Department for Business Innovation & Skills

Better Regulation Delivery Office

Consultation Paper

Non-economic Regulators: Duty to Have Regard to Growth

March 2013

Foreword

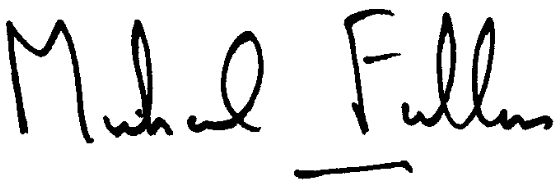
The Government's priority is to promote growth in the economy. The regulatory climate is a key factor that impacts upon the willingness of businesses to invest and grow. The Government remains committed to making the UK the best place to start and grow a business in Europe.

In order to achieve this all parts of Government must recognise their role in supporting growth. This includes arms length and independent regulators that interact with businesses on a daily basis. Regulators often comprise the front line of business interaction with Government and their actions can impact directly upon the ability of businesses to grow and succeed.

It should not be forgotten that regulators exist primarily to regulate – for the protection of the vulnerable, or other social or environmental objectives. The Government does not wish to detract from this primary duty nor undermine the core purpose of these publicly funded bodies. There are more than fifty non-economic regulators with a combined budget of approximately £4 billion and 55,000 employees; this combined resource must be brought to bear to promoting growth. We can encourage compliant businesses to grow through proportionate regulatory activity and provision of reliable advice, without compromising public protection.

The key to achieving this balance is recognising the role regulation can play in enabling growth and ensuring sufficient accountability of regulators to fulfil this role adequately. The way in which regulation is delivered can support the growth aspirations of businesses, in addition to removing the burden of red tape. In short, we cannot afford to neglect the importance of regulatory delivery in encouraging prosperity.

We are seeking views on a statutory duty to require regulators to have regard to the impact of their actions upon growth. This consultation seeks to establish whether a statutory duty is the most effective means of achieving prosperity and protection, and explores how best to ensure transparency. Achieving this balance is key to ensuring that the UK is the best place for businesses to thrive.



Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

Consultation Summary

Who should read this document?	This consultation is relevant to businesses and members of civil society subject to regulation by these regulators.
Making your views heard	We are keen to gather all views on the subject of regulators having a statutory duty to have regard to growth and any supporting evidence. You should not feel constrained by the specific questions nor feel obliged to offer responses to all of them. Concentrate on those in which you have the most interest.
	Views are requested by 19 April 2013
Phone enquiries	0121 226 4000
Web responses	Please click here to go to the web form.
Email enquiries and responses	Responses: consultation@brdo.bis.gsi.gov.uk Enquiries: consultation@brdo.bis.gsi.gov.uk
Written responses	Better Regulation Delivery Office FAO Naomi Youngberg The Axis 10 Holliday Street Birmingham B1 1TG
Your details	Representative groups may wish to give a summary of the views of the people and organisations they represent, and, where relevant, how they consulted with them. You may wish to include contact details for follow-up.
Confidentiality	The position regarding the confidentiality of any information provided is set out on page 23 this document. Unless you state otherwise (and an automatic disclaimer generated by your IT system does not constitute such a statement), we will assume you are happy for us to publish your response.
Additional copies	This consultation is available for download from www.bis.gov.uk/brdo/publications/current-consultations

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Executive summary

The UK economy is recovering from the biggest economic crisis in history and dealing with record levels of borrowing. In this context the Government must consider all potential options to encourage growth.

A commitment was made in the Autumn Statement to consult on requiring regulators to have regard to growth and take account of the economic consequences of their actions through a primary legislative duty.

There are more than fifty non-economic regulators with a combined budget of approximately £4 billion and 55,000 employees; this combined resource must be brought to bear to promoting growth.

There is a strong body of evidence that suggests that non-economic regulators are not consistently achieving both protection and prosperity in the way they operate. In practice, this means that they are not always seeing businesses as entities that they need to work with in a sustained manner and therefore not always having due regard to economic concerns in the course of regulating.

For some regulators, supporting growth remains at best a secondary concern as it is not currently a statutory duty for them. Establishment, in statute, of a clear objective to have regard to growth would remove the uncertainty over whether regulators are able to take account of such considerations.

