Department for
Business & Trade

Growth Duty: Statutory Guidance - Refresh

Growth Duty: Statutory Guidance

Statutory Guidance under Section 110(1) of

The Deregulation Act 2015

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Introduction

Regulators play a vital role in shaping the UK economy by the way in which they regulate. Regulators set strategies and make decisions that significantly affect the types, the scale and the locations of economic activity in important sectors. Regulators can improve the attractiveness of their sector to investors, bringing new products to market by encouraging innovation and ensuring competition to deliver the best service to consumers. It is a regulator's responsibility to design rules that set a level playing field between businesses and to ensure adequate protections for consumers and the environment. The regulations and licence conditions established by regulators set out the frameworks for businesses to be able to buy and sell in any given sector.

The decisions regulators make can also set the parameters for economic activity across all the sectors of the economy. In our interconnected modern economy, efficiencies from regulating one sector better can translate into lower input costs through supply chains to businesses in other sectors and higher economic growth overall.

It is clear that regulators can affect growth through their policy decisions on matters such as who to grant licences to, or what technologies can be used in a given context. But regulators can also affect growth through the approach they take to regulation and the wider environment that they establish, including in their relationships with regulated businesses. A good regulatory environment emerging from the attentive and responsive stewardship of an effective regulator can create the conditions for business confidence and investment, sensible risk-taking and innovation.

We start from a strong foundation. Our regulators are already recognised worldwide as commanding respect for their technical expertise and diligent enforcement of reliable trustworthy regimes. But there is an opportunity for regulators to foster economic growth, become more speedy and agile in decision making and forward thinking to anticipate and facilitate change in response to new technologies or business models. Making the right key decisions and setting the right strategy is vital. Taking a proportionate approach is essential.

This guidance sets out how the regulators in scope of the Growth Duty can better support sustainable economic growth through the decisions they take and through the way that they regulate.

Overview of the Growth Duty

Section 108 of the Deregulation Act 2015 ("the Act") establishes that a person exercising a specified regulatory function must have regard to the desirability of promoting economic growth (the "Growth Duty"). In performing this duty, regulators must consider the importance of the promotion of economic growth and ensure any regulatory action they take is necessary and proportionate. The Growth Duty applies to regulatory functions specified by a Minister in an order made under section 109(1) of the Act.

The Growth Duty is one of a number of statutory measures that support improvements in the implementation and delivery of regulation. These measures include the Regulators' Code and the statutory principles of good regulation.

The Growth Duty does not legitimise non-compliance with other duties or objectives, and its purpose is not to achieve or pursue economic growth at the expense of necessary protections. Non-compliant activity or behaviour that undermines protections to the detriment of consumers, employees and the environment and needs to be appropriately dealt with by regulators. It also harms the interests of legitimate businesses that are working to comply with regulatory requirements, disrupting competition and acting as a disincentive to invest in compliance.

Economic Growth

Specified regulators should give appropriate consideration to the potential impact of their activities and their decisions on economic growth, for the wider UK economy, alongside or as part of their consideration of their other statutory duties. Having regard to the desirability of economic growth does not mean having 'less' regulation. When regulators act to protect consumers, employees and the environment using well designed proportionate regulation, this ensures sustainable economic growth.

In the context of this guidance and the Growth Duty, sustainable growth encompasses the desirability of economic growth within the economy of the United Kingdom in the medium to long term. Regulators in scope of the Growth Duty should therefore interpret economic growth broadly and not just within the sectors they directly regulate.

Scope

The Growth Duty applies to a person exercising a regulatory function specified by Order[1] by a Minister of the Crown (such persons are collectively referred to as "regulators" for the purposes of this guidance). The regulatory functions[2] that are specified for the purposes of the duty are, broadly, those of named regulators and certain regulatory functions exercisable by a Minister of the Crown.

The regulatory functions of local authorities are not specified for the purposes of the Growth Duty.

Regulators which exercise devolved (or in relation to Northern Ireland, transferred) functions are not covered by the Growth Duty. Where a regulator operates across more than one of the four nations of the UK, the Growth Duty only applies to their regulatory functions to the extent that the functions relate to reserved matters.

Regulatory functions are broadly defined[3] for the purposes of the Growth Duty as functions under or by virtue of an Act or subordinate legislation:

- of imposing requirements, restrictions, or conditions in relation to an activity;
- of setting standards or giving guidance in relation to an activity[4]; or
- relating to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards, or guidance which relate to an activity.

In the context of criminal proceedings by a regulator, the Growth Duty applies to all functions up to and including the decision to refer the case to a prosecutor to review whether criminal proceedings should be instigated. The functions of instituting or conducting criminal proceedings are excluded from the Growth Duty[5]. Similarly, the function of conducting civil proceedings is excluded from the Duty[6].

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[1] See The Economic Growth (Regulatory Functions) Order 2017 (S.I. 2017/267) as amended by the Economic Growth (Regulatory Functions) (Amendment) Order 2024 (S.I. 2024 No. 587) - https://www.legislation.gov.uk/uksi/2024/587/contents/made. In relation to Ofcom, Ofgem and Ofwat, the Growth Duty does not extend to the concurrent CMA powers held by Ofcom, Ofgem and Ofwat. Ofcom's regulatory functions under Part 3 of the Enterprise Act 2002 are also not in scope of the Growth Duty.

[2] For the purposes of the Growth Duty, schemes administered by a regulator on behalf of the government will usually be viewed as administrative rather than regulatory functions. For example, the schemes operated by Ofgem on behalf of government [as of 6th April 2024] are considered to fall outside the definition of "regulatory functions" at section 111 of the Act.

[3] Section 111(1) – (3) of the 2015 Act.

[4] Section 111(3) of the Act provides that an 'activity' includes providing goods and services and employing or offering employment to a person.

[5] Section 111(2)(b)(i) of the Act.

