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# Foreword by Sir David Arculus

*This report is the Better Regulation Task Force Annual Report for 2004/5. It is also my final report, as from January 2006 the BRTF will be known as the Better Regulation Commission and Rick Haythornthwaite will be the new Chair.*

*After eight years of the Better Regulation Task Force, it is a good time to look back, review our achievements and to consider what challenges remain and the lessons we have learned.*



Photo courtesy of Justin Thomas, Daily Telegraph

*Sir David Arculus  
Chair April 2002 – December 2005  
Better Regulation Task Force*

## Regulation – Uncovering the costs

Perhaps our most important achievement has been to put the spotlight on the costs of regulation – costs to the private, public and voluntary sectors and to each and every one of us as citizens. It is said that there are two unavoidable things in life – death and taxes. Regulation looks like being the third.

We have estimated that the cost of regulation to the UK economy is between 10% – 12% of GDP – or over £100 billion – similar to the annual take in income tax. While tax and budgets are closely monitored and assessed for value for money, the costs of regulation have never been systematically measured, probably because they are made up of thousands of small, sometimes invisible, regulatory burdens. Taken together, however, they represent a huge cumulative burden. I am pleased that, following our recommendation, the government is now measuring the administrative costs of regulation and setting targets to reduce them. Our work has meant that, for the first time, the administrative costs of regulation will become visible and regulators will be held to account for the costs they impose and savings they deliver.

This does not mean that all regulation is bad or unnecessary. Within the £100 billion plus total are laws covering social, economic, political and technical issues such as minimum wage, maternity rights, environmental protection and consumer safety. I do not advocate dismantling necessary legal safeguards at either UK or European level. However, I do believe that regulators have a duty to take account of the costs that they impose on those being regulated and to find innovative ways to achieve their regulatory objectives while minimising those costs. People may rightly vote for cleaner air, longer holidays or safer travel. No-one votes for red tape or excessive monitoring, inspection and form filling.

Measuring administrative (or red tape) costs is a good start, but they account for only around 30% of total regulatory costs. The remaining 70% are policy costs and we also need to find ways to measure them and to compare them systematically with the benefits that good regulation can bring. While this is challenging and may take time, it is an important next step for the Government to take forward. I am a keen believer in the maxim “What gets measured gets done” and I am pleased that part of the BRTF legacy is to have made the costs of regulation more visible and to have recommended a methodology for bringing them under control.

## Regulation – Less is More

We set out the case for measuring and reducing regulatory costs and burdens in our March 2005 report, “Regulation, Less is More.” I was delighted when the Prime Minister and Chancellor jointly accepted all the recommendations on the day of publication. As a result of our work, the government has embarked on a far-reaching programme that will change the way it manages regulation. It has made commitments to:

- Measure and set targets to reduce the administrative costs of regulation on business and the voluntary sector;
- Adopt a ‘one in, one out’ approach to new regulations;
- Implement a programme across all government departments and independent regulators to simplify existing regulations.

These commitments mark a turning point in the way the UK government will manage regulation, recognising that regulation is not a free good but has costs and implications every bit as important for the nation and the economy as the annual budget statement. The new Better Regulation Commission will have a key role in monitoring progress against these commitments and ensuring that the government delivers what it has promised.

## Regulation – Raising the Bar

One of my priorities as BRTF Chair has been to insist on a systematic and rigorous process for managing regulation – a process with hurdles that ministers and civil servants have to go through before bringing in new regulation. This is the only way to control those who feel the need to regulate in response to any crisis or problem. These hurdles include:

- Our **Five Principles of Good Regulation** – Proportionality, Accountability, Consistency, Transparency and Targeting. These are the basic tests of whether any regulation is fit for purpose.
- **Regulatory Impact Assessments** are now mandatory for all major proposals, setting out the justification and expected costs and benefits.
- A **mandatory Consultation Code** that sets out high standards for consultation, including a minimum 12 weeks consultation period.
- **Consideration of Alternatives.** All proposals must now include consideration of different regulatory and non-regulatory options for achieving the desired objectives.
- **Simplification Plans** must be prepared by all departments and major regulators in consultation with stakeholders. They set out how departments propose to cut regulatory burdens and achieve target reductions in the administrative costs of compliance. This same discipline now needs to be applied to the public sector.
- **The Panel for Regulatory Accountability** reviews proposed regulations likely to impose significant burdens and holds departments to account for their better regulation performance.

