



Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

Business experience of regulatory-type burdens imposed by non-regulatory bodies: Executive summary



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Executive summary

Introduction

The study aims to assess the experiences of UK businesses with regulatory-type burdens imposed by organisations that are not currently covered by the Regulators' Compliance Code.

This study sets out how these regulatory-type requirements and associated burdens should be considered in the context of the current regulatory framework. Understanding the main types and drivers of regulatory-type requirements – including the extent to which these requirements complement or clash with existing core regulations – is crucial for informing the design and delivery of those core regulations. The research project consisted of several elements:

- **a rapid evidence assessment (REA)** – a summary of the existing evidence base in relation to business experiences of regulatory-type burdens imposed by non-regulatory bodies looking at both UK and International research;
- **business interviews** – primary evidence gathering with 25 businesses across varying sectors to better understand their experiences of regulatory-type burdens;
- **business stakeholder interviews** – primary evidence gathering with 12 business stakeholders who summarised experiences faced by their business members as well as outlining any requirements that they may impose themselves;
- **professional body interviews** – primary evidence gathering with three professional bodies (quasi-regulatory organisations such as the Advertising Standards Authority) to understand the purpose and scope of the regulatory-type requirements imposed and the perceived benefits and impacts for businesses; and
- **case studies** – write ups of two business interviews as case studies. These case studies tell the story of individual businesses in food and drink manufacturing and construction, thereby capturing a more holistic business perspective on dealing with regulatory-type requirements.

Nature and drivers of regulatory type requirements

Regulatory-type requirements cover a broad spectrum of activity from industry self-regulation to co-regulation. The types of activities undertaken include those imposed by trade associations such as specific membership requirements in addition to payment of membership fees, as well as training, professional competence and insurance and audit requirements as well as specific requirements from business supply chains.

Literature highlights that requirements may be the result of suggestions by government to change or improve practices (without formal legislation), an industry desire to improve practice or reputation, part of an individual business's desire to gain competitive advantage or to appear socially responsible, or as a requirement that is determined by the supply chain in which they operate.

The literature provides some evidence of overlap between core regulation and regulatory-type requirements whilst two-thirds of businesses affirmed that such requirements tended to duplicate core regulations to some extent. One example highlighted by businesses was inspections that look at the same issues that core regulators look at, particularly in the areas of health and safety, fire safety and environmental health. The duplication of inspections was cited by a majority of the stakeholders questioned.

Awareness, attitudes and experiences of regulatory-type requirements

Overall there is a lack of literature relating to business awareness of regulatory-type requirements, perhaps because businesses may struggle to differentiate between core regulation and regulatory-type requirements with which they comply. However, there is evidence in the literature that regulatory-type requirements are perceived positively.

The quasi-regulatory bodies interviewed indicated that business awareness of regulatory-type requirements comes largely from requirements via their supply chains. In addition, trade associations often make businesses aware of both their own and other industry-specific requirements.

Businesses expressed mixed views regarding the extent to which they favoured the regulatory-type requirements applicable to them. Several businesses expressed a degree of frustration in their sectors, particularly as regards to advertising requirements and bespoke construction-industry PQQs. Conversely around half of all stakeholders were satisfied that businesses that they represented were positive towards the requirements imposed by their own organisations, particularly where these related to industry standards. Experiences of regulatory-type requirements therefore seems to vary by sector, for example high industry standards in construction and manufacturing may mean that there are an increased number of regulatory type requirements or more stringent requirements which can lead to high costs for businesses.

On the whole, regulatory-type requirements were perceived to be necessary or important by a majority of businesses although several interviewees stated that they were sometimes overly burdensome e.g. advertising requirements, and others felt regulatory-type requirements often fail to take adequate consideration of the circumstances of small businesses. Both businesses and stakeholders generally felt that businesses had very limited capacity to challenge or influence the regulatory-type requirements they faced.