[6] Section 111(2)(b)(ii) of the Act

About the Guidance

This guidance is issued under section 110(1) of the Deregulation Act 2015 and should be read in conjunction with that Act. All those exercising specified regulatory functions to which the Growth Duty applies must have regard to this guidance. In accordance with section 110(5) of the Act, the Secretary of State has consulted the persons whose functions are specified in this Order and such other persons as the Secretary of State considered appropriate.

The guidance assists regulators in discharging their responsibilities under the Growth Duty. It also provides clarity for stakeholders as to what they should expect of regulators.

The requirement that regulators must have regard to the guidance means that regulators must consider the provisions of the guidance and give them due weight in determining how they will exercise their regulatory functions. They are not bound to follow a provision of the guidance in a particular case if they properly conclude that the provision is either not relevant or is outweighed by other considerations (for example if a regulatory initiative is already in the process of being implemented). However, the reasons for such a conclusion should be recorded.

This guidance outlines drivers of sustainable economic growth, supported by case-study examples, to provide clarity to regulators on the Growth Duty, the type of activities that could be considered in promoting economic growth, and ensure that regulators can clearly assess the impacts of their work on growth.

This guidance concerns the performance of the Growth Duty in section 108 of the Act and sets out ways in which regulators can exercise their regulatory functions in accordance with the Growth Duty by:

- Identifying drivers of sustainable economic growth to provide clarity and assist regulators to define their own sector-specific approach to defining and delivering growth.

- Outlining behaviours that contribute to good regulatory decision making and smarter regulation.

Terminology

The term regulator is used in this guidance to cover any person exercising a specified regulatory function, meaning both an organisation acting within scope of the Growth Duty and an officer or officers acting on behalf of that organisation in exercising a specified regulatory function.

The term sustainable economic growth is used in the guidance. The expectations behind this are set out in the *Economic Growth* section at page 4 of the Introduction.

Balancing Duties and Decision Making

The Growth Duty establishes economic growth as a factor that all specified regulators should have regard to in making strategic level decisions, alongside or as part of the delivery of their other regulations, duties, and protections as set out in the relevant legislation.

Overall, a well-protected and healthy population and environment leads to higher productivity and growth, and therefore in many cases there is no tension between a regulator's protection duties and the Growth Duty. Furthermore, a primary role for many regulators is to protect consumers against unfair practices and to promote safety. Protections generate consumer confidence to try new products, businesses and services further contributing to growth. Consumers are therefore essential for promoting economic growth through stimulating competition. Regulatory protections can also provide for a safe and functioning marketplace that is attractive to businesses and investors.

An effective regulator will set a strategy that strikes the right balance between competing pressures or duties, informed by an understanding of what approach might best support sustainable growth. There may be instances where a regulator has considered growth and reached a view that other duties or objectives may take precedence. This guidance therefore assists regulators in how to consider the importance of economic factors and fulfil the Growth Duty. Regulators are independent and are experienced and best placed to balance their own decision-making on duties. Decisions on growth will involve a consideration of a regulator's other duties, for example relating to environmental or consumer protection (such as online safety), and there may be a need to balance multiple objectives.

The purpose of the Growth Duty is to ensure that specified regulators give appropriate consideration to the potential impact of their activities and their decisions on economic growth, for the wider UK economy, alongside or as part of their consideration of their other statutory duties.

Non-compliant activity or behaviour undermines protections to the detriment of consumers, employees and the environment and needs to be appropriately dealt with by regulators. It also harms the interests of legitimate businesses that are working to comply with regulatory requirements, disrupting competition and acting as a disincentive to invest in compliance.

The Growth Duty can empower better decisions. Under the Growth Duty regulators can exercise their regulatory functions whilst having regard to the desirability to promote economic growth. There may be occasions where a regulator is empowered through the Growth Duty to consider other areas that may not be reflected, or may only be partly reflected, in their other duties. For example, guidance below indicates that promoting innovation or supporting trade are actions that promote economic growth. A regulator can therefore use this when taking a key strategic-level decision to choose a more innovative or trade-friendly option which would otherwise have been discounted.

Structure of this Guidance

Part 1: Drivers of Economic Growth – decisions on what is regulated

As set out in the Introduction, regulators can affect growth through their **decisions and strategies on what is regulated**. This can take many forms, but the regulator's rulebook, or licence conditions, or case-by-case approval decisions are the most common ways that regulators regulate. The policy decisions reflected in these have a major impact on the nature of economic activity, in the first instance within the regulator's sector, but also for the whole UK economy given the interconnectedness of businesses and individuals.

When taking major strategic decisions on what is regulated, a regulator should have due regard to the desirability of promoting economic growth. Regulators are experts in the contexts of their own sectors and thus are best placed to consider how this is best done. But to help regulators do this, this Guidance identifies **7 Drivers of Economic Growth.** The listed Drivers of Growth are not intended to be exhaustive, and regulators may identify other valid factors for consideration in meeting the duty.

The Drivers of Growth are the first section of this Guidance.

Part 2: Behaviours of Smarter Regulation – the approach to regulating

Regulators can also affect growth through their **approach to how they regulate**. Higher economic growth can be achieved in sectors where the behaviour of the regulator itself is pro-growth. Regulators can approach regulation in a pro-growth way in many forms, but this could include adopting best practice on how to support innovation, or minimising compliance burdens. Regulators who use a pro-growth approach to regulation facilitate a good regulatory environment that creates the conditions for business confidence and investment, sensible risk-taking and innovation.

When carrying out their regulatory functions, a regulator should have due regard to the desirability of promoting economic growth. Regulatory functions are shaped and informed by the way a regulator engages with issues such as innovation, efficiency, an international context, and the staff skills and capacity that the regulator has. As part of this, this Guidance identifies **7 Behaviours of Smarter Regulation.** The listed Behaviours of Smarter Regulation are not intended to be exhaustive, and regulators may identify other valid factors for consideration in meeting the duty.