Our regulatory framework also requires departments to conduct **post-implementation reviews** of existing regulations and to bring in new regulations wherever possible on **common commencement dates** – 5 April and 1 October each year.

This macro level framework provides a rigorous and systematic approach to the difficult task of turning political commitments and aspirations into good regulation – regulation that follows our Five Principles, meets its objectives successfully and avoids unnecessary costs and unintended consequences. Thanks to this framework, the UK is seen by international observers like the IMF, OECD and the World Bank as a leader in the field of regulatory reform. Nevertheless, much remains to be done. It is one thing to set up a framework but quite



David Arculus at the launch of “Less is More” in the Cabinet Room

another to ensure that everyone follows it. As I said in our last Annual Report, delivering better regulation also requires culture change and that takes time.

### Independent Regulators

Another of our key achievements has been to extend the Principles of Good Regulation to the independent regulators. I am particularly pleased that most of them have followed our recommendation to establish proper governance structures, including setting up a Board, appointing non-executive directors and separating the roles of Chair and Chief Executive. Many independent regulators attend the conferences we organise jointly with the NAO to share their experiences of better regulation. Some such as OFCOM, the Audit Commission and the Financial Services Authority are actively embracing better regulation principles and helping to carry our messages to a wider audience.

### Regulation and the European Union

During the past year, I wanted to concentrate on improving EU regulation because, on average, some 50% of new laws imposing significant burdens come from Brussels. This means that better regulation principles need to be as firmly embedded in the European Commission, Council of Ministers and the European Parliament as they are in the UK. We have supported the UK Presidency drive for better regulation in the EU by focussing on three aspects.

1. **Simplification of existing EU law.** In *Make it Simple, Make it Better* (Dec 2004), we called on the Commission, Council and Parliament to set up a fast-track mechanism to deliver simplification measures. We illustrated the need for this with examples from data protection, food labelling and Integrated Pollution Prevention and Control, three areas where EU law requires urgent simplification.
2. **Improving Consultation on EU proposals.** In *Get Connected* (Sept 2005), we showed how better consultation improves the quality of legislation and builds stakeholder support. We called on the Commission to consult, at the right time, in the right way, with the right people and on business to engage more positively with the Commission in a partnership to improve the quality of EU law.

3. **Widening the use of alternatives to classic regulation.** In our third EU report, *Routes to Better Regulation*, (Dec 2005), we showed how the Commission could make greater use of alternatives such as self-regulation to deliver results more effectively and often at lower cost than using traditional directives and European regulations.

I do not underestimate the challenge of changing the regulatory culture of the EU. However, if we are to increase competitiveness and safeguard jobs and prosperity, the EU needs a regulatory framework that does not impose unreasonable costs on European business and its citizens. I am encouraged by the support we have received from President Barroso and Commissioners Verheugen, McCreevy, Kroes and Mandelson. We have been pleased to support the UK Presidency to help set in motion a powerful force for better regulation across the European Union.

## Regulation – What we have achieved

Although it is possible to argue that we should have done more and that there is still too much regulation, my guess is that the original members of the Task Force would be quite surprised by how far we have come since we were established in 1997 and the changes in government thinking and practice that we have brought about. Comparing now with the position in 1997:

- Better regulation is a top government priority and has a higher profile than ever before. We have been able to secure the personal support of both the Prime Minister and the Chancellor and all political parties are broadly in support of the agenda we have laid out.
- Government departments now have better regulation ministers, board level champions and better regulation units, accountable for delivering reductions in administrative burdens and achieving regulatory simplification.
- Many independent regulators have adopted our Five Principles, established senior posts with responsibility for better regulation and are using impact assessments, the consultation code and a risk-based approach.
- The Better Regulation Executive has been set up in the Cabinet Office to co-ordinate delivery of better regulation, with William Sargent as Executive Chair and Jitinder Kohli as Chief Executive.
- The Government has made better regulation one of the UK's top priorities for its Presidency of the EU in 2005. In the European Commission, President Barroso and Commissioner Verheugen are taking forward an ambitious programme of better regulation.
- In recognition of our success, the BRTF will become permanent from January 2006 as the new Better Regulation Commission, with additional responsibilities to challenge departments and regulators on their performance against the better regulation targets.