The introduction of a growth duty would support the UK as a location for investment, whilst ensuring proportionate regulation to protect consumers and businesses.

This consultation document sets out how we envisage such a duty might be applied, and seeks views on how it could work.

1. Introduction

1.1 Since the unprecedented economic shock created by the financial crisis in 2008, the Government is dealing with record levels of borrowing as well as repairing the financial system, and the UK economy has failed to achieve the levels of growth expected. In addition, the continued uncertainty in the Eurozone represents a considerable risk to the UK economy which could hamper the recovery further. This means that the Government must consider all potential options to encourage growth. Regulation is a key factor for business investment and the attractiveness of the UK as a location for investment, and the Government therefore wishes to consult on marshalling the considerable regulatory resource to supporting growth.

1.2 Lord Heseltine's report, *No Stone Unturned in Pursuit of Growth*[1], recognised that good regulation can actually encourage growth, and highlighted the importance of non-economic regulators taking account of the economic consequences of their decisions. The report pointed out that the role of economic regulators, in making markets work more effectively, could support and encourage growth and that this should be similarly reflected by non-economic regulators. The report recommended that regulators should be obliged to take account of the economic consequences of their actions[2].

1.3 Following this recommendation, a commitment was made in the Autumn Statement to consult on requiring regulators to have regard to growth and take account of the economic consequences of their actions through a statutory duty[3]. Several regulators have given a positive welcome to this measure in early conversations. This consultation document sets out how we envisage such a duty might be applied, and seeks views on how it should work.

Current situation

1.4 Each regulator usually has a separate enabling statute which sets out its statutory remit. In addition, there are statutory duties which are common to a number of regulators. These include:

- Section 21 of the Legislative and Regulatory Reform Act 2006 ('LRR Act') which imposes a duty on regulators to have regard to the principles of good regulation. These principles provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and action should only be targeted where it is needed.

- Section 22 of the LRR Act enables the Regulators' Compliance Code, which acts as a Code of Practice in relation to the exercise of regulatory functions. This section requires regulators to have regard to the Code when determining general policies or principles in relation to their regulatory functions.

1.5 The Regulators' Compliance Code is currently being refreshed and is subject to a separate, parallel consultation. It is much broader in application; however there are links between the proposed growth duty and the Code as set out in paragraphs 2.11-2.14 below.

[1] Heseltine Review https://www.gov.uk/government/publications/no-stone-unturned-in-pursuit-of-growth

[2] Heseltine Review, Recommendation 47 p.106 https://www.gov.uk/government/publications/no-stone-unturned-in-pursuit-of-growth

[3] Statement, 5 December 2012, Para 2.161 p. 79 http://cdn.hm-treasury.gov.uk/autumn_statement_2012_complete.pdf

1.6 A further common duty can be found in section 72 of the Regulatory Enforcement and Sanctions Act 2008. This creates a duty to keep regulatory functions under review, and when carrying out those functions, not to impose unnecessary burdens and to remove such burdens where proportionate and practicable. This section applies to a limited number of regulators[4].

Achieving prosperity and protection

1.7 Non-economic regulators are responsible for regulating a diverse array of businesses. The sectors they regulate include health, food and the environment, amongst others, and several such as Companies House regulate every registered business. Collectively non-economic regulators are responsible for the regulation of a significant portion of the economy. Some regulators are associated with specific business sectors, for example gambling, forestry and medical equipment each contribute in the order of £6 billion, £1.3 billion and £4.5 billion per annum respectively, and others operate across multiple sectors. For example, in the order of £212 billion worth of goods are sold on the basis of the measurement of their quantity controlled by weights and measures legislation.

1.8 There is a strong body of evidence which suggests that non-economic regulators are not consistently achieving both protection and prosperity in the way they operate, from recent reviews of business sectors, take-up of the Regulators' Compliance Code and annual business survey data. Protection and prosperity are often regarded as separate aims, not capable of being achieved simultaneously. In practice, this means that regulators are not consistently seeing businesses as entities that they need to work with in a sustained manner and not always having due regard to their role in supporting economic growth in the course of regulating.