The Behaviours of Smarter Regulation are the second section of this Guidance.

Drivers of Economic Growth

‘Sustainable economic growth’ ensures that current-day economic growth can be achieved without undermining the ability of future growth[7]. There are multiple key drivers of sustainable economic growth. The following section of this guidance outlines relevant Drivers to provide regulators with a basis upon which they can clearly consider the impact of their work on growth across sectors they operate in.

The Drivers can have a collective and mutually reinforcing impacts on delivering growth. In many cases a regulator’s decision or strategy that aims to improve one Driver may also improve another Driver directly or indirectly.

Regulators operate across a diverse range sectors and businesses. Not all Drivers of Economic Growth will be applicable to every regulator, and not all Drivers will be relevant for any individual decision or policy choice. Regulators should consider Drivers that are most applicable to their activities.

Regulators should have regard to medium and long-term growth by ensuring that key policy decisions and strategic choices are informed by consideration of key Drivers of Economic Growth, which may include but is not limited to the following:

1. Innovation
2. Infrastructure and investment
3. Competition
4. Skills
5. Efficiency and Productivity
6. Trade
7. Environmental Sustainability

These Drivers are not placed in any order of priority or preference. In addition, regulators may also consider other aspects of economic growth, or other objectives that relate to economic growth, such as the desirability to foster regional growth or support SME development.

[7] The UN has defined sustainability as “meeting the needs of the present without compromising on the ability of future generations to meet their own needs.” (United Nations, Brundtland Commission 1987)

Driver 1: Innovation

Innovation is a key driver of sustainable economic growth, through the development of new ideas, products and processes and their adoption and diffusion across the economy. Building and maintaining a strong modern economy relies on innovation, it is also central to overcoming the world's largest challenges for example future pandemics and meting climate goals. Investment in science, technology and innovation is more important than ever, science and technology will be a major driver of the of prosperity in the country. This is why the 'regulation and standards' strand of the UK Science and Technology Framework[8] sets a vision is that regulation is pro-innovation, stimulates demand for science and technology, and attracts investment while representing the UK values and safeguarding citizens.

Innovation can drive economic sustainable growth by increasing access to resources such as renewable energy sources. It improves competitiveness through the creation of new products and services. Higher productivity is achieved through innovation as more goods and services are produced. Innovation promotes the adaptability and the ability to respond to challenges quickly.

Regulation can alter market conditions, set standards and constraints, and establish incentives. Ultimately regulators have a pivotal role, often being at the forefront of striking the right balance between risk and openness to change.

Indicators that a regulator sets regulatory policy that supports innovation may include:

- Application- focusing on regulating the application of a technology rather than the technology itself.
- Regulating a new area of technology or business model or area of market activity.
- Updating existing rules to remove any unnecessary impediments to innovation.
- Investing in research and development.
- Adjusting to the growing presence and applicability of AI. [9]

[8] https://www.gov.uk/government/publications/uk-science-and-technology-framework.

[9] This may include considering how AI is affecting activities that are covered by a regulator. A regulator should be following rules or guidance relating to AI, At time of publication, this would include, consideration of five AI Principles outlined in the AI White Paper. https://www.gov.uk/government/publications/ai-regulation-a-pro-innovation-approach

Driver 2: Infrastructure and Investment

High quality and efficient infrastructure play a vital role in supporting a competitive and growing economy by providing services upon which businesses and citizens depend.

Investment in modern, climate compatible and clean infrastructure is a key factor for sustainable economic growth, especially in sectors that have suffered from chronic underinvestment. Simply investing in infrastructure is insufficient. To have the greatest impact on stimulating economic growth, in both the short- and long-term, infrastructure should be sustainable, resilient and inclusive.

Investing in infrastructure can provide a short-term demand stimulus to the economy, and in the long term, it also forms an important part of a successful economic growth strategy.

Well-designed infrastructure facilitates economies of scale, reduces costs of trade, and is central to the efficient production and consumption of goods and services. In turn, this reduces the cost of delivered goods, facilitates the physical mobility of people and products, remove productivity constraints, and increase competitiveness.

Indicators that a regulator sets regulatory policy that supports infrastructure and investment may include:

- Removing regulatory barriers to investments and the building of infrastructure.
- Reducing regulatory complexity, e.g. in price reviews for economic regulators to encourage greater investment.
- Making regulatory decisions in a timely manner, to minimise uncertainty and costs associated with what are often long infrastructure investments lead times.
- Developing long-term infrastructure plans and assessments or taking policy decisions that contribute to UK or sector-specific infrastructure strategies.
- Ensuring that infrastructure services are delivered efficiently, where competition alone is unable to achieve this outcome.

Driver 3: Competition

Competition can deliver better outcomes for consumers, by incentivising industries to provide better services at the lowest costs to attract customers from their rivals. Competition encourages technological advancement and innovation; companies compete with one another to deliver the best services and products. There is a strong case for regulation containing a clear competition dimension. Competition often leads to innovation, can act as a catalyst for productivity growth and is the main source of increases in standards of living.

Competitiveness motivates businesses to boost their productivity, allocate resources to innovation, research, and development, and enhance the quality of their products. Competition between firms therefore leads to increased productivity and is essential to growth.

Policies that lead to markets operating more competitively, such as enforcement of competition law and removal of regulations that hinder competition, can result in faster economic growth.

The nature of competition differs between sectors, which changes the nature of how competition is introduced in the market for certain industries.

Where there is scope for competition in the market, regulation should not unduly cause a barrier to market entry. Improper and convoluted regulation, or overzealous application of regulation can provide a barrier to competition, and growth.