I should like to place on record my thanks for the support I have received as BRTF Chair since 2002. I have enjoyed the active support of the Prime Minister, Chancellor and many other government ministers. I have received wise counsel from Cabinet Secretaries, senior civil servants and many colleagues and friends in the Cabinet Office. I have valued the help and advice given by my many contacts in the regulated communities from the private, public and voluntary sectors. None of our achievements would have been possible without the co-operation and commitment of all the Task Force members and especially my Deputy Chair, Teresa Graham. As we are an independent and voluntary body, we have relied on a small cadre of high-quality Civil Servants in our Secretariat, led by Geoff Tierney, Jeanie Cruickshank and Alison French. I should like to express my thanks to these and to all who have helped us make progress on our journey of better regulation and to extend my best wishes to Rick Haythornthwaite as he takes on this challenging but immensely enjoyable and rewarding role.



**Sir David Arculus**  
Chairman BRTF

## A message from the Prime Minister



I am delighted to recognise the important contribution that the BRTF has made to the better regulation agenda.

Better regulation is a priority because reducing bureaucracy for business and front line public services is essential if we are to improve productivity and competitiveness and to deliver better public services. It also underpins our drive for economic reform in Europe.

Progress has been made thanks to the BRTF – improved Regulatory Impact Assessment quality, departmental reporting on better regulation and consultation improvements. The recent BRTF report *Less is More* delivered a critical challenge to the government. Potential gains to UK business and the economy are huge if we can achieve our goals.

From January 2006 the BRTF will be known as the Better Regulation Commission, with an expanded remit and a strengthened role which recognises the success of the BRTF over the last 8 years.

I wish you success in your new role and would like to thank David and all the members who have worked hard over the years to advise and challenge the Government on better regulation.

A handwritten signature in black ink that reads "Tony Blair". The signature is written in a cursive style and is underlined with a single horizontal line.

**Tony Blair**  
*Prime Minister*



## A profile of the Better Regulation Task Force

- Set up in 1997
- Independent of government – formally a Non-Departmental Public Body attached to the Cabinet Office.
- Provides independent advice and challenge to government on action to ensure that regulation and its enforcement accord with the Five Principles of Good Regulation.
- Has a diverse membership of unpaid volunteers drawn from different walks of life who are passionate about improving regulation for all.



The composition of the Task Force is deliberately broad to reflect the fact that we are determined to improve regulation as it affects the private, public and voluntary sectors. Currently, the Chair and eight of the members come from business or industry, in recognition of the priority given by government to reducing regulatory costs and red tape for business. However, the Task Force ranges more widely and our current membership is drawn from:

- Industry (utilities, retail, banking, telecoms, pharmacy, energy)
- Small business
- Trades unions
- Public sector (local government, independent inspectorates and regulators, NHS)
- Voluntary sector and consumer groups
- The professions (law, accountancy, economics).

Members bring their experience and expertise to bear, but serve in an individual capacity rather than representing any group or organisation. They are all unpaid volunteers on two or three-year contracts that can be renewed. Members volunteer because they care deeply about unnecessary and burdensome regulation and the impact this has on efficiency, productivity, quality of life, risk, energy and innovation. We are not against regulation but insist that any regulation must be good when measured against our Five Principles.

# Retrospective by Lord Haskins, Former BRTF Chair



*Lord Haskins*

Good regulation is a symptom of an affluent and just society, because it is designed for the protection and enhancement of citizens' rights and because only a rich society can afford it.

Bad regulation occurs when the state, in response to the demands of pressure groups, designs regulations which are over ambitious, over prescriptive, unjustifiably expensive and counter productive. It also arises because civil servants over prescribe in a vain attempt to regulate against all contingencies.

Under regulation should be the greatest concern. It exists in poor societies which lack institutions with the capacity to protect the rights of citizens in terms of safety and health and social justice.

According to the OECD, Britain has one of the least regulatory barriers to inward investment of the affluent countries of the world, suggesting that, by and large, it strikes a sensible balance between necessary and unaffordable regulation. But there is a constant requirement both to question the need and quality of new regulation, and the effectiveness of existing regulation.