1.9 As a result, unnecessary burdens persist and opportunities for regulators to support enterprise, for example by working in partnership with businesses to drive up standards, are being missed. This is because regulators can lack the tools they need to proactively pursue growth as an objective, as they prioritise their work in line with their statutory duties. Existing duties do not always include the requirement to have regard to the economic consequences. This lack of a statutory duty to foster economic growth inhibits regulators from responding on an equal footing with current duties.

1.10 The two key evidence sources for this systemic failure are the post-implementation review of the Regulators' Compliance Code and the Focus on Enforcement initiative and further details are provided below. Recent business perceptions survey data also supports the contention that regulators have a role in supporting growth through the provision of advice, as well as confirming that compliance matters to businesses, not least in order to maintain their customer-base[5].

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4 The Gas and Electricity Markets Authority; the Office of Fair Trading; the Office of Rail Regulation; the Postal Services Commission and the Water Services Regulation Authority: Regulatory Enforcement and Sanctions Act, section 73(2).

5 http://www.bis.gov.uk/assets/brdo/docs/publications-2012/12-p145-business-survey-2012.pdf

Regulators' Compliance Code – post-implementation review

1.11 The post-implementation review of the Regulators' Compliance Code used publicly available data and stakeholder views gathered during summer 2012. It found that whilst the Code contains the principle that regulators should support economic progress, regulators do not tend to regard this as consistent with their statutory duties. Several regulators commented that they are constrained from considering the consequences of their interventions upon the economy, as it is not a clear legal duty upon them. Where regulators were concerned about growth, they tended to view their role as being at best contributory, rather than a direct contributor to growth. Whilst there were some good examples of regulators supporting economic progress, on the whole it was found that regulators lack the tools necessary to support growth. The review recommended that the Code be refreshed, including to reflect growth and deregulatory priorities. The revised Code is being consulted upon on in a separate, parallel consultation and a summary of the results of the post-implementation review are published with that consultation document[6].

Focus on Enforcement Initiative[7]

1.12 The Focus on Enforcement Initiative is a campaign and call for evidence launched at Budget 2012 which examines industry experience of regulatory enforcement through a series of sector-based regulatory reviews. Each review considers how enforcement of legislation is experienced from the point of view of a company and sector and each review identifies where inappropriate or excessive enforcement of regulation by national and local regulators is holding business back and seeks to identify good practice that could be replicated elsewhere. In addition to findings specific to the sector under consideration, these reviews have also identified a set of common or systemic issues – problems encountered by industry in every, or almost every, sector examined to date[8]. These include the following common areas of concern:

- inconsistent enforcement decisions;
- a lack of availability of clear, consistent advice;
- regulators lacking knowledge of the businesses/sectors they regulate, both in terms of the composition of the industry and the economic and other key issues they face;
- regulators failing to see businesses as stakeholders in enforcement matters; and
- regulators failing to (or considering themselves legally unable to) consider the impact of their decisions in terms of growth.

Case studies: regulators supporting growth[9]

1.13 There are examples of where regulators have been able to achieve both prosperity and protection in their operations, and further details are given below. Others are undertaking an ongoing dialogue with their regulated industries; the Environment Agency for example runs a regular Regulated Business Forum. The aim is for these examples to become widespread enabled by the proposed growth duty.

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6 The Regulators' Compliance Code consultation can be found here www.bis.gov.uk/brdo/publications/current-consultations

7 http://discuss.bis.gov.uk/focusonenforcement/

8 For a complete list: http://discuss.bis.gov.uk/focusonenforcement/completed-focus-areas/

9 Regulation and Growth, 2012 p.11 http://www.bis.gov.uk/assets/brdo/docs/publications-2012/12-688-regulation-and-growth.pdf

Health and safety made simple: Health and Safety Executive

All reputable employers want to do their best to meet their health and safety obligations and protect their workers and members of the public. However, the volume of health and safety regulation can lead to confusion and uncertainty about responsibilities under the law. These challenges can have a disproportionate effect on small businesses, which rarely have in-house health and safety advisers.

To make it easier for employers, the Health and Safety Executive developed a single and accessible piece of guidance called Health and Safety Made Simple. This approach is targeted at small and medium-sized employers in low risk businesses and explains their basic health and safety duties in plain English.

The guidance covers a range of topics from appointing a competent health and safety advisor and writing a health and safety policy to completing risk assessments and obtaining Employees Liability Compulsory Insurance. It tells businesses what is needed and how they can approach compliance, signposting more detailed industry specific advice.