Competition and regulation have similar market goals to prevent the illegitimate acquisition and exercise of market power, and to facilitate the effective allocation of resources. Where unrestricted competition is unlikely to achieve this, regulation is generally accepted as a means to achieving this outcome.

Indicators that a regulator sets regulatory policy that supports competition may include:

- Use Smart Data Regulation and similar approaches to open markets to new entrants. Smart data and approaches like quality star ratings can make it easier for a customer to compare the price and quality of suppliers, and make it easier to switch to an alternative supplier.
- Implementation – identification of measures that impede the ability of businesses to compete and grow based on efficiency and innovation.

- Consistency – application of rules and policies are adopted and/or maintained with the minimum distortion to competition.
- Reducing barriers to entry – to enable new products and services to enter the market by the regulator removing unnecessary restrictions that are preventing competition.
- Changing rules or other regulatory levers to help to level a playing field where justified competition should be occurring.

Case Study Example: Ofwat stocktake

In July 2022 Ofwat published a high level stocktake identifying opportunities and barriers to unlocking more competition in strategic investment in England. Ofwat currently uses two competitive delivery models for these projects. A licensed model called the Specified Infrastructure Project Regulations (SIPR), and a contracting model, Direct Procurement for Customers (DPC).

The stocktake showed that greater use of DPC could save customers between 6-40%, equating to saving of between £200m and £2bn on a hypothetical infrastructure investment of £5bn. The SIPR model, (used for the Thames Tideway Tunnel), is estimated to reduce consumer bills by c.£50 a year, relative to if the incumbent had delivered the project. Facilitating greater use of both competitive delivery models could therefore lead to substantive savings.

18 large scale infrastructure projects are planned in the water sector in the next decade. Through enabling a greater proportion of these projects to be delivered through the DPC and SIPR commercial frameworks, there is potential to significantly reduce the infrastructure delivery costs.

Driver 4: Skills

High quality education and skills training play a vital role in sustaining productivity growth and international competitiveness. Enhancing the skills of the workforce is crucial for the country's economic growth and improved productivity in the workplace.

Development of skills leads to structural transformation and growth by enhancing employability, labour productivity and helping competitiveness. Skills increase productivity by expanding an individual's economic capabilities. Economic prosperity of a country depends on how many people are in work and their productivity in the workforce[10]. A skilled workforce leads to the ability to compete in markets. Access to a skilled workforce plays a key role in where businesses decide to invest. Supplying businesses with the skills they need for the future economy will be an integral part to drive longer term growth.

Regulators should consider where their regulatory policy could improve skills. Regulators should consider whether they are best placed to address skills in their sectors, and whether it is appropriate for regulators to increase regulations (e.g. training standards) to boost skills if this could come at a cost to other parts of the economy.

Indicators that a regulator sets regulatory policy that supports enhancing skills may include:

• Building awareness of the wider skills context and policy environment.

• Upskilling professionals and future workers, e.g. through engagements, formal education and training and work experience placements.

Case Study Example: Civil Aviation Authority – Upskilling workers and future professionals

Civil Aviation Authority (CAA), Skills and STEM: The CAA have held virtual and face to face events to support young people across a range of the CAA's capability areas. A record number of engagements took place in 2022 including The Big Bang digital, involving 25,225 young people. A Primary Engineer competition involved 33,076 pupils from 330 schools submitting 22,480 entries. The CAA also hosted Careers events for University of West London, Stansted Airport College, STE

[10] Chartered Institute of Personnel and Development.

Mette's mentoring programme. The following events were also supported; Farnborough, The Royal International Air Tattoo, Women's World Gliding Championships, Armchair Air Show, Royal Airforce Cadets and the Jon Egging Trust.

Case Study Example: Civil Aviation Authority – Upskilling workers and future professionals

Civil Aviation Authority (CAA), Education and training: In partnership with Cranfield University, CAA has developed and delivered an MSc in Aviation Risk and Safety Management. The MSc is also offered as a Level 7 Apprenticeship programme. This is the first MSc offered by Cranfield University which is provided as a full virtual offering.

Working in partnership with ICAO and on behalf of the Department for Transport, CAA has developed a number of training courses and delivered over 104 bespoke and 120 open access course titles. The total number of delegates for 2022-2023 for all open, bespoke, e-learning and training project courses was 3825, with 175 internal delegates.

Driver 5: Efficiency and Productivity

Productivity measures output per unit of input, such as labour, capital, or other resources. The UK's ability to improve its standard of living heavily depends on its ability to raise its output per worker (i.e., producing more goods and services for a given number of hours of work). When productivity fails to grow significantly, it limits potential gains in wages, corporate profits, and living standards.

Productivity gains reflect the ability to produce more output by better combining inputs, owing to new ideas, technological breakthroughs and augmented business models. These transform the production of goods and services, fostering economic growth and rising living standards and well-being.

Productivity is, in part, the product of the other Drivers of Economic Growth. However, in a regulator context, efficiency and productivity is a particularly central concern, recognising the importance of proportionality.

A proportionate regulatory approach is one which requires a regulated business to meet the minimum requirements necessary to deliver assurance to meet the regulator's responsibilities for ensuring safety, environmental compliance, etc. A disproportionate approach, conversely, goes far beyond what is necessary and can stifle productivity as it ties up business and regulator's time and resources that could be more productively deployed elsewhere.

Indicators that a regulator sets regulatory policy that supports efficiency and productivity may include:

- Speed of decision making – where a product or service is already authorised by a counterpart regulator in another country faster decision making should be considered.
- Taking proportionate authorisations: Consideration of the associated compliance costs for businesses in licensing and permitting. Regulators should ensure that requirements are proportionate and used only when necessary, that associated costs are minimal and positive impacts are maximised. This may include streamlining application and renewal processes and providing clear guidance on them; collaboration with others who operate related authorisations to ensure a consistent approach.
- Compliance support through simple, clear and timely guidance and advice can provide businesses with clarity and certainty, minimising the cost to them of complying with regulatory requirements. This may include publishing clear,

robust compliance guidance in areas where the regulator has evidence that this is needed; making available tailored compliance advice for those businesses whose needs are not met by the regulator's existing standards and guidance; working with other regulators to ensure that guidance and advice is consistent and streamlined.

