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Stapper



Centre for Agricultural Strategy

Management of regulation in the food chain - balancing costs, benefits and effects

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9 Regulatory impact analysis and cost assessment of proposed United Kingdom and European Community legislation

Lucy Neville-Rolfe

INTRODUCTION

Thank you for volunteering me for the challenging after-lunch slot. I will aim to keep my contribution punchy and picturesque. I am the Director of the Deregulation Unit which aims to minimise regulatory burdens on business and others, and so contribute to the work of the Office of Public Service. The Deregulation Unit reports to the Chancellor of the Duchy of Lancaster. We also report quarterly to the Prime Minister, and advise the Deputy Prime Minister as necessary. However, I should start by emphasising that the deregulation initiative, which I coordinate across Whitehall, is not just about sweeping away outdated rules and regulations. It is also about simpler paperwork and consistent enforcement in administering regulations. It is about striking the right balance between cost and benefit when making new regulations, whether domestic or European. My speech will describe the regulatory appraisal system we have introduced to help lawmakers to achieve this.

All this can and is being achieved without compromising any protection necessary to safeguard the public. I challenge anyone to cite even one example where necessary protection has been jeopardised by deregulatory changes we have made.

OUR APPROACH

It is encouraging that during this morning's session, there was good support for goal-based, proportionate and non-prescriptive regulations. These are key principles of the deregulation initiative.

Our programme also aims to unharness innovation, promote the competitiveness of United Kingdom (UK) business, and remove market barriers. This generates jobs, increases consumer choice, and reduces prices for consumers. We attach particular importance to close consultation with business and others, and getting that process embedded right across the government machine. This is why we have set up a Deregulation Task Force of representatives from business and why we have held a series of seminars across the country on key areas, including food and drink. We also go out to speak at and listen at conferences such as this one today. We have also set up a network of Local Business Partnerships, in which some of this afternoon's speakers are involved. One hundred Local Business Partnerships to improve the dialogue between local business and regulators in local government have now been set up across the country. This is an important way of encouraging openness and consultation.

Another important strand is better communication. We try to promote plain English, less paperwork, and a tolerance of simplicity in Government, in the enforcement community, and indeed in business itself. As Sheila McKechnie, Chief Executive of the Consumers' Association, said this morning, what is needed is clear, understandable regulation. Simple things will be understood, particularly by small business. Lots of red tape will not.

EXAMPLES OF SUCCESSES

Let us look at one or two examples of recent successes that illustrate the impact that the initiative has had. Who would have imagined five years ago that we would be happily shopping on Sunday, shopping until late at night, and taking our children to pubs (at least in some areas)? Who would have thought we would make progress in very difficult areas like the threshold for Value Added Tax and statutory audit? The latter will rise from £90 000 to £350 000 shortly. And who would have thought that food legislation could be simplified at all? I am sure previous speakers will have mentioned the work that has been done on labelling and additives regulations to bring the requirements together and make them less confusing - without loss of protection. I am also pleased to report that we hit our target of 1000 repeals and amendments by the end of 1996.

REGULATORY APPRAISAL

The main purpose of Regulatory Appraisal is to enable Ministers to balance out various factors and take a considered view of the relative costs and benefits of proposed regulation. The process is set out in a booklet called *Regulation in the balance - a guide to regulatory appraisal incorporating risk assessment* which we published in 1996 with fuller guidance on Compliance Cost Assessment in a companion volume *Checking the cost of regulation*. These documents are also available on the Internet on the Cabinet Office Deregulation Unit home page under <http://www.open.gov.uk/co/du/duhome.htm>. I want to emphasise the key points that Government Departments are now asked to address when thinking about regulating. These are:

- **Ask 'What is the purpose of the proposed regulation?'** A lot of the time, people get stuck right here. Departments must be absolutely clear about the reasons why they are proposing change.
- **Consider what sectors the regulation will affect, and how.** For example, if you are proposing changes to the law on discos, assess the impact on neighbouring residents and property as well as on business and their lively customers.
- **Identify the problem and the harm.** What is the risk that the harm will occur?
- **Consider alternative approaches.** There is always the option of **doing nothing**, or improving enforcement of existing rules. This is sometimes difficult, but it can be the right answer. Potential regulators should also look at voluntary measures, such as codes of practice or advertising. Sometimes, these will be the most effective way forward. In other cases new regulation will be needed.
- **Identify the impact of all the options on the risk**
- **Where new regulation is identified as the best option, make the regulations goal-based** to avoid unnecessary prescription.
- **Consult everyone who has an interest.** Do not send a 200-page document with a short deadline and wonder why no-one replies. Prepare a document based on good principles of communication - simple, based on the right points and not too long.
- **Undertake a 'small business litmus test'.** Regulators must talk to two or three representative small firms about how they would manage the proposed changes. This information is then incorporated into the structured assessment and informs Ministers' decisions.
- **Take account of political and equity considerations.** The process does not rule out political factors. Our analysis is designed to reflect real life, including the need to take account of the perceptions of various groups and the general public as a whole,

and of equity and distributional effects. Environmental and consumer effects can also be brought out in this part of the analysis. What we ask Departments to do is to articulate the political ramifications of the proposals clearly for Ministers, not to adjust the basic figures on cost or risk.

- **Take the total benefits, and the total and typical costs, and compare the two.** This should give you a measure of proportionality and a feel for the impact on a typical operation.
- The final step in the process known as '**signing in blood**'. This is where the responsible Minister certifies that he or she has read the cost and risk assessments and is satisfied that the draft regulation strikes the right balance between cost and benefit.

EXAMPLES OF USE OF ASSESSMENT

A couple of recent examples illustrate the benefits of this system - the proposed Fire Precautions (Workplace) Regulations implementing European Community (EC) rules on fire safety and the Producer Responsibility (Packaging Waste) Regulations recently made by the Secretary of State for the Environment. In both cases decisions on how to regulate were fully informed by Compliance Cost Assessment, and were influenced as a result of the exercise. The Guarantees Directive under discussion in Brussels is an example of an area where useful progress has been made as a result of cost assessment work done in the UK. Indeed the EC have now agreed to carry out such an assessment themselves.

Ministers who make new regulations which affect business, charities or voluntary organisations report to the Deputy Prime Minister monthly on the number of new regulations being made so that the balance of costs and benefits can be monitored centrally. This monthly Ministerial regulatory monitoring system has been in place for nearly a year now and is providing vital new information to enable us to do our job better.

BUSINESS-FRIENDLY ENFORCEMENT

The enforcement of regulations is just as important as the regulations themselves. You may have heard of the 'Green Card' principles of business-friendly enforcement. These include rights to written notification of what action is needed and why, and a chance to make representations unless immediate action is needed. This allows disputes to be resolved at an early stage and gives greater scope for firms to comply in a way which makes good business sense. The Green Card principles are ones we think all good enforcers follow, but they are being brought in across the statute book to ensure a greater consistency of approach.

These new business rights came in last year for health and safety legislation. Their operation has already been reviewed, and the review has shown that business likes the Green Card and that these new rights do not jeopardise necessary protection. This is not surprising, because both enforcers and business benefit from efforts to help people understand and comply with the law. Everyone wins if you are open about risk and uncertainty and if you explain to people why they must take action. Then people will usually comply - as compliance theories and experience with my own children suggest!

BETTER FORMS AND SURVEYS

It is important to improve forms and surveys, so that they are brief, to the point, and impose as light a burden as possible. We are also looking ahead to the next century and loading regulatory data onto the Internet and other Information Technology vehicles. By the end of this year, we will have 600 items of guidance and forms on our Internet gateway. This will ensure that the general public has easy access to simple information on legal requirements such as those relating to fire, health and safety, and tax.