I changed the name of the Task Force when I became chairman in 1997, from "Deregulation" to "Better Regulation". I did so because, although there are opportunities for deregulation, "better regulation" implies a much broader approach to the problem. Few people objected to new regulations on a national minimum wage, but the challenge was to introduce measures which were effective, clear and did not impose an unreasonable burden on employers. This was done, in part thanks to pressure from the BRTF.

Predictably, I believe the Better Regulation Task Force has done a good job in curbing the tendencies of ministers and officials to use regulation as the answer to every problem, to ensure that the costs and benefits of new regulation are properly assessed before implementation and to question the relevance, effectiveness and value of existing regulations. The BRTF has been especially keen to minimise the impact of regulation on small businesses and has worked hard to represent the interests of the business community and the many other groups who bear the cost and burden of too much ill-conceived and poorly implemented regulation. It is a battle well worth fighting.



## Our work since the 2003-4 Report

Since we last reported, the Task Force has published seven reports. They are summarised in the following pages.

### Improving the regulation and accountability of Social Care

Last September the BRTF published *Bridging the Gap – Participation in Social Care Regulation*. As the title suggests, the report was about giving care-users a greater say in the regulation of their care. The people who use such services should be the ultimate arbiters of what is right for them, something our recommendations aimed to encourage and facilitate.

The report recommended that there should be a single, accessible point of information on the range of social care services available, to enable care-users to make informed choices. It also called for principles for participation to be formally adopted by the General Social Care Council, the Commission for Social Care Inspection and all Department of Health Arm's Length bodies which seek to involve people.

The Government welcomed the report when it was launched, commenting that it was a useful contribution to identifying how users of social care services can be involved in the process of inspection and regulation. Since then, progress has been made in all of the areas we recommended. For example, the Department of Health is carrying out a user-centred review of the National Minimum Standards for adult social care and is examining the feasibility of a national study of people's experience of the availability of information on social care services.



Sukhvinder Stubbs



*“The Stamford, Bourne and Deepings Carers Sitter Service was in danger of folding following the implementation of new regulations by the Commission for Social Care Inspection. With the help and support of the Better Regulation Task Force the situation has been resolved. The Carers Sitter service continues to provide the service which meets the needs of carers.”*

Stamford, Bourne and Deepings Carers Sitters Service

# Avoiding Regulatory Creep



Dr Ian Peters

Our report *Avoiding Regulatory Creep*, published in October 2004, identified regulatory creep as the “hidden menace” of red tape. Over-zealous interpretation of regulation by Government regulators and industry bodies is one of the factors leading to layers of red tape affecting businesses and the public. Regulatory Creep is much more prevalent and potentially more damaging than the “gold plating” (deliberately going beyond the requirements of the law) that we hear so much about.

The report identifies examples of regulatory creep in a number of areas including health and safety, food regulation and anti-money laundering regulation. Its recommendations call for greater clarity, consistency and better communication to make regulation less burdensome.

We conclude that although on one level much progress has been made across government to meet the Principles of Good Regulation, there is less evidence of good practice in implementation and enforcement when the regulation reaches the statute book. Regulation can be added to and made more burdensome by:

1. A lack of clarity about:
  - the scope and intention of the original regulation;
  - what those being regulated need to do to comply;
  - the purpose and legal status of guidance.
2. Enforcement activity that can lead to a fear factor that induces over-compliance in those being regulated.

The reasons why regulatory creep occurs can be complex and cumulative. For example, goal-setting legislation is admirable because it is flexible and focuses on outcomes rather than processes. Yet just as nature abhors a vacuum, we found that the accompanying guidance can be overly prescriptive and thus interpreted as “must do” rather than “could do”. In one instance we came across an enforcing authority which threatened court action against a company for non-compliance with what turned out to be best practice guidelines.

We are pleased that the government accepted all our recommendations in full and is now taking them forward, particularly through implementing the Hampton Report.



