

Attendees

Chair

Michael Gibbons

RPC Secretariat

Hiroko Plant, Head of Secretariat
Secretariat staff

Committee Members

Alex Ehmann
Jonathan Cave
Jeremy Mayhew
Martin Traynor
Sarah Veale
Ken Warwick

Better Regulation Executive (BRE) officials

Carl Creswell
Rachel Egan
BRE officials

Apologies

Nicole Kar

Which? Consumer Association

Caroline Normand

A. Matters arising

Minutes of October Committee meeting

1. The minutes of the 9 October meeting were agreed with the following change to paragraph 16, fifth sentence.
 - “The *de minimis* threshold of £5m has now been agreed and is operational” to
“The *de minimis* threshold of £5m has not yet been agreed by Ministers, but is operational”

Matters arising

2. Conflicts/declaration of interest: A committee member (KW) declared that he was taking part in the revision of the HMT Green book, but felt that there was no conflict of interest with the work of the RPC. He had previously discussed with the Chair and HoS, who agreed. Members were content. **Action: Secretariat (GM) to update the register of interests.**
3. Staff joining the RPC: The Chair welcomed the newest members of the RPC secretariat.

B. BRE: Update on Framework, transitional arrangements and Call-In

4. The BRE Director informed the committee that Lord Henley had taken over from Lord Prior as the Better Regulation Minister. Lord Henley brings with him considerable experience as a better regulation Minister in the Home Office. He had met Lord Henley and briefed him about his role and the work of BRE. The BRE Director has now been tasked with blue sky thinking on the long term direction for better regulation, with a particular focus on how better regulation can best support innovation, industrial strategy and growth. This was important to Ministers, and BRE had increased its staffing levels accordingly. He said that he would welcome comments from the committee to enable their views to be considered. **Action: the committee to provide**

comments to the BRE Director on how better regulation can support innovation, industrial strategy and growth.

5. The BRE Director explained that work both on interim arrangements for scrutiny and on longer term development of the BIT was still continuing. It was hoped that progress would be made on the write-round covering interim arrangements, *de-minimis* and call-in by December

C. Business Plan

6. HoS introduced the draft BRE Business Plan with track changes to show the revisions made to the existing Business Plan. The changes had been in discussion with BRE. The plan was to publish two business plans for this year: one covering the period up to the EU Exit referendum and election, and one the period following the election. The Chair and the committee agreed that the changes appeared to be sensible and supported the RPC working with BRE to arrange for publication. The committee were asked to provide any further comments they may have to finalise the Business Plan. Action: **(1) The Committee to provide comments to the HoS on the Business Plan. (2) RPC (HP) and BRE (RE) to work together to finalise the Business Plan for publication in December.**

D. Updates on committee appointments/re-appointments

7. BRE provided an update on committee appointments/re-appointments. For appointments, permission to advertise was under consideration.
8. BRE noted that extensions and re-appointments are determined by business needs, and that decisions are based on the knowledge and expertise required for the committee, along with the principles of inclusivity, diversity and gender-balance. Two re-appointments are being considered. Re-appointments are at the discretion of the Secretary of State.
9. One member commented that the process has been going on for a long time (JM). The chair agreed and hoped that there would be a speedy conclusion to this process.

E. Meeting Updates

10. The following meeting updates were given:

Meeting Chief Executive Designate UK Research and Innovation - 24 October

11. The Chair and a member of the Secretariat had met with Chief Executive Designate (CED) of the newly formed UK Research and Innovation (UKRI), which is responsible for the public funding of research and innovation. He was formerly the Chief Government Scientist.
12. The Chair said that they discussed the roles of the RPC and the UKRI with regards to regulation and how these roles may overlap. The main difference was that the CED was responsible for advising on government policy on scientific issues and that most of his advice was not made public whereas the RPC does not advise on policy, but on the quality of evidence and all its

Opinions are transparently published. The CED thought there may be some overlap between RPC and UKRI work with regard to how government thinks about regulation in the context of innovation and in innovative areas such as artificial learning and wondered whether there should be regulation around new business models such those used by companies like UBER. The Chair informed the CED that the RPC can only red-rate on the business impact; the Committee comments but cannot red-rate on wider societal impacts.

13. The other area of interest was on Post Implementation Reviews. The RPC was looking at ways to incentivise submission of PIRs. The CED said that he could see why there was no take up of PIRs, as there was no incentive for the minister to analyse a policy that had been implemented. The Chair said that he had proposed to BRE that RPC should be able to give a red opinion if the IA didn't include a plan and timeline for checking the policy after a certain number of years. The CED agreed that this was a good idea and suggested that the Institute for Government might be interested. **ACTION: Chair to follow up with Institute for Government on encouraging PIRs.**

Quantification and Benefits Workshop – Regwatch Europe and RSB: 25 October

14. The Chairman explained that the event had gone well, and had been appreciated by the RSB and RWE colleagues. The event was well attended, and there had been a helpful dinner with the RSB afterwards.