2. Proposal: a growth duty

Why a growth duty?

2.1 Establishment, in statute, of a clear objective to promote economic progress that non-economic regulators must have regard to in the discharge of their various functions would remove any uncertainty over whether regulators are able to take account of such considerations. The provisions in the LRR Act, which are common to a number of regulators, seek to address certain elements of these problems. However there remains a gap in the statutory framework for regulators. Supporting growth and stripping back burdens are not sufficiently prioritised.

2.2 The primary objective is therefore to make it clear that regulators can *and should* be mindful of the economic consequences of their actions, thereby stimulating improvements in business experience of regulation and creating a regulatory environment conducive to growth.

2.3 To be clear, compliant growth is the objective, not non-compliant or illegal economic activity that undermines markets to the detriment of consumers, the environment and legitimate businesses.

2.4 Regulators should be able to see themselves as supporting business growth proactively, and should look beyond their own actions to see how these fit with the wider regulatory landscape. For example, this is particularly important for those sectors in which businesses are subject to regulation by more than one regulator such as retail, farming and manufacturing or in key sectors targeted by the industrial strategy.

2.5 An associated benefit of a requirement to consider growth would be to improve relationships between regulators and businesses. A growth duty should enable regulators to regard businesses that wish to comply as clients, or even customers, and encourage a partnership-based approach that enables growth without compromising protections. It would also provide regulators with sufficient leverage to act proportionately when faced with situations where the need to protect may conflict with supporting growth, and clearer transparency of decision-making.

2.6 In order to achieve these objectives, it is proposed that a legislative duty be imposed upon regulators which will mean that they **must** consider the impact of their actions in economic terms, ideally in terms of impact upon growth. We are of the view that a duty is necessary rather than a power as a power would *enable* regulators to consider growth but it would not *compel* them to do so. It is envisaged that the duty would apply to the manner in which existing statutory duties are carried out and would complement, rather than override, any of these existing duties.

Question 1: Should primary legislation be used to introduce a duty for regulators to have regard to growth and the economic impact of their actions?

Question 2: Is there an alternative means by which these objectives, described in paragraphs 2.1 to 2.6 above, could be achieved?

How would a growth duty work?

2.7 A growth duty will enable regulators to respond more comprehensively to the challenge of stripping back burdens to the minimum necessary *and* proactively supporting growth by incorporating economic concerns into the forefront of thinking. The key objectives of the duty can be summarised as:

- providing a legal basis for regulators' approaches to consider the economic impact of their actions, where currently there is none, in terms of both support to growth and reducing unnecessary burdens to the minimum; and
- enabling regulators to see themselves as supporting prosperity and protection whilst recognising how their actions fit with the wider regulatory landscape.

2.8 In order to achieve the first objective, the duty needs to be imposed via primary legislation to provide the legal foundation needed. As a consequence regulators would need to be able to demonstrate that they have considered the economic impact of their actions when making decisions.

2.9 Whilst the duty may therefore create a means of challenging regulators' decisions, regulators should be accountable for their actions, including compliance with the growth duty. Importantly however, in order to safeguard the existing statutory duties of regulators to regulate and protect, the duty is intended to be complementary to, and not override, these existing duties.

Question 3: Do you agree that the duty should be complementary to existing duties?

2.10 Regulators should see their role as supporting prosperity as well as protection. The way the duty is framed will be important in guiding regulators towards this objective. It may be that the requirements that the growth duty will impose on regulators will have to be quite specific to enable regulators to support growth and reduce burdens on business. This consultation seeks views on how the duty should be framed to ensure it best achieves the aims set out above. We would therefore welcome examples of best practice where regulators have acted in a way which is consistent with supporting growth.

Question 4: Should the duty be principles-based, for regulators themselves to interpret and apply to their operations, or should it also specify the manner in which economic growth should be supported?

2.11 The role of guidance in the application of the growth duty is related to the way in which the duty is framed. Depending on how the duty is framed, the need for and utility of guidance will differ. The duty could stand alone with regulators themselves deciding how to incorporate into their operations; the duty could have guidance specific to it; or guidance could be provided by the revised Regulators' Compliance Code. We seek views from business on this.