*“The Task Force has helped trades unions to be allowed to manage their own affairs by campaigning to remove unnecessary legislation in relation to such matters as the role of the Certification Officer and the election of the union President.”*

Gerry Morrissey, Assistant General Secretary of the Broadcasting, Entertainment, Cinematograph and Theatre Union

# A new approach to regulation – Less is More

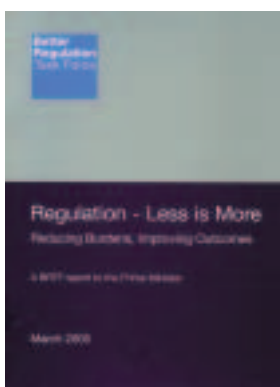
Perhaps our most influential piece of work, the report *Regulation – Less is More* was published in March 2005 in response to a request from the Prime Minister. This work reflected our serious concern that, despite the UK being placed among the world's leaders in better regulation and even after eight years of intense BRTF activity, the volume, complexity and costs of regulation continued to grow. We found too few examples of better regulation in principle leading to less costly regulation in practice.

We found that regulation probably costs the country around £100 billion each year and, of this, some £30 – £40 billion is administrative cost – bureaucracy, paperwork and red tape. These costs have to be paid each year by business, consumers and citizens with little obvious benefit. We argued that reducing these costs would enhance the UK's competitiveness, productivity, innovation and entrepreneurship.

We recommended that the UK adopt the Dutch approach of measuring the administrative cost of regulation and setting targets to reduce it. We also proposed that the government should adopt a 'One in, One out' approach to new regulation and should simplify the existing stock of regulation, including bringing forward a Deregulation Bill in 2006. We were delighted that the government accepted all our recommendations in full on the day our report was launched. Departments are now busy preparing simplification plans that, for the first time, will set out how all parts of government intend to work with those in the public, private and voluntary sectors to reduce regulatory burdens.



Teresa Graham OBE



Dr Penelope Rowlatt

# Regulating the Voluntary and Community Sectors

## Better Regulation for Civil Society – Making life easier for those who help others

In November 2005 we published our report on the regulation of the voluntary and community sectors. Our recommendations are designed to give greater freedom to those who work to help others and enhance society. Our recommendations drew on the principles developed in our previous studies including *Regulation – Less is More, Avoiding Regulatory Creep* and *Imaginative Thinking for Better Regulation*.

The voluntary and community sector forms a vital part of the economy, with more than 16 million volunteers and over half a million employees. It makes a contribution to society valued at over £25 billion each year and it faces a number of regulatory challenges.

We examined three areas:

1. Specific regulation – how the Charity Commission and HM Revenue & Customs regulate charities;
2. General regulation – regulation which affects everyone but which may impact disproportionately on the VCS; and
3. Quasi regulation – or as some in the sector might say, the tyranny which the state imposes through its funding streams.

We recommended a diverse set of reforms, including:

1. Freedom for regulators to apply rules flexibly, granting waivers where possible; and
2. Measuring and reducing the administrative burdens associated with public sector funding of the voluntary and community sector.

Our recommendations will help volunteers, social innovators and all in the sector to focus on their key task of meeting need rather than on bureaucracy and red tape. We hope that the Government will accept them all and so improve the regulatory situation for those working with the most deprived, freeing time, money and energy for those most in need.



*Taking questions at the launch of the Better Regulation for Civil Society report*



# Better European Regulation

## Our approach to EU Regulation

Last year, the BRTF turned its attention to European regulation – after all an estimated 50% of all new legislation with a significant impact on UK business comes from the EU. The Task Force also wished to support the UK Presidency and to contribute to EU efforts to reform the way it regulates.

We have produced a trilogy of reports on improving European Regulations. The first has suggestions for simplifying the current statute book, the second calls for more effective and efficient consultation with stakeholders and the third is about the use of alternatives to classic regulation. We have made considerable efforts to engage other Member States' support. We have also been invited to give keynote presentations at various European conferences and hearings, such as DG Health and Consumer Protection's better regulation conference, two European Economic and Social Committee hearings on better law making and the European Parliament's (Internal Market Committee) hearing on the implementation and impact of legislation.

Better regulation has become a hot topic in Brussels over the last year or two and our work has contributed significantly to the generally encouraging progress being made. We have actively encouraged the Commission, the European Parliament, the Economic and Social Committee and others to take better regulation seriously and to commit to achieving results. For example, six successive Presidencies (including the UK) have signed up to promoting better regulation during their terms of office, while the Commission has recently introduced new Impact Assessment guidelines and has scrapped 68 proposals for European legislation. These are certainly steps in the right direction but more needs to be done before better regulation becomes a priority for all rather than an optional extra.