- Minimising costs of interventions: Regulators may intervene to conduct checks on businesses with a view to securing compliance, such as by inspection. The way interventions are conducted will influence the degree to which costs are incurred by the businesses. A regulator may, if appropriate, minimise costs by recognising where a business has established its own compliance system or participates in a wider compliance scheme and has regard to this in conducting its interventions; providing timely feedback on interventions; collaborating with others to improve efficiency and streamlining of interventions and minimise duplication.

Case Study Example: Health and Safety Executive: simplifying guidance for businesses

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 has in the past led to confusion and uncertainty about responsibilities under the law, with 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 redesigned part of its website to develop accessible, simple Health and Safety guidance. 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 web pages cover 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.

Driver 6: Trade

Increasing trade supports higher economic growth. Increasing exports expands production in our most competitive industries and products, which raises UK incomes. Shifting production to the most competitive areas of the economy helps raise the productivity of the average worker and through that the income they earn. With the ability to serve a global market, investment is encouraged in expanding export sectors and the rising scale of output helps lower average production costs. Higher imports increase consumer choice and help keep prices low, raising the purchasing power for consumers. Imports also provide high quality inputs for businesses helping companies become or remain highly competitive in both domestic and foreign markets.

Regulators can affect trade through their regulatory policy. Even where a regulator is ostensibly domestic, adopting a compatible approach to regulation as international counterparts could help encourage beneficial investment and competition from foreign-owned companies in the UK.

Where relevant, regulators should also consider the desirability of a coherent UK internal market for economic growth and seek regulatory policy that minimises any internal UK barriers.

Indicators that a regulator sets regulatory policy that supports trade may include:

- Designing or re-designing rules to match or be compatible to the rules of a counterpart regulator in a potential trade partner country.
- Designing or re-designing rules to adopt commonly used international approaches or international standards that will be easily recognised and readily understood by international businesses seeking to invest in the UK.
- Concluding Mutual Recognition Agreements with counterpart foreign regulators.

Driver 7: Environmental Sustainability

Natural capital and the ecosystems in which we live are fundamental to economic growth, and therefore need to be safeguarded for economic growth to be sustained. Environmental assets can help in managing risks to economic and social activity, and so valuing the condition of natural assets and resilience is a key factor in sustaining economic growth for the longer term. A resilient and prosperous society depends on the availability of natural resources and a healthy environment.

Government is committed to Net Zero and Environmental targets from the Climate Change Act 2008 and The Environment Act 2021. A credible policy path for a Net Zero transition is vital to reduce uncertainty and enable economic agents to react smoothly and appropriately[11]. Demand for environmental sustainability also has a key role in driving economic growth for green technologies.

Indicators of that a regulator sets a regulatory policy to support sustainable economic growth while continuing to consider environmental sustainability may include:

- Assessing the impact of environmental policies and plans on economic growth and how environmental commitments can be reached most efficiently to help identify improvements in processes, resource efficiencies and best practice.
- Setting sector-relevant incentives and advising on efficiency targets to reduce business costs.
- Reporting on the sustainability performance of industry for example investment in sustainable technologies and investing in research and development of resource-efficient products and processes.
- Enhancing capabilities and skills on sustainability within the regulatory environment to support sustainable economic growth and investment.
- Adopting policies that prioritise long term sustainable economic growth over short term activity that causes unacceptable environmental harm and may inhibit future economic growth.

[11] https://www.bankofengland.co.uk/quarterly-bulletin/2022/2022-q4/climate-change-possible-macroeconomic-implications

Behaviours of Smarter Regulation

Effective and consistent regulation is key for providing stable, transparent, and predictable regulatory environment for businesses and investors.

The best examples of effective decisions (e.g. licences approvals etc) come from those regulators that also take a positive approach to the way in which they regulate. A regulator is much more likely to set the right strategy, or make the right approval decision, if that regulator has a thorough understanding of its regulatory environment and a proactive attitude.

In terms of promoting economic growth, to support regulators understand and engage in their regulatory environment, this Guidance identifies 7 Behaviours of Smarter Regulation that relate to growth. A regulator that adopts the Behaviours will likely make better decisions, and importantly, will help to create a positive regulatory environment that creates the conditions for business confidence and investment, sensible risk-taking and innovation.

Regulators should be able to adopt the Behaviours set out below, although some Behaviours will be more relevant to certain regulators than to others. The Behaviours are broad to enable regulators demonstrate good practice against them. The Behaviours can have a collective and mutually reinforcing impacts on delivering growth. In many cases a regulator's approach that aims to improve one Behaviour may also improve another Behaviour directly or indirectly.

Regulators should have regard to medium and long-term growth by ensuring that they exhibit the Behaviours of Smarter Regulation, which may include but is not limited to the following:

1. Pro-Innovation
2. Skilled and Capable
3. Business Aware
4. Proportionate, Efficient and Responsive
5. Collaborative
6. Internationally Aware
7. Consistent, Transparent and Accountable

These Behaviours are not placed in any order of priority or preference.

Behaviour 1: Pro-Innovation

The importance of innovation, and the pivotal role of regulators in relation to innovation is outlined earlier in this Guidance.

Regulators can approach regulation in a pro-innovation manner by adopting anticipatory and agile governance for emerging technology or new disruptive business processes.

