
The Growth Duty

Department for Business, Innovation and Skills

RPC rating: fit for purpose

Description of proposal

The Department is consulting on a proposal to ensure regulators take sufficient account of the economic consequences of their regulatory actions. The proposal will place a statutory duty on regulators to 'have regard' to economic growth when making operational and policy decisions. It puts the existing growth requirement in the voluntary Regulators Code on a statutory footing.

Impacts of proposal

The Department expects 60-70 regulators to be in scope of the proposal. The Department expects the proposal to impose some relatively small transitional and ongoing costs on regulators. It correctly assesses the costs for those regulators that are funded by industry as a direct cost to business. In line with previous assessments, half of the costs imposed on regulators are considered costs on business.

Based on survey responses of regulators, the Department estimates one-off training to cost around £1 million, and changes to IT and guidance to cost around £0.8 million. Using the same survey data, the Department estimates ongoing costs of £0.4 million each year, with slightly higher costs in the first two years following implementation. As above, half of these costs are considered as direct costs to business (one-off/transitional costs of £0.9 million, and ongoing costs of £0.2 million). While sufficient for this stage, the use of the survey data is discussed further below.

The Department estimates that the proposal could have significant benefits if the statutory duty to have regard to economic growth leads to the development of more proportionate regulatory regimes, for example through reducing inspections or duplicate data requests. These effects are correctly assessed as being indirect, and are estimated in the IA to be a benefit to business of around £80 million each year.

Quality of submission

The consultation IA draws on information gathered through the previous consultation on the relevant powers in primary legislation. As such, for this stage there is a

relatively detailed discussion of the potential costs. However, there are a number of areas on which the Department will need to provide further information at final stage.

Direct costs to regulators

Regulators were surveyed during the previous consultation to develop a better understanding of the likely effects on them. These survey data are used as the basis for assessing the likely costs of the proposal. The proportion of regulators expecting to face transitional (71%) or ongoing costs (28%) is the basis for the estimated total costs. The IA would benefit from including a discussion on why those regulators felt there would be no additional costs and whether it is reasonable to assume they will be able to implement the requirements of the duty without any burden. The evidence supporting this assessment will need to be strengthened significantly to enable it to be considered robust at final stage. If the expectation is that the changes will be met through efficiency gains then the proposal would still represent a direct cost to those regulators (as the opportunity cost of not being able to use those gains for other purposes or to reduce fees to business).

Risks / regulator behaviour change

The estimated benefits to business appear to be highly dependent on the growth duty driving changes in regulator behaviour. The final stage IA should include further discussion on this. In particular it should consider whether:

- The assumed change in behaviour in regulators is compatible with the assumption that the growth duty will not have any adverse effects on 'non-economic' objectives, such as safety or environmental protection. While the IA provides a lot of detail in relation to businesses' perceptions on the necessity of some regulator actions, it is not clear whether there has been meaningful engagement with regulators about the extent to which their current activities and processes are considered essential to meeting existing statutory duties.
- A statutory 'have regard to' duty will have a more significant effect than the current regulators code requirements.

Limited data sources

The assumptions underpinning the estimated benefits of the proposals are reliant on responses from businesses on the potential benefits of more effective regulatory interventions. In line with the comments above, for the estimated benefits of the proposal to be considered robust the IA should include an assessment of whether regulators consider the scale of the expected changes to be deliverable.

Review plan

The post-implementation review plan would benefit from including further information on how the impacts of the proposal will be measured, and in particular how the Department intends to disaggregate the impacts of other policy proposals/changes affecting regulators' behaviour.

Small and micro business assessment

The IA explains that, while the proposal is overall expected to benefit all businesses and especially smaller businesses, the proposal will impose costs on small and micro businesses. As the fee increases will be based on existing fee structures, the Department does not expect the marginal increase to be a disproportionate burden on small and micro business. Furthermore, the IA states that any process to amend fee structures to mitigate the impacts of this change would be likely to result in additional costs, which would outweigh any potential benefits.

Initial departmental assessment

| Classification | Qualifying regulatory provision |
|--|---------------------------------|
| Equivalent annual net cost to business (EANCB) | £0.28 million |
| Business net present value | - £2.52 million |
| Societal net present value | £700.11 million |

RPC assessment¹

| Classification | Qualifying regulatory provision |
|-------------------------------------|---------------------------------|
| Small and micro business assessment | Sufficient |



Michael Gibbons CBE, Chairman

Martin Traynor (committee member) did not participate in the scrutiny of this case to avoid a potential or perceived conflict of interest.

¹ The RPC verification of the estimated equivalent annual net cost to business (EANCB) and assessment of whether the measure is a qualifying regulatory provision are based on current working assumptions.