*Michael Gibbons*



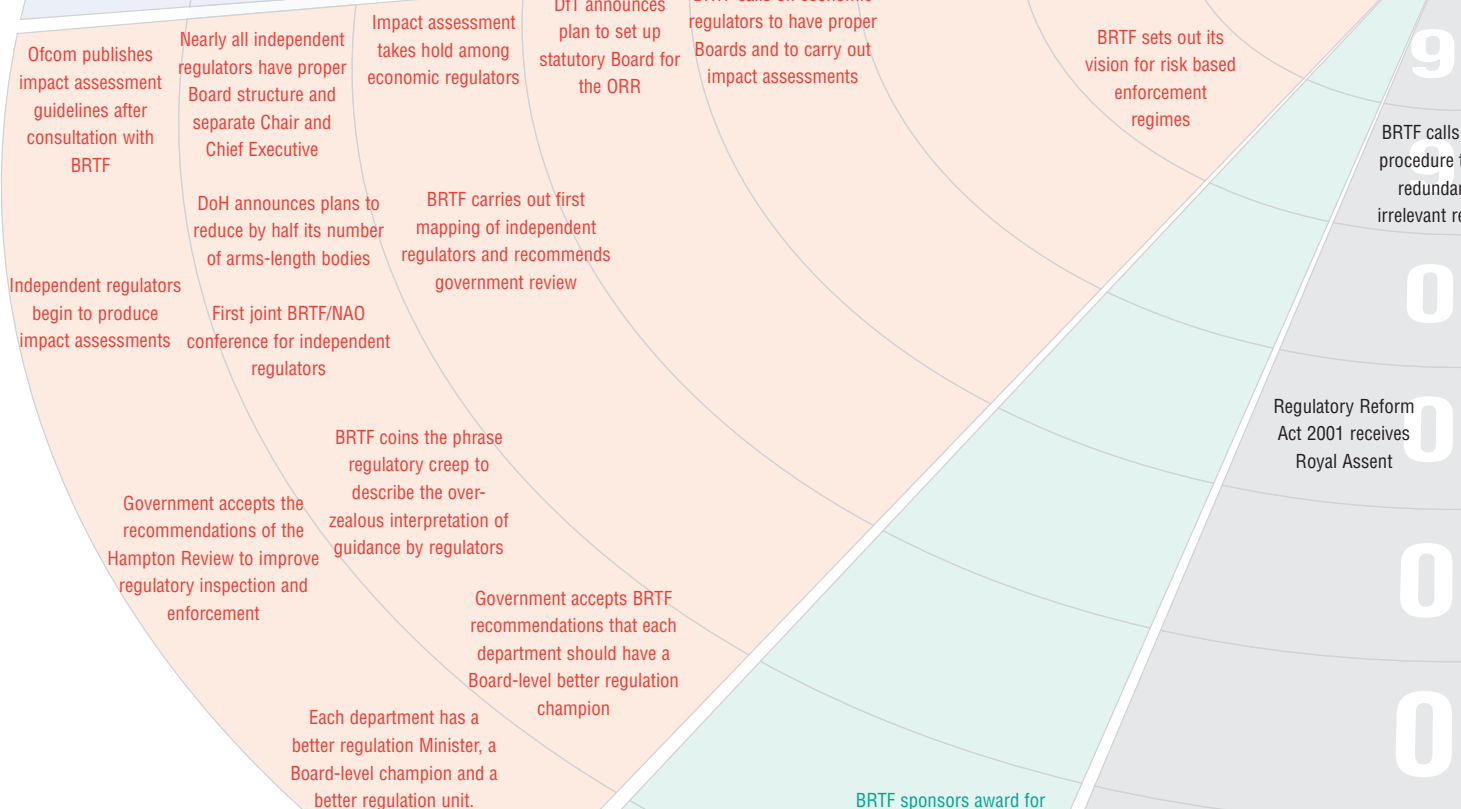
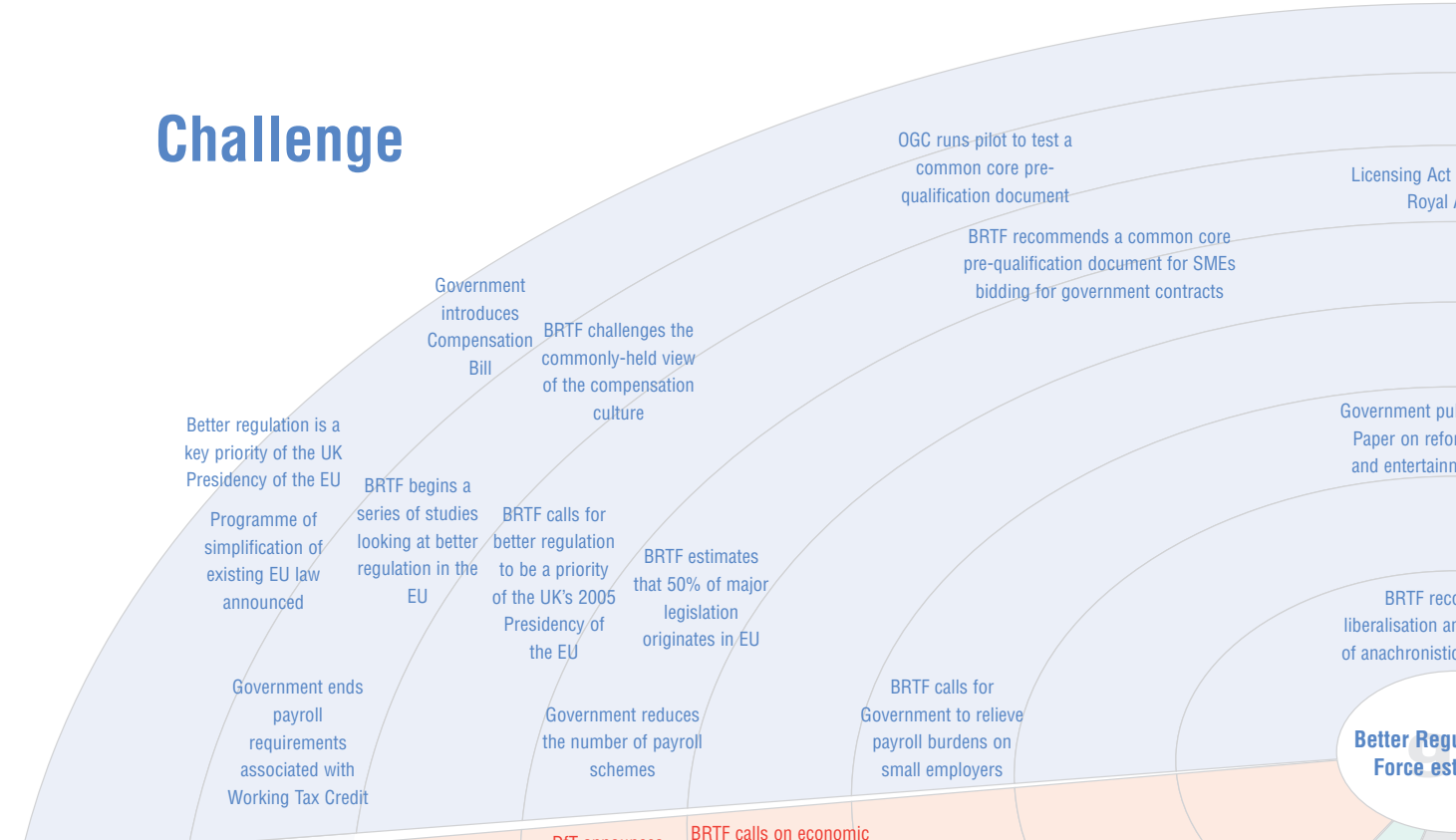
*Eve Salomon*



*Victoria Younghusband*

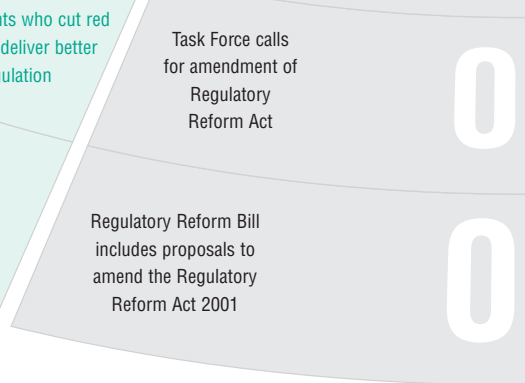


## Challenge