Indicators that a regulator is acting in a pro-innovation manner may include:

- Application – focusing on regulating the application of a technology rather than the technology itself.
- Engaging – at an early stage (‘upstream’) with innovators to understand the enablers of commercial success and the role of regulation.
- Collaboration – adopting collaborative approaches to overcome fragmentation of regulatory remits and provide guidance on issues that straddle different regulatory boundaries.
- Participating in cross-regulator and cross-government regulation innovation forums with a view to agreeing clear, straightforward guidance that meets the needs of businesses.
- Publishing clear, robust compliance guidance in emerging areas the regulator has evidenced that this is needed.
- Experimental approaches – demonstratable use of experimental approaches (e.g., through sandboxing, including multi-regulator sandboxes) to help position the UK as a ‘first mover’ in shaping the regulation or standards for early-stage technologies.
- Enacting policy changes as a result of findings from sandbox/innovation services.
- Other experimental approaches can include running an advice/guidance centre or innovation hub, horizon scans, published guidance on regulation to provide clarity where this is needed, roadmaps for the regulator’s stages for emerging technologies, offering fast track approval pathways, or innovation

pathways, having an innovation executive committee as part of senior governance.

Case Study Example: Ofgem's Regulatory Sandbox helps innovators trial or bring to market new products, services, business models and methodologies without some of the usual rules applying.

London Power Networks plc/ Eastern Power Networks plc (LPN and EPN respectively) is trialling a new price discovery methodology for facilitating investment in on-street electric vehicle (EV) charge point infrastructure, where reinforcement costs may be a barrier to deployment. Funded through its Network Innovation Allowance, the trial will happen in Cambridge, Norwich and Redbridge and should enable higher EV take-up for those without access to off-street parking. The trial is currently underway, with the evaluation report due in May 2024. (Ofgem website)

Behaviour 2: Skilled and Capable

Regulators need to have an appropriate level of understanding of the business environment, of the role that regulation and the activities of regulators play in that environment, of their own business technical requirements, and of individual businesses that they regulate. This understanding will inform their approach when they exercise their regulatory functions, allowing them to discharge their responsibilities properly and effectively in respect of the Growth Duty.

Indicators may include:

- Incorporating an understanding of business into staff competency and development, recruitment, induction programmes, training, performance management, and the regular sharing of relevant information and good practices.
- Regulators placing greater importance on regulatory business environment knowledge, with officers being aware of the current economic, and overall economic social and technological factors in which businesses are operating, as well as awareness of the business life cycle and the key indicators to growth through training session.
- Encouraging officers to have an understanding of how a regulator's approach to delivering regulation, and the individual actions a regulator takes, impact on businesses generally, and on business growth, including both economic impacts and indirect impacts.
- Regular training sessions and reflections on how regulation impacts on growth in both positive and negative ways and can create a more dynamic business environment.
- Incorporating an understanding of business into recruitment considerations, induction programmes and early training
- Sharing business support mechanisms that are available, including online resources, sandboxes, innovation hubs and government initiatives to support businesses.
- Supporting improvements in business understanding through the provision of staff development and training.

Behaviour 3: Business Aware

Regulation is one of the many factors that shape the business environment. Regulators need to have understanding of the business environment, of the role that regulation and the activities of regulators play in that environment, of their own business community, and of individual businesses that they regulate.

It is important that regulators have awareness of current economic environment including social and technological factors likely to drive change and how regulation impacts growth. Regulators should also ensure a good understanding of how individual businesses achieve compliance and the reasons for these. This will enable them to regulate in a cost-effective way and understand what businesses needs from the regulator for example clarity and guidance.

Businesses are best placed to understand the sectors in which they operate. Businesses are constantly adjusting, innovating, and working to achieve their goals. This ensures that businesses have the most detailed and up to date understanding of the challenges to their sector. It is therefore essential for regulators to engage with businesses and stakeholders, to understand the challenges they are facing and to understand the opportunities which existing data does not demonstrate.

Indicators may include:

- Knowledge of how a regulator's approach to delivering regulation, and the individual actions that a regulator takes, impact on businesses generally, and on business growth; including both direct economic impacts and indirect impacts;
- Ongoing engagement with the business community to understand any economic impacts and perceived impacts of the regulator's current approach to delivering regulation; proposed changes to the regulator's approach;
- Providing mechanisms for businesses to easily provide feedback on their interactions with the regulator.[12]

[12] The Regulators' Code (provision 2) sets out specific provisions in relation to feedback and complaints.

Behaviour 4: Proportionate, Efficient and Responsive

The Better Regulation Framework (BRF) published in September 2023[13] provides the right system to ensure the future regulation of our changing economy is streamlined, recognises dynamic factors not just immediate compliance costs, and puts smart, forward-looking regulation at the heart of government decisions. Where an independent regulator makes its own Regulatory Provisions[14] it is recommended that the regulator follows the BRF where possible, whilst avoiding duplication when there is a separate process in place that considers better regulation issues. This section outlines how regulators could ensure a proportionate, efficient and responsive approach, in line with the BRF.

Regulators should consider the regular review and streamlining of their rules to ensure they are fit for purpose, responsive to emerging issues and an evolving regulatory environment. Regulators should seek to provide services in a way that meets identified business needs and maximises cost effective delivery. This involves assessing what the perceived regulatory barriers are at each stage of the product lifecycle and putting in place measures to minimise such burdens. When a regulator runs a quick process with minimal inputs and compliance burdens for a business, that frees up businesses to use the time and money they would otherwise spend with the regulator instead to put to more productive uses, leading to lower operating costs, driving profits and investments. With less time and money on regulatory compliance, businesses can redirect resources toward more productive activities such as innovation, expansion and job creation. Lower compliance costs can potentially lead to more competitive pricing and improved product or service quality, benefiting consumers and driving increased demand. Regulators should adopt an agile and flexible approach to reach pro economic outcomes. Regulators should consider the findings of the Cabinet Office public bodies review programme in their pursuit of efficiency, and the specific functions of the review of the cross-cutting functions and operation of spend controls.[15,16]

Section 108(2)(b) of the Act provides that in exercising a regulatory function[17], regulators must, in particular, consider the importance of ensuring any regulatory action is necessary and proportionate.

