

## REGULATORY REFORM COMMITTEE INQUIRY

### GETTING RESULTS: THE BETTER REGULATION EXECUTIVE AND THE IMPACT OF THE BETTER REGULATION AGENDA

#### CBI RESPONSE – 17 MARCH 2008

As the UK's leading business organisation, the CBI speaks for some 240,000 businesses that together employ around a third of the private sector workforce, covering the full spectrum of business interests both by sector and by size. We appreciate the opportunity to respond to the Committee's inquiry and are pleased to offer the comments below.

An appropriate regulatory environment plays a big part in the efficient operation of markets. It helps ensure a competitive level playing field for business against rogue companies who flout the law and similarly provides consumer confidence in products and services.

The level of regulation remains a key concern of UK employers, with many businesses struggling to cope with the relentless pace of new regulation. For business, and small firms in particular, this translates into time and money spent on complying with government imposed requirements rather than wealth creation. In order to minimise these costs, all regulations, new and old, should conform to the principles of better regulation: proportionate, consistent, accountable, targeted and transparent.

The CBI strongly supports the Government's commitment to improving the regulatory environment and reducing the administrative burdens imposed on business. To date, much effort has gone into reducing the stock of existing regulation. We argue that further work is required to enhance the process of formulating new regulation, improve guidance and secure a proportionate and targeted enforcement regime.

All of this should be underpinned by a risk-based approach to regulation and regulatory compliance and enforcement.

#### **Has the Better Regulation Executive developed a coherent strategy for implementing regulatory reform? Is the current approach to regulatory reform delivering genuine results?**

The CBI pursues a strategy of a positive relationship with the Better Regulation Executive (BRE) and government departments to instil the five principles of better regulation into the culture of Westminster and Whitehall and improve the regulatory environment that business operates in.

The BRE has, in our view, been a positive force in driving regulatory reform across Whitehall, and this would occur at a slower pace without the input and influence of the BRE. It has encouraged departments to raise their game in communicating to business, offering advice and holding focus groups on regulation, and has helped develop a better regulation culture throughout government.



The CBI has welcomed many regulatory initiatives, such as strengthening the impact assessment process, setting common commencement dates, and establishing a 12 week consultation period. Work on the simplification plans is indicative of the culture change that is beginning to take place, meaning that for the first time civil servants focus their energy on finding ways to reduce rather than increase the regulatory burden on business.

All of these initiatives are positive steps. But it is fair to say that business on the ground would not yet recognise delivery of this lighter-touch regulatory environment. For example, in the CBI's London business survey of December 2007 the regulatory environment remained a major issue for business, with 62% of firms saying the cost of regulation has increased in the last six months.

The CBI feels that the regulatory reform strategy could benefit from further emphasis in three key areas:

1. Efforts to address the continued flow of new regulation being passed into law
2. Better communication of deregulatory changes to business
3. A greater focus on the real impacts for business

### ***Efforts to address the continued flow of new regulation being passed into law***

Whilst the government claims to have delivered around £1.5billion<sup>1</sup> worth of savings, this is offset by a steady flow of new regulations, with around 60 new regulations coming into force at the next Common Commencement Date on 6 April 2008.

The idea behind simplification plans is that they provide a route map to deliver a net reduction of 25% in administrative burdens by 2010. As a generalisation, departmental plans typically set out planned administrative savings against the existing stock of legislation. But the CBI feels that they would benefit from greater emphasis on any additional costs from future legislation, to ensure that the net reduction target is achieved. For example, in our view the DBERR simplification plan currently understates the likelihood of future legislation on energy and climate change, employment and competition and effective redress.

The announcement in Budget 2008, to consult on a new system of regulatory budgets for Government departments, is a welcome development and has the potential to be a powerful addition to the regulatory toolkit to help address the cumulative burden of administrative and policy costs, and in particular the pace and volume of new regulation.

Greater use of impact assessments (IA), and the revised IA template, is vital in ensuring that government understands the full implications of any policy proposals and should be influential in determining the appropriate policy response, which should only require regulation as a last resort. Adherence to this approach has been mixed in recent times. Most notably it was lacking in the proposed changes to the Capital Gains Tax regime. On the other hand, DBERR is generally seen as a good communicator with business, listening to and acting on business concerns on key issues, such as planning and company law. The Health and Safety Executive also has good dialogue with business and has a legal obligation to consult on everything except fees.

