. We therefore recommend alignment of compliance requirements across the distinct levels of government (regulators), and improvement in efficiency of the regulatory system. A complete online system can be used and made accessible to local regulators to improve service delivery. Furthermore, compliance requirements to access government support can be lowered during times of crises to save small businesses for failure.

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