[13] https://www.gov.uk/government/publications/better-regulation-framework.
[14] The Better Regulation Framework applies to Regulatory Provisions as defined in Chapter 2.
[15] Guidance on the undertaking of Reviews of Public Bodies.
[16] Review of the cross-cutting functions and the operation of spend controls - GOV.UK (www.gov.uk)
[17] Regulatory functions subject to the Growth Duty are specified in the Economic Growth (Regulatory Functions) Order 2017 (S.I. 2017/267) as amended by the Economic Growth (Regulatory Functions) (Amendment) Order 2024 (S.I. XXX).

Regulatory action should be taken only when needed. Regulators have a range of interventions at their disposal when responding to non-compliance, from incentives and support compliance to those intended to tackle the most serious or persistent non-compliance. In some circumstances the matter may be referred to an organisation, such as another regulator, that is better suited to dealing with it. Enforcement action is sometimes necessary to protect human health or the environment, but certain enforcement actions, and other activities of the regulator, can be particularly damaging to the growth. These include, for example, enforcement actions that limit or prevent a business from operating; financial sanctions; and publicity, in relation to a compliance failure, that harms public confidence. Regulators should ensure enforcement policy sets out clearly the hierarchy of their enforcement actions and the factors that guide their use, so that their interventions are deployed in a proportionate manner on a day-to-day basis.

Indicators may include:

- Consideration of reviews to streamline, relax, revoke or remove rules.
- Consideration of steps to minimise the requirements, restrictions and conditions, and the frequency of changes to them, recognising that such changes incur costs for businesses.
- Offering streamlined decision making and approval processes with clearly defined published timelines.
- Ensuring understanding of the steps taken by the business to achieve regulatory compliance and any clear reasons for the failure.
- Willingness and ability of the business to address the non-compliance.
- Likely impact of the proposed intervention on the business, and the wider business community both in terms of remedying and deterring the non-compliance and in terms of economic costs and benefits to businesses.

Where a business fails to comply with regulatory requirements regulators may be able, to ensure that the costs associated with remedying the non-compliance are reduced to the minimum necessary.

Indicators of ensuring proportionate costs may include:

- The regulator discussing with the business the non-compliance and potential reasons for it, in order to be able to provide the best guidance and advice on sustainable solutions.

- The regulator considering the business' own approach to delivering compliance, including establishing whether this is based on advice or guidance that the business has received.
- The regulator explaining clearly to the business what compliance would look like in the business' context and acknowledges where there might be different ways of delivering compliance, recognising that these might incur different costs for the business.
- The regulator clearly explaining the potential consequences of non-compliance and reasonable timescales for remedy.
- The regulator communicating any decision to take enforcement action to the business clearly and promptly and provides a timely explanation of the business' right to appeal.

Regulators should ensure that enforcement action is always proportionate and considers the needs of businesses. In particular, businesses that are in the 'start-up' period, for example, require a specific style of intervention to enable them to meet the particular challenges that they experience in achieving compliance in all areas, whilst becoming established in their business. A regulator's response to identified non-compliance by start-up businesses should recognise these challenges.

This Guidance also sets out expectations in this important topic.

Time targets and fast-track service:

- Regulators are encouraged to consider the merits of setting targets (where permitted by law) on the length of time in which they expect to make a decision on business applications, for approval. These time targets are at the discretion of regulators and could be publicly communicated. Regulators could monitor and record their percentage delivery against these targets, and publicly report on these.

- In addition, regulators are encouraged to consider whether there would be merit in offering fast-track services for businesses that provide appropriate evidence of relevant approvals from regulators in other jurisdictions, where permitted by law. These fast-tracks would be delivered in such a way that does not lower performance against the time targets above.

- It is at the discretion of the regulator as to what constitutes the threshold for appropriate international evidence (as well as considering relevant legal requirements). As part of the process of considering whether they can offer fast-track services, regulators may want to take into account how they would finance these services including whether they have the necessary powers to charge.

- Where regulators have a range of time targets across different types of approvals, they should consider how best to measure overall performance. One option may be to also report a single summary measure, such as weighted average of performance against the individual targets.

The Productivity Lock:

- Regulators, like businesses, benefit from productivity growth in the UK at large; whether it be through innovation, adoption of new technological advancements, the use of RegTech, more efficient processes or increasingly skilled workers. The Productivity Lock sets an expectation (which regulators are encouraged to report against) that they should deliver year-on-year improvement in their productivity, for example through faster approval times or equivalent measures where the regulator can show that approval times would not be the best metric. Government's view is that regulators' productivity should increase in line with wider cross-economy productivity growth. In the same way that businesses deliver efficiency and productivity ever year, regulators should do also. The more productive and efficient regulators are by setting standards to do things at pace, the better it is for quicker regulatory decision making and, ultimately, for growth in their sectors and the whole economy.

- Regulators remain responsible for making good regulatory decisions informed by thorough and robust processes. Targets should be met by improving productivity and not by cutting corners.

- Approval times (or equivalent measures) are excluded from the expectation of year-on-year improvements in performance where Parliament (via statute or elsewhere) has set out timelines or similar that would prevent the approach.

Behaviour 5: Collaborative

Collaboration can help streamline the regulatory process, reducing the time and resources required for regulators to operate and for businesses to comply. By working together, different regulators can share information and avoid duplicating efforts, ensuring the process of regulation provides for an efficient use of resources.

Indicators might include:

- Knowledge of other national regulators that regulate the business community, particularly where these regulators may have complementary areas of responsibility.
- Knowledge of other public sector bodies that have a relevant monitoring role in respect of the business community.
- Working with other regulators to ensure that guidance and advice is consistent and streamlined.
- Involvement in Cross- Government forums.