2.12 The revised Regulators' Compliance Code sets out the Government's over-arching expectations as to the way in which regulatory activity is carried out. It is designed to provide a framework for good enforcement. As such, and given that the revised Code already contains provision for supporting economic growth, it could offer the means to provide any extra detail that regulators may need to put the duty into practice. It would also provide consistency between the growth duty and the Code.

2.13 Areas that regulators need to consider when implementing the duty may include:

- the focus of the growth duty and its application at the level of the individual business, sector and wider economy; and
- how the growth duty should be reflected in operational policies and procedures.

2.14 It is proposed that the operation of the growth duty should be measured in order to provide assurance that it is working as intended. In order to minimise additional reporting burdens on regulators, it is proposed that the reporting mechanisms for the revised Regulators' Compliance Code be used for this purpose, namely publication of service standards on an annual basis. In addition, the Government would undertake a post-implementation review of the duty after two years of operation to check it is working as intended.

Question 5: Do you think that guidance in how to implement the proposed growth duty would be useful? If yes, please provide examples of what it should cover.

Question 6: Do you agree that the measurement and monitoring mechanisms proposed above, allied to those of the revised Regulators' Compliance Code, would be adequate for this purpose? If not, please provide details.

2.15 It is proposed that a growth duty will apply to all non-economic regulators, and apply to the same regulators as the revised Regulators' Compliance Code to ensure consistency with this overarching framework. An example list of such regulators is included at Annex A. This list is based on that specified in Parts 1 and 2 of the Legislative and Regulatory Reform (Regulatory Functions) Order 2007.[10] It should be noted that some regulators have been created and abolished since the Order was made. We have added all the new regulators that we are aware of to date but there may be others.

2.16 The duty will *not* apply to local authorities in their regulatory roles, because the LRR Act and Localism Act 2011 are deemed to contain sufficient measures in this regard. However, where regulators have enforcement activities carried out by local authorities there may be practicalities to work through. The Government is considering separately the recommendation made by Lord Heseltine in his report *No Stone Unturned in Pursuit of Growth* in relation to duties on local authorities to have regard to economic development and, where they share a functional economic market area, to collaborate on economic development.

Question 7: Do you agree that the duty should in principle apply to all non-economic regulators?

2.17 We are aware that the Department for Work and Pensions is currently consulting on a similar duty in relation to the Pensions Regulator[11].

Question 8: Should the Pensions Regulator be included in the scope of the growth duty?

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[10] 2007 No 3544
[11] http://www.dwp.gov.uk/docs/pensions-and-growth-call-for-evidence.pdf

Devolved administrations

2.17 Regulators often cover all of the UK in their operations and so it is important to consider the impact in Scotland, Wales and Northern Ireland.

2.18 It is intended that the growth duty will not apply to:

- Regulatory functions so far as exercisable in Scotland to the extent that the functions relate to matters which are devolved;
- Regulatory functions so far as exercisable in Northern Ireland to the extent that the functions relate to transferred matters; or
- Regulatory functions exercisable only in or as regards Wales.

3. Evidence of the issue targeted by the proposed duty

3.1 The proposed growth duty aims to resolve the issue that some actions by regulators increase business costs and can negatively impact growth. This section sets out evidence of this issue, drawing on a range of sources including the Business Perception Survey 2012, Better Regulation Delivery Office research with businesses[12] and Focus on Enforcement reviews[13].

3.2 The relationship between regulation and the impact of regulators on growth is complex. Regulation can have a positive relationship by removing market failures and increasing economic efficiency. In some cases regulators have the capacity to act as a spur or a barrier to growth, for example, the quality and effectiveness of guidance and advice can either reduce or unnecessarily increase compliance costs. Regulator action can however have a negative impact where it imposes unnecessary or disproportionate requirements on businesses and/or creates undesirable market distortions. In this paper we consider the effect of regulators' activities on both additional compliance costs and growth.

Despite improvements businesses still see regulation as a barrier to growth

3.3 The Business Perceptions Survey 2012 examined business perceptions of regulatory burden. It found that businesses see regulation as less of an obstacle to business success than in 2009. However, over half (55 per cent) of businesses still see regulation as an obstacle to their success. Smaller businesses were particularly likely to see regulation as an obstacle. For one in seven (14 per cent) businesses complying with regulations was the greatest challenge to running their business[14]. Therefore the burden of regulation and compliance with it remains a significant challenge to business.