BETTER EUROPEAN REGULATION

The request to talk about Europe was very appropriate because in the last year, the Deregulation Unit has changed its focus. It is now devoting significant resources to establishing good regulatory principles at the European Union (EU) level. 'Getting it right the first time' in Europe is even more important than doing so nationally because there are fourteen other Member States to persuade if a change is needed. The first promising sign was the language used by Jacques Santer when he was appointed EC President in 1995. He announced that he was going to have 'less but better' regulation. This chimes with our own theme 'fewer, better, simpler'

Last year the EC issued regulatory policy guidelines for all EU Government officials. These guidelines emphasise the importance of assessment, consultation, clarity and simplicity. The Dutch Presidency are very interested in deregulation. They are among the pioneers of good regulatory policy and have organised a Government symposium in The Hague to look at impact assessment and improving regulation at EU level.

The Internal Market Council is well known to the food sector experts because of its role in decisions on food law. In the last year, small teams known as 'SLIMS' (Simpler Legislation for the Internal Market) (CEC, 1996) from Government and business across the EU have started rolling reviews to look at specific areas of Single Market legislation,

such as Intrastat. They are considering how well the legislation is working, and whether it can be simplified. I believe there is good prospect of simplification, particularly during the UK Presidency next year. We are already working up our UK Presidency agenda with the Commission and the Austrians, who will hold the Presidency after us.

We have also introduced a check-list on the implementation of European law. A big issue for Government is that in the past we have sometimes taken what issued from Brussels, and then 'gold-plated' it by adding extra requirements or details. The result has been more burdens on business. My vision for implementing European law is the opposite. We should consider whether the existing domestic regime can be simplified when the new Directive is brought in, as was done for trade marks. The result should then be better for business, not worse.

CONCLUSION

Three key points emerge from this analysis.

- First, structured analysis of the costs and benefits is now a requirement for new law that affects business, charities or voluntary organisations. In time, this should improve the quality of new regulations.
- Second, think small. Consultation on the likely practical impact of a new law is key. The analysis of the effect on small firms is especially important. They suffer most from having to divert crucial entrepreneurial resources into coping with the cumulative impact of regulations.
- Third, keep things simple. We want Government and the EU to think simply but clearly. We want rules communicated in a way that people understand. We want enforcers to communicate simply and clearly so that people understand the law with which they must comply. Finally, we want business itself to think simply, and not to be the source of requests for complex and confusing prescription.

REFERENCES

- CEC (1996) *Simpler legislation for the internal market (SLIM): a pilot project*. COM(96) 204 final. Brussels: CEC.
- Deregulation Unit, Cabinet Office (1996) *Checking the cost of regulation*. London: HMSO.
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DISCUSSION

Mrs Maeve Robertson (National Federation of Consumer Groups) expressed support for the deregulation process which she felt, in some cases, can bring benefits for consumers. She urged, however, the inclusion in the procedures of some appropriate mandatory arrangement under which consumers' interests, in the form of a 'consumer impact statement', could be taken into account in the costs assessment analyses undertaken in relation to proposed regulatory changes; an automatic process of reference and consultation with consumers' organisations would, she felt, provide ease of access to the machinery which would be generally helpful.

Ms Neville-Rolfe said in reply that consumers' interests are recognised as an important part of the regulatory assessment system and undertook to review the procedures with particular reference to the request for ease of access for consumers on equal terms with business and other interests.

Mr John Corbet-Milward (Wine and Spirit Association) asked the speaker to expand on the ways in which the Deregulation Unit (DU) seeks to influence other government departments.

Ms Lucy Neville-Rolfe explained that various methods are utilised depending on the circumstances, but the key point is that the DU must find effective ways of working closely with them all. The Cabinet Office is staffed in relation to the workload and consultations necessary within Whitehall and with all Government Departments - all Departments have at least one person working on deregulation, and others have their own Deregulation Units, including the Ministry of Agriculture, Fisheries and Food, whose team are represented at this conference. Also, within the constitutional structure of cabinet committees, there is the 'Committee on Competitiveness' that looks about once a quarter at deregulation issues submitted by the Cabinet Office Deregulation Unit and by individual Secretaries of State. Influence is also brought to bear on Departments through the 'feedback loops' - an arrangement under which the outcome of Deregulation Unit consultations with manufacturing businesses, enforcement authorities and other relevant interests are referred to the appropriate Departments in the interests of full and effective communication and understanding.