Behaviour 6: Internationally Aware

International cooperation is a key to enhancing the quality and impact of domestic regulation. Collaboration with international governments, regulators and international organisations can help to identify opportunities to increase cross-border regulatory alignment when in the UK's interest. This can support the reduction of unnecessary non-tariff barriers for businesses, resulting in greater trade and investment, the sharing of ideas and fostering of technological innovation, helping to establish the right regulatory environment for UK businesses, alongside creating jobs and supporting economic growth.

The International Regulatory Cooperation (IRC) toolkit is aimed at both UK government officials and industry regulators who work on the design, monitoring, enforcement, and review of regulation.[18] It acts as a reference guide by providing a series of prompts to ensure a more systematic consideration of the international environment when working on regulation.

Indicators could include:

- Understanding of international best practice, this could include identifying successes in other jurisdictions for regulatory reform and innovation or looking at performance metrics.
- Aligning with and influencing regulatory standards and practices with international norms and standards wherever conducive to sustainable economic growth.
- Benchmarking regulatory processes, procedures and outcomes to other leading international regulators.
- Engage with international stakeholders, including industry experts, consumer advocates and international organisations to gather diverse perspectives and insight to drive growth and regulatory performance.
- Embrace technological advancements used by global regulators to enhance regulatory efficiency, such as data analytics, AI, and regulatory technology.
- Invest in training and development of regulatory officers to ensure they have the right skills and knowledge to excel in a global regulatory landscape.
- Regularly assess and prioritise emerging global risks and trends to proactively address potential challenges and opportunities.

[18] https://www.gov.uk/government/publications/international-regulatory-cooperation-toolkit

Behaviour 7: Consistent, Transparent and Accountable

Section 21 of the Legislative and Regulatory Reform Act 2006 states regulatory activities should be delivered out in a way which is transparent, accountable, proportionate, and consistent. The principles apply to regulatory functions specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 (as amended).

An appropriate level of consistency and predictability helps to sustain stability and confidence for investors and stakeholders. Consistency is especially important in regulatory decision making for complex judgements. Regulators should ensure they are transparent about how they have had regard to the desirability of promoting economic growth across their activities. This will ensure that those they regulate, government, and others with an interest in the regulation are able to hold the regulator accountable.

Indicators that a regulator is acting in a consistent, transparent and accountable manner may include:

- The regulator explains their approach to promoting economic growth, including in relation to promoting and supporting business innovation, and sets out what businesses and others can expect from them in relation to the Growth Duty.
- The regulator engages with their business community, consulting publicly where appropriate, on proposed changes to their policy or practices which may have a significant economic impact on businesses they regulate, and publishes the results of any consultations.
- The regulator publishes any assessments that they undertake the impacts that they have on their business community. For example, assessments of where and how their current approaches impact on their business community and the likely impacts of proposed changes to their approach
- Clear and consistent overall approach to regulating and intervention that is understood by stakeholders.
- A stable environment for investment and stakeholders that is reflected in plans and regulation.
- Rationale for changes are clearly and timely communicated when rapid changes have occurred.
- Consistent evaluation to ensure regulators are meeting their aims.

- Regulators are invited to incorporate information published to meet the provisions of this guidance into existing publications, such as their annual reports, service standards, and consultation responses. (See section on reporting on the Growth Duty).
- Good record keeping of their decisions and the reasons for them. In doing so, they should record where the duty to have regard to the desirability of economic growth and the provisions of this guidance were relevant to their decisions and where, having regard to all the circumstances, those matters were not relevant or were outweighed by other considerations.

Reporting on the Growth Duty

The Government has published this guidance under section 110(1) of the Act, and this statutory guidance sets a template for how regulators can help support economic growth.

Separately, the Government also wants to encourage regulators to report on actions that they have taken under the Growth Duty with sufficient due regard to the drivers of growth and behaviours that contribute to good decision making and in line with this guidance. However, this is on a voluntary basis. The reporting framework that regulators are encouraged to use does not form part of this statutory guidance, although it **will** build on the substance within this guidance. **The reporting framework will be published separately.**

Reporting pro-growth activities provides regulators with an opportunity to showcase and evidence pro-growth activity, providing accountability and transparency on activities to stakeholders.

The Civil Aviation Authority (CAA) have been voluntarily reporting on the Growth Duty since 2020 and provides a helpful case study on the approach to reporting.

Case Study Example: The Civil Aviation Authority (CAA)

"The CAA enacts the Growth Duty in the context of its wider 'Better Regulation' approach ensuring that its regulatory decisions demonstrate transparently how the CAA has had regard to economic growth. Safety and security remain the CAA's primary duties and the Growth Duty is considered alongside other duties not instead or at the expense of other protections. The Growth Duty also informs the design and delivery of our corporate Strategy as well as our Regulatory Principles"

The Growth Duty is seen as a route to demonstrate the CAA's impact on the economy. The regulator started reporting against the Growth Duty from 2020, and reporting was accompanied by a regulatory approach programme.

The CAA has taken a varied approach to reporting: In 2021 and 2022, reporting was published as part of their Annual Report and included in report annexes. In 2023, the CAA published a stand-alone report, to increase accessibility and transparency.

Reporting is largely qualitative, and structured around the CAA's self-defined Impact Categories:

- Reduction in cost or effort: A reduction in cost or effort for organisations/individuals

- Reduction of a barrier to entry: A reduction of a barrier to entry for organisations/individuals

- Increase in agility/flexibility of regulation: An increase in agility/flexibility of regulation

- Supporting innovation or investment: Supporting innovation or

- Other benefit: Other (impact is described under the ‘benefit’ heading)

This document is also available on our website at gov.uk/dbt

Any enquiries regarding this publication should be sent to us at

enquiries@businessandtrade.gov.uk.