3.4 Businesses were keen to note that whilst the burden of new and existing regulations remains a concern, the impact of regulatory changes largely depends on the way in which they are communicated and delivered on the ground[15].

Businesses recognise the need to comply

3.5 Businesses do recognise compliance with regulation as important to their business. For example, 80 per cent agreed that if their businesses were found to be non-compliant, they would be concerned it would affect their relationship with their customers; 69 per cent thought it mattered to their business that their customers knew they invested in compliance[16].

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[12] The Better Regulation Delivery Office was created in April 2012 and is the successor to the Local Better Regulation Office, which was created in 2008 to work with businesses and local authority regulators. LBRO commissioned a number of research projects and worked jointly with businesses in order to quantify the burdens of regulation. The full list of publications is available via http://www.bis.gov.uk/brdo/publications

[13] Each Focus on Enforcement review involves a 5-6 week fact-finding stage, where comments are sourced through a website. In addition, the reviewer will meet with companies, trade associations and the relevant regulators to gather evidence.

[14] Business Perceptions Survey (2012) www.bis.gov.uk/assets/brdo/docs/publications-2012/12-p145-business-survey-2012.pdf

[15] From the Business End of the Telescope (2010) www.bis.gov.uk/assets/brdo/docs/publications-2010/10-1396-business-end-of-the-telescope.pdf

[16] Business Perceptions Survey (2012)

3.6 As a result businesses do spend a significant amount of time and money on complying with regulations, with 58 per cent of businesses spending time every month on compliance. Typically the time spent is two days or less a month[17].

3.7 In light of the importance placed upon compliance, businesses would welcome a change in regulatory culture that recognises compliance as a common goal. This needs to be based on a shared understanding of the business[18].

There is evidence of the impact of regulatory delivery on business growth

3.8 A literature review of the impact of regulations on growth[19] found that product market regulations affected growth by creating barriers to entry and therefore reducing competition. Competition is a strong driver of growth by pushing firms to be more productive and forcing inefficient firms from the market place[20]. Changes in regulatory delivery that reduce barriers to entry should have the impact of increasing competition and therefore increasing growth.

3.9 In addition, the Focus on Enforcement review of chemical manufacturing found that some businesses are encouraged by trade associations deliberately to limit their trading (and thus growth) to avoid growing large enough to trigger requirements to comply with the enforcement regime, and to avoid cliff edge effects associated with the charging thresholds (which crudely speaking operate at two levels). The regulators have agreed to provide additional information and advice to companies to help them understand the actual impact of crossing thresholds within the regime, and also to look at what additional measures could be put in place to help businesses manage the transition and the associated costs. A fear, sometimes misplaced, of charging by regulators and of how they may act if they find weakness in compliance can also deter businesses from seeking advice from a regulator for fear of sanction. However it should be recognised that when advice is sought, businesses are often satisfied[21].

3.10 Only 20 per cent of businesses believe that regulators understand their business well enough to regulate them[22], so it is possible that issues may occur due to a lack of understanding of the business environment.

3.11 The post-implementation review of the Regulators' Compliance Code[23] has found that supporting economic growth is seen as a secondary consideration by regulators with most seeing protection as their primary statutory function. Some consider themselves unable to take account of growth due to the perceived narrowness of their founding legislation when they would wish to be able to take it into account.

3.12 Therefore it should be recognised that the way in which regulation is enforced is important. Whilst regulations do need to be enforced for protection and competition purposes, this should be done in a way that minimises the burden on the business where possible.

17 Business Perceptions Survey (2012)
18 LBRO/NAO (2010) www.bis.gov.uk/assets/brdo/docs/publications-2010/10-1401-business-survey-2010.pdf
19 The Impact of Regulations on Growth, report by Frontier Economics for BIS (2012)
20 Office for Fair Trading, Competition and Growth (2011) http://www.oft.gov.uk/shared_oft/economic_research/oft1390.pdf
21 Post Implementation Review of the Regulators Code (2012) www.bis.gov.uk/brdo/publications/current-consultations
22 Business Perceptions Survey (2012)
23 Post Implementation Review of the Regulators Code (2012)

4. Evidence of the impact of a growth duty

Impact on Businesses

4.1 Given the examples above, we expect that imposing a statutory requirement upon regulators to have regard for growth will be beneficial for business. However we do not currently have sufficient evidence to support hard analysis of the scale of likely positive impact on growth of the growth duty. We would therefore welcome business input on the likely impact and what they would envisage happening differently as a result of a growth duty.