November OECD Meeting 6-8 November

15. The Chair and HoS had attended this event, as had a representative from BRE (RH). The Chair reported that over 12 countries had now adopted 'one-in-one out' and this is likely to increase in the near future. The second day focussed on the OECD's research on oversight bodies.
16. The Chair said that it had been agreed that RWE should have a regular seat on the OECD's Regulatory Policy Committee (RPC). The details of how this would work still needed to be finalised. **Action: HoS to agree membership of OECD RPC for RWE.**

Discussion with Business Europe re Renda study

17. The Chair reported he and the HoS had met with a representative of Business Europe to discuss the Renda report and the European Commission's conclusion on regulatory target setting. No net targets had been set by the Commission; they preferred a sector by sector approach. Renda report may be summarised as having been disagreed on all fronts with this approach. The discussion with BE was less helpful than the Chair had hoped, as BE were inclined to support the Commission's approach. He concluded that his experience of dealing with business in Europe was that they were more relaxed about regulatory issues than UK businesses.

F. Which? Consumer Association

18. The Which? representative gave a brief background to the work of Which? It has been in existence for 60 years championing consumers on various areas ranging from seat belts to product safety. The two main regulators with which it interacts are the Food Standards Agency and the Health & Safety Executive. The overarching mission of the organisation is to make the consumer more powerful.

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19. The Which? representative then went on to discuss the challenges facing consumers and businesses from regulation, particularly in the context of Brexit and the Grenfell Tower fire. She argued that good regulations are not only needed for consumers, but also for businesses; indeed one element of Which?'s mission statement is, 'making markets work for businesses'. Which? felt that it was important to influence and encourage developments in good practice among businesses.
 20. EU exit brings about other challenges. There is a swathe of EU regulations which will now be transferred into UK legislation and may create problems for businesses and consumers.
 21. In summing up, the Which? representative noted the important role that the RPC plays in the scrutiny of regulations. She asked the RPC to be aware of the fundamental risk of looking at the impacts of regulation only through the lens of burdens on business, arguing that there is sometimes an assumption that if regulation is cut there must be a benefit to business. This is not always true. Business can benefit through regulation. Which? is also concerned that there is over focus on business and not enough on society in the better regulation system.
 22. The Chair responded that the RPC does not take the view that less regulations benefits business; it is neutral with respect to the balance between regulation and deregulation, as this is a policy position for Government. Importantly, the RPC scrutinises the evidence base underpinning both the costs and the benefits to business of any given regulation. Furthermore, the RPC also scrutinises Departments' understanding of the wider societal impacts of regulation, including any transfers between businesses and consumers. One member (JM) commented that less regulation could help business, but might also allow the creation of barriers to entry without (for example) pro-competition measures.
 23. The Which? rep went on to say that policies such as OI30 place a great deal of emphasis on reducing regulation. However, Which?'s work with the Food Standards Agency and Care Quality Commission (among others) indicates that there are a lot of regulatory measures that are important to consumers. For example, many existing rights and protections for consumers and workers derive from directly applicable EU legislation and are not currently enacted in domestic law. It was important that following withdrawal from the EU any changes should be carefully considered and the right balance struck between consumer protection and burden on business. The Grenfell Tower tragedy had created a context where a clear opposition between society and business was perceived, especially around product safety. For example, since the tumble dryer scare, Whirlpool has informed Parliament that there are still about a million dryers at risk of catching fire, which are being used in households. It does not intend to withdraw these, and the Which rep argued that there appears to be a lack of enforcement in this case.
 24. She suggested that a good example of where better regulation does not work is in Peterborough, where the local authority was responsible both for consumer protection and for reducing the burden on business under the Primary Authority scheme. This created a conflict of interest, which reduced the effectiveness of consumer protection.
 25. In conclusion, the Which? rep said that the RPC has an important role to play in the scrutiny of regulation. The Committee should note that benefits to consumers and impacts on wider society are important considerations. It is not about a simplistic bean counting exercise; there should be a good balance between consumer protections and reducing regulation, including proper enforcement regimes.

26. The following comments were made by Committee members:

- Consideration should be given to a trade-off between quality and consumer choice. For example, consumers in the UK may accept a level of bread in sausages which the Germans would find unacceptable; so any post Brexit changes to regulations should take this into consideration. Also, too much consumer protection may stop markets from working effectively (AE).
- The RPC has two roles; one is to look at the impact on business and the other is to consider the wider impacts. RPC is not allowed to red rate on the wider impacts and that is a concern for us. (KW)
- We have seen consumer protection benefits from Primary Authority, but of course if Which? have further evidence, it would be useful to share it with RPC and BRE (MT).
- The Chair noted that RPC is extremely keen to ensure wider societal impacts are properly scrutinised. EU measures were of course outside scope of the BIT in the previous Parliament, and a decision had not yet been reached on how they would be treated in this Parliament. However, even if EU regulations are out of scope the RPC expects to scrutinise the evidence underpinning them.

27. The Which? representative responded to the committee's comments. She argued that trade-offs of the sort described by a committee member (AE) are fine as long as the consumer is happy. However, standards for safe food vary considerably across different jurisdictions, which are not always transparent. For example, in the case of chickens, the EU maintains high food and welfare standards. The US has lower standards and so for food safety they chlorinate chickens. One therefore has to be clear what trade-offs consumers are actually making. The same kind of thinking applies to GM foods. The other important area is enforcement. It requires strong action to ensure that consumers are protected irrespective of where an item has been purchased. EU law ensures this. It does not matter which EU country an item has been purchased in; the consumer can claim their money back if the goods are faulty.

28. She concluded by saying that she understood the valuable role that RPC plays in the scrutiny of regulations, including both business and societal impacts. This all makes for better regulation. She felt that RPC and Which could work together on better regulations. The Chair welcomed this offer.

g. Any other Business

29. There was no further business considered