

## **USING THE GOVERNMENT'S REGULATORY AGENDA**

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Many trade associations have, as one of their principal tasks, seeking to influence the regulation of their members either by a specific regulator (for example the Financial Services Authority or the Gangmaster's Licensing Authority) or by regulation of an activity essential to their business (for example immigration controls affecting English language schools) or in respect of issues which they share with many other trade associations (for example employment legislation).

The normal rules apply in respect of influencing policy making -

- Build relationships based on trust with relevant officials.
- Engage early in the policymaking process.
- Seek to be part of the solution not part of the problem.
- Ensure that any policy positions are backed up by hard evidence.
- Build alliances.

This note sets out how the Government's regulatory agenda can be used.

### **The Government's regulatory agenda**

All Governments have a "better regulation" agenda, which generally involves seeking to stem the tide of new regulation and roll back some existing regulation. Generally, all such initiatives have failed because -

- Much of the political and regulatory machinery in Britain is geared to regulation.
- Faced with a problem, the line of least resistance for Ministers is to introduce regulation.
- In practice, whatever they might say, many trade associations and other interest groups, for their own reasons, seek new regulation and resist the removal of regulation.
- In many cases the costs imposed by regulation are one-off costs when the regulation is introduced. Removing the regulation leads to little or no savings in these circumstances, and therefore there is little incentive to do it.

The Coalition Government is more determined than most previous Governments to pursue a better regulation agenda. This work is partly being led by the relevant department, Business Innovation and Skills, but more forcefully by the Minister of State at the Cabinet Office, Oliver Letwin MP. There are three key inter-related features of the approach -

1. The establishment of a Reducing Regulation Committee of the Cabinet, which must approve all proposals for new regulation.
2. The beefing up of the independent Regulatory Policy Committee, which is charged with assessing the quality of the evidence supporting new regulatory policy proposals. The Committee's membership of five includes one current chief executive of a trade association, a former chief executive of several trade associations and a leading industrialist, and therefore is adequately representative of business.
3. The "one-in, one-out" policy by which the costs imposed on business and "civil society" through any new regulation must be at least counter-balanced by the removal of other regulation, preferably in the same sector. The RPC is charged with policing this requirement.

There are exceptions to these new rules in that, for example, transposition of European legislation is not subject to the "one-in, one-out" requirement, although it is still scrutinised by the RPC and any "gold plating" is subject to the requirement. More seriously, the policy applies only to Government departments, so regulatory agencies are exempt unless they choose to opt in. Only a few have chosen to do so. There is scope for associations to persuade others to adopt the policy.

However, the key point remains that the requirement for regulatory proposals to be firmly evidence-based has been substantially beefed up and the opportunity to challenge on this basis has been increased.

### **How trade associations can use the regulatory agenda**

Those trade associations that have representation in respect of regulation as one of their principal functions need to be fully aware of this agenda.

Consultation papers on new regulatory proposals are accompanied by published impact assessments. Made trade associations have, in the past, ignored these on the grounds that they are boring, not largely relevant and, in many cases, have been written after the policy has been decided with a view to justifying it. Little point was seen in challenging an impact assessment. Policy officials now know that impact assessments will be subject to detailed scrutiny.

Associations should therefore seek to have an input into the impact assessment as well as the policy itself at an early a stage as possible. Any quantification that it can do of the costs and benefits should be fed into the process. Where an association has a good relationship with relevant officials it may be able to comment on aspects of the draft impact assessment as the policy making process evolves.

An association should not hesitate to challenge a substandard impact assessment and should feel free to copy any submissions to the Regulatory Policy Committee. Where they have concerns before a consultation document is published then there is no harm in putting these to the RPC as it examines impact assessments before they are published.

In short, associations should now be placing greater emphasis on examination of the quality of the evidence supporting a policy, should regard the RPC as a tool in helping to secure more informed policy making, should in some limited circumstances seek to copy their representations to the RPC, and where their own regulator has chosen not to opt in to the "one-in one-out" arrangements, should pressurise it directly and through its sponsoring department to do so.

## **Further information**

[\*An Agenda for Better Regulation\*](#), Mark Boleat, Policy Exchange, 2010

[Regulatory Policy Committee](#) website

<http://regulatorypolicycommittee.independent.gov.uk/rpc/>

[Reducing Regulation Made Simple](#), HM Government, 2010

<http://www.bis.gov.uk/assets/biscore/better-regulation/docs/r/10-1155-reducing-regulation-made-simple.pdf>