---

<sup>1</sup> Making a difference – simplification plans summary sheet 2007

A further concern is the amount of new regulations placed on the statute book via secondary legislation, which receives little parliamentary scrutiny. At present each government department generates reams of Statutory Instruments (SI) and, whilst the situation is improving, there is a mixed record in terms of consultation. From the perspective of an outside interest group, tracking the progress of an SI is prohibitively cumbersome.

### ***Better communication of deregulatory changes to business***

Communication to employers is fundamental to show how improvements to the regulatory landscape should be helping the daily life of business. For both the BRE and government departments there is a big communication job to do on awareness and take up, to ensure those businesses who should be feeling the benefit of the admin burden reduction exercise do experience it. For example, the 2007 simplification plan from DBERR, assumes 20-30% take up rate across business on improved employment guidance. However, this is yet to be fully implemented and savings claimed of £365m per year are not based on actual results.

The need for clear and reliable guidance is also essential in developing greater confidence from business in changes taking place. The CBI is currently responding to the BRE's consultation on a Code of Practice for Guidance, and is calling for guidance to be timely, reliable, consistent, and most importantly, should not be a substitute for clarity in the original regulation. The Health and Safety route map for workplace transport safety provides a web based example of good guidance, which is clear and easy to understand.

### ***A lack of focus on the real impacts to business***

Businesses must feel a real difference on the ground of a reduction in administrative burdens for the project to be deemed a success. A coordinated and joined-up approach to delivering a better regulatory environment should be delivered by all departments.

This should be reinforced through closer work with business to identify real areas of impact where burdens can be lifted, such as employment law. The CBI report "*Lightening the Load*"<sup>2</sup> stated that since 1998, new employment rights have added £37bn to business costs.

A further example is on the planning, where although it has been beneficial to some businesses to introduce the use of electronic planning applications, as set out in the 2007 simplification plans, this does not reduce the time needed to fill in the form, nor the amount of information requirements that applicants have to comply with. Consequently businesses continue to complain about an over burdensome planning system.

### **Does the BRE work effectively with other areas of government to implement regulatory reform initiatives?**

The BRE's role is vital in changing culture throughout government, and embedding the better regulation agenda. The CBI view is that to date it has been a positive influence in seeking a risk-based and light-touch regulatory environment. Many of its successes will be hard to quantify, as work will often be on an informal basis, behind closed doors.

There are three areas where we think additional effort to promote effective working across government would be useful.

---

<sup>2</sup> *Lightening the Load – the need for employment law simplification* CBI report 2006

First, in promoting a consistent and coherent approach to policy making across government. For instance, on climate change, energy and planning or on the government's response to social issues such as alcohol misuse and obesity.

Second, confidence in the delivery of the better regulation agenda could be boosted through greater use of independent checks and scrutiny. The transition from the Better Regulation Task Force to the Better Regulation Commission and now the Risk and Regulation Advisory Council, has meant that there is less emphasis on independent review. The mantle now rests with the BRE to perform the watchdog role and this should be a key feature in going forward.

Third, the impact of poorly thought-through regulations and interventions, or of poorly targeted enforcement activities and inspections, can be just as harmful no matter where they originate. So the BRE should also play a role in ensuring that the regulatory reform agenda not only is in place across government but that it filters down to the behaviour of regulators who have the most contact with business. As stated in the Hampton report, no inspection should take place without reason, and advice on how to seek compliance should always come before sanctioning.

### **Is the approach to measuring and reporting on performance and outcomes sufficiently robust?**

The better regulation agenda would be given further credibility and momentum through increased transparency in the measurement and reporting of the regulatory reform agenda. Much of the business community remains sceptical about what has been delivered to date.

For instance, annual reporting of the simplification plans sets out where assumed gains have been reached, but does not provide commentary on whether the goals achieved have had the take-up predicted in the report. This might include fuller explanation of how the successes claimed have been calculated and greater use of real life examples of where deregulatory measures have helped businesses in their day to day lives. The CBI agrees with the NAO report<sup>3</sup> which says business will judge the better regulation project a success when it delivers tangible benefits on the ground, and believes there is still a long way to go until businesses' perceptions improve.

**CBI**  
**March 2008**

---

<sup>3</sup> *Reducing the cost of complying with Regulations: the delivery of administrative burdens reduction programme 2007, National Audit Office*