Question 9: Do you feel that a growth duty would reduce costs to business and remove or address barriers to growth?

Question 10: How would you envisage a regulator's actions changing as a result of a growth duty? Please consider this in light of evidence presented above, and/or with reference to other situations where regulator actions impacted a company or industry's ability to grow.

Where possible, provide a monetary indication of likely impact of a successfully operating growth duty on a company or industry

Impact on Regulators

4.2 The statutory duty itself will not lead to any additional administrative burden on regulators. However, they will be required to consider the impact of their actions upon business when carrying out regulatory duties. We are assuming that this will not impose any additional costs or time on regulators on a long term basis.

4.3 In the short term however there may be some costs to regulators, for example, training officers to act upon the growth duty, or redrafting guidance material. Thus far we have not quantified the short term costs as it is difficult to make assumptions about the level of up front investment, if any, which may be required by individual regulators to implement the proposed duty.

4.4 We will be engaging with regulators in a structured fashion to gather evidence and check if our assumption is correct.

Question 11: Is there any evidence that this will add significant burdens to regulators and why?

Consultation questions

Question 1: **Should primary legislation be used to introduce a duty for regulators to have regard to growth and the economic impact of their actions?**

Question 2: **Is there an alternative means by which these objectives, described in paragraphs 2.1 to 2.6 above, could be achieved?**

Question 3: **Do you agree that the duty should be complementary to existing duties?**

Question 4: **Should the duty be principles-based, for regulators themselves to interpret and apply to their operations, or should it also specify the manner in which economic growth should be supported?**

Question 5: **Do you think that guidance in how to implement the proposed growth duty would be useful? If yes, please provide examples of what it should cover.**

Question 6: **Do you agree that the measurement and monitoring mechanisms proposed above, allied to those of the revised Regulators' Compliance Code, would be adequate for this purpose? If not, please provide details.**

Question 7: **Do you agree that the duty should in principle apply to all non-economic regulators?**

Question 8: **Should the Pensions Regulator be included in the scope of the growth duty?**

Question 9: **Do you feel that a growth duty would reduce costs to business and remove or address barriers to growth?**

Question 10: **How would you envisage a regulator's actions changing as a result of a growth duty? Please consider this in light of evidence presented above, and/or with reference to other situations where regulator actions impacted a company or industry's ability to grow.**

Where possible, provide a monetary indication of likely impact of a successfully operating growth duty on a company or industry

Question 11: **Is there any evidence that this will add significant burdens to regulators and why?**

Annex A – Preliminary list of non-economic regulators in scope of the growth duty

Note: the list is not exhaustive – there may be new regulators missing (see consultation question 8).

- Animal Health and Veterinary Laboratories Agency
- Architects Registration Board
- British Hallmarking Council
- Care Quality Commission
- Charity Commission for England and Wales
- Claims Management Regulation Unit
- Coal Authority
- Companies House
- Council for Healthcare Regulatory Excellence
- Disclosure and Barring Service
- Drinking Water Inspectorate
- Driver and Vehicle Licensing Agency
- Driving Standards Agency
- Employment Agency Standards Directorate
- English Heritage
- Environment Agency
- Equality and Human Rights Commission
- Financial Reporting Council
- Fish Health Inspectorate, Centre for Environment, Fisheries and Aquaculture Science
- Food and Environment Research Agency
- Food Standards Agency
- Forestry Commission
- Gambling Commission
- Gangmasters Licensing Authority
- Groceries Code Adjudicator
- Health and Safety Executive
- Highways Agency
- HM Revenue and Customs (Money Laundering Regulations and National Minimum Wage)
- Homes and Communities Agency
- Human Fertilisation and Embryology Authority
- Human Tissue Authority
- Information Commissioner's Office
- Insolvency Service including Insolvency Practitioner Unit
- Intellectual Property Office
- Legal Services Board
- Marine Management Organisation
- Maritime and Coastguard Agency
- Medicines and Healthcare Products Regulatory Agency
- National Counter Terrorism Security Office
- National Measurement Office
- Natural England
- Northern Lighthouse Board*
- Office for Fair Access
- Office for Standards in Education, Children's Services and Skills
- Office of the Regulator of Community Interest Companies

