 <b>Regulatory Policy Committee</b>	<b>Opinion</b>	
<b>Impact Assessment (IA)</b>	Streamlining the Competition and Regulatory Appeals Framework Consultation on options for reform	
<b>Lead Department/Agency</b>	Department for Business, Innovation and Skills	
<b>Stage</b>	Consultation	
<b>IA Number</b>	BIS 0410	
<b>Origin</b>	Domestic	
<b>Expected date of implementation (and SNR number)</b>	April 2014 (SNR 7)	
<b>Date submitted to RPC</b>	27/04/2013	
<b>RPC Opinion date and reference</b>	03/06/2013	RPC13-BIS-1778
<b>Overall Assessment</b>	<b>GREEN</b>	
<b>RPC comments</b>  <p>The IA is fit for purpose. During consultation the department will need to confirm whether there are any costs to business from reducing the level of scrutiny to which regulatory decisions are subjected.</p>		
<b>Background (extracts from IA)</b>  <b>What is the problem under consideration? Why is government intervention necessary?</b>  <p><i>“There are concerns that the regulatory and competition appeals framework is causing unnecessary delay and holding back effective, timely decision-making in some sectors. There are strong incentives for parties to appeal regulatory decisions where these have a significant commercial impact. However, certain features of the appeals regimes in some sectors appear to exacerbate these incentives, increasing the number, length and cost of appeals. Government intervention is necessary to ensure the framework operates in the most efficient and effective manner, protecting firms’ right to challenge regulatory decisions, while enabling regulators to make pro-growth and pro-competition decisions in a timely way.”</i></p> <b>What are the policy objectives and the intended effects?</b>  <p><i>“The Government’s policy objectives are that any changes to the appeal regime should:</i></p> <ul style="list-style-type: none"> <li>• <i>Support robust decision-making, minimising uncertainty</i></li> <li>• <i>Minimise the end-to-end length and cost of regulatory decision-making, including the appeals stage.</i></li> <li>• <i>Be accessible to all firms and affected parties</i></li> <li>• <i>Provide consistency, as far as possible, between appeal routes in different sectors</i></li> </ul> <p style="margin-left: 20px;">- <i>Option 1 - Do Nothing: This option would leave the current appeals frameworks unchanged.</i></p> <p style="margin-left: 20px;">- <i>Option 2 - Reduce the standard of review for some appeals: Some appeals currently involve a review of the merits of the decision. We are consulting on a range of options for modifying the standard of review, including moving to a general judicial</i></p>		

*review standard and/or specifying more defined grounds for appeal.*

- *Option 3 - Streamline the Regulatory Appeals Process: This option consists of a package of measures aimed at improving consistency across sectors and making the appeal process more efficient; and reducing incentives for appellants to game the system.*
- *Option 4: Option 2 and 3 are not mutually exclusive and doing both is the preferred option."*

**Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options**

*Costs to Business:* In addition to the benefits to business from streamlining the appeals process, the IA identifies a potential cost to business if incorrect regulatory decisions are not overturned as a result of a reduced level of scrutiny. During consultation the department should confirm whether this will result in a significant cost to business in order to ensure that the overall impact on business of the policy is reflected in the final stage IA.

**Comments on the robustness of the Small & Micro Business Assessment (SMBA)**

The proposals regulate business and are intended to come into force after 1 April 2014 and therefore the SMBA is applicable.

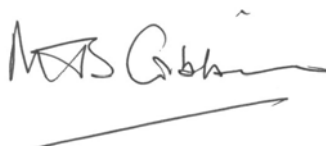
The IA does not include an SMBA. The IA must be updated to include and specifically reflect the impact of the proposals on small and micro-businesses in line with the Better Regulation Framework Manual (Section 2.6 pages 34 to 36).

**Comments on the robustness of the OITO assessment.**

The IA says that this is a deregulatory proposal that is in scope of OITO and will have a direct net benefit to business (an 'OUT'). Based on the evidence presented this is consistent with the current Better Regulation Framework Manual (paragraph 2.9.11) and provides a reasonable assessment of the likely direction of impacts

The evidence supporting the estimated Equivalent Annual Net Cost to Business will have to be strengthened so that it can be validated at final stage. In particular the IA will need to ensure that any costs to business from incorrect regulatory decisions no longer being overturned are considered.

**Signed**



**Michael Gibbons, Chairman**