Burdens and benefits of regulatory-type requirements

There is evidence in the literature that regulatory-type requirements impose a lower time-related burden on business than core regulation such as health and safety, although this appears to vary by industry sector. Business suggested in interviews that costs of compliance with regulatory-type requirements are primarily administrative in nature and include membership fees, staff time costs (e.g. in attending committee meetings and events) and time spent on inspections, audits and reporting requirements. Stakeholders felt that compliance costs with some requirements could be substantial. In general, businesses and stakeholders found it difficult to quantify these costs although several businesses did state that the costs incurred in complying with regulatory-type requirements exceeded the benefits they had experienced.

Evidence found in the literature and the views gained through interviews suggest that standards and accreditation can provide financial benefits to business through opening up export markets, improving best business practice, improving business efficiency, providing evidence of credibility to consumers and through positive impacts on reputation.

When asked about areas for potential improvements, most business interviewees stated that regulators in their industry do not have a good understanding of the regulatory-type requirements imposed on businesses by non-regulatory bodies and suggested that communication between regulators and non-regulatory bodies that enforced regulatory-type requirements could be improved via a greater emphasis on learning from each other and sharing information.

Mapping priority areas

The study team has identified potential priority areas to inform the future delivery and enforcement of core regulation and/or regulatory-type requirements (to the extent that Government can influence the latter). The priority area for policy makers should be focused on where there is greatest potential to reduce costs and burdens of the regulatory-type requirements that duplicate core regulatory requirements, or to look at regulatory-type requirements that lead to low business benefits and have a high degree of overlap. In both cases, the priority should be to consider organisations that pose involuntary requirements. Where reference is made to the voluntary/involuntary nature of regulatory-type requirements in the following sections, this is reflective of the majority view and perception of businesses interviewed for this study or of the classification of the requirements in published literature. The mapping templates highlight that the non-voluntary requirements that fit under the remit of the ASA, ClearCast, the requirements for bespoke PQQs in the construction sector and some audit/supply chain requirements are considered by businesses to pose relatively high costs and in most cases low benefits for businesses and/or have a high level of overlap with core regulatory activities and may warrant further investigation. In addition requirements from the Food and Drink Federation, Visit England and the British Health Association may also fit into this category although are generally voluntary in nature.

Policy implications

Overall, the research undertaken for this study points to the importance of understanding the nature and extent of regulatory-type requirements for policy makers intent on minimising burdens to business, regardless of their source. Mandatory requirements imposed on business can be non-statutory and this study emphasises the importance of looking across the board at burdens and requirements from the business perspective.

The research suggests two broad areas for policy makers to focus on based on the perceived benefits and voluntary/involuntary nature of the regulatory-type requirements:

Best practice and data sharing

- The possibility of non-regulatory bodies sharing data with core regulators for use in systems of earned recognition could be explored. This includes sharing compliance information on businesses and providing inspection results where relevant. One business suggested that this would lead to a decrease in duplication of inspections (citing, in particular, core regulators and Visit England) and will reduce the number of times businesses have to provide the same information to different bodies. For example, one business in the minerals sector suggested that the environmental work they do with organisations outside of the planning process should be formally recognised by the regulators that grant planning applications.

- Where non-regulatory bodies set requirements which are voluntary in nature but lead to high perceived benefits, there could be the potential for regulators to learn from non-regulatory bodies to understand their remit and how they go about achieving their objectives. Organisations identified during this study which were said to set requirements that lead to high perceived benefits include the International Standards Organisation (ISO), Trustmark, the Marine Stewardship Council (MSC), Investors in People (IiP) and the British Frozen Food Federation (BFFF).

Addressing inconsistencies and reducing burdens

- Where non-regulatory bodies impose requirements which are involuntary in nature and lead to low perceived benefits, there could be potential for Government to bring these bodies (for example ASA and ClearCast) within the scope of deregulatory measures such as the Regulators Compliance Code.
- The possibility of extending the scope of Primary Authority to cover a priority set regulatory-type requirements could be explored. Feedback from many businesses indicated that extension of Primary Authority could address inconsistency and help to reduce overlaps between statutory and non-statutory requirements.

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