- Postgraduate Medical Education and Training Board
- Rural Payments Agency
- Security Industry Authority
- Solicitors Regulation Authority
- Sports Grounds Safety Authority
- Traffic Commissioners
- Trinity House Lighthouse Service
- UK Anti-doping
- UK Sport
- Vehicle and Operator Services Agency
- Vehicle Certification Agency
- Veterinary Medicines Directorate

* Excluding devolved aspects

Annex B – List of individuals/organisations consulted

In addition to the organisations at Annex A:

- AA
- Asda
- Association of British Bookmakers
- Association of British Healthcare Industries
- Association of British Pharmaceutical Industry
- Association of Convenience Stores
- Association of Licensed Multiple Retailers
- Association of Manufacturers of Domestic Appliances
- Association for Road Traffic and Safety Management
- Assured Food Standards
- B&Q TSI Business Members Group
- Bar Council
- Bond Pearce
- British Amusement Catering Trade Association
- British Association of Removers
- British Beer and Pub Association
- British Chamber of Commerce
- British Coal
- British Frozen Foods Federation
- British Hospitality Association
- British Home & Holiday Parks Association
- British Independent Retail Association
- British Jewellery & Giftware Federation
- British Jewellers Association
- British Marine Federation
- British Meat Processors Association
- British Medical Association
- British Parking
- British Retail Consortium
- British Sandwich Association
- British Security Industry Association
- British Soft Drinks Association
- British Toy and Hobby Association
- CBI
- Casino Operators Association UK
- Chartered Institute of Environmental Health
- Chartered Institute of Legal Executives
- Church of England
- Citizens Advice Bureau
- Construction Products Association
- Co-op
- Country Landowners Association
- Cosmetics Toiletries and Perfumeries Association
- Dairy UK
- DWF
- EEF, The Manufacturers Association
- Federation of Master Builders
- Federation of Small Businesses

- Food and Drink Federation
- Forum of Private Businesses
- Friends of the Earth
- Geldards
- Giftware Association
- Guide Association
- Greenpeace
- Health Food Manufacturers' Association
- Higgs & Co Solicitors
- Hire Association Europe
- Home Retail Group
- Hornby
- Independent Electrical Retailers
- Institute of Chartered Accountants in England and Wales
- Institute of Directors
- Institute of Food Science & Technology
- Institute of Licensing
- Institute of Occupational Health and Safety
- International Meat Trade Association
- Jewellery Distributors' Association
- JLP
- Ladbrokes
- Law Society
- Leatherhead Food Research Association
- Managing Agents Property H&S Forum
- Marine Stewardship Council
- Moto
- Motor Schools Association
- National Asian Business Association
- National Casino Industry Forum
- National Caterers Association
- National Farmers' Retail & Markets Association
- National Farmers' Union
- National Farmers' Union Wales
- National Federation of Fish Friers
- National Federation of Fishermens' Organisations
- National Federation of Meat & Food Traders
- National Federation of Property Professionals
- National Federation of Retail Newsagents
- National Office of Animal Health
- Petcare
- Pinsent Masons
- Proprietary Association of Gt Britain
- Provisions Trade Federation
- Remote Gambling Association
- RAC
- Retail Motor Industry Federation
- RH Environmental
- Road Haulage Association
- Royal Institute of British Architects
- Royal Pharmaceutical Society
- Rural Shops Alliance

- Safety Assessment Federation Ltd
- Scout Association
- Seafish
- Shellfish Association of Great Britain
- Society of British Water and Wastewater Industries
- Society of Motor Manufacturers and Traders
- Soil Association
- Tesco
- The Giftware Association
- TSI Business Members Group
- UK Weighing Machine Federation
- UK Petrol Forecourt Equipment Association
- Wilkinsons
- Wine & Spirits Trade Association
- World Wildlife Fund
- Wragge & Co

Annex C – About this consultation

Consultation Principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf

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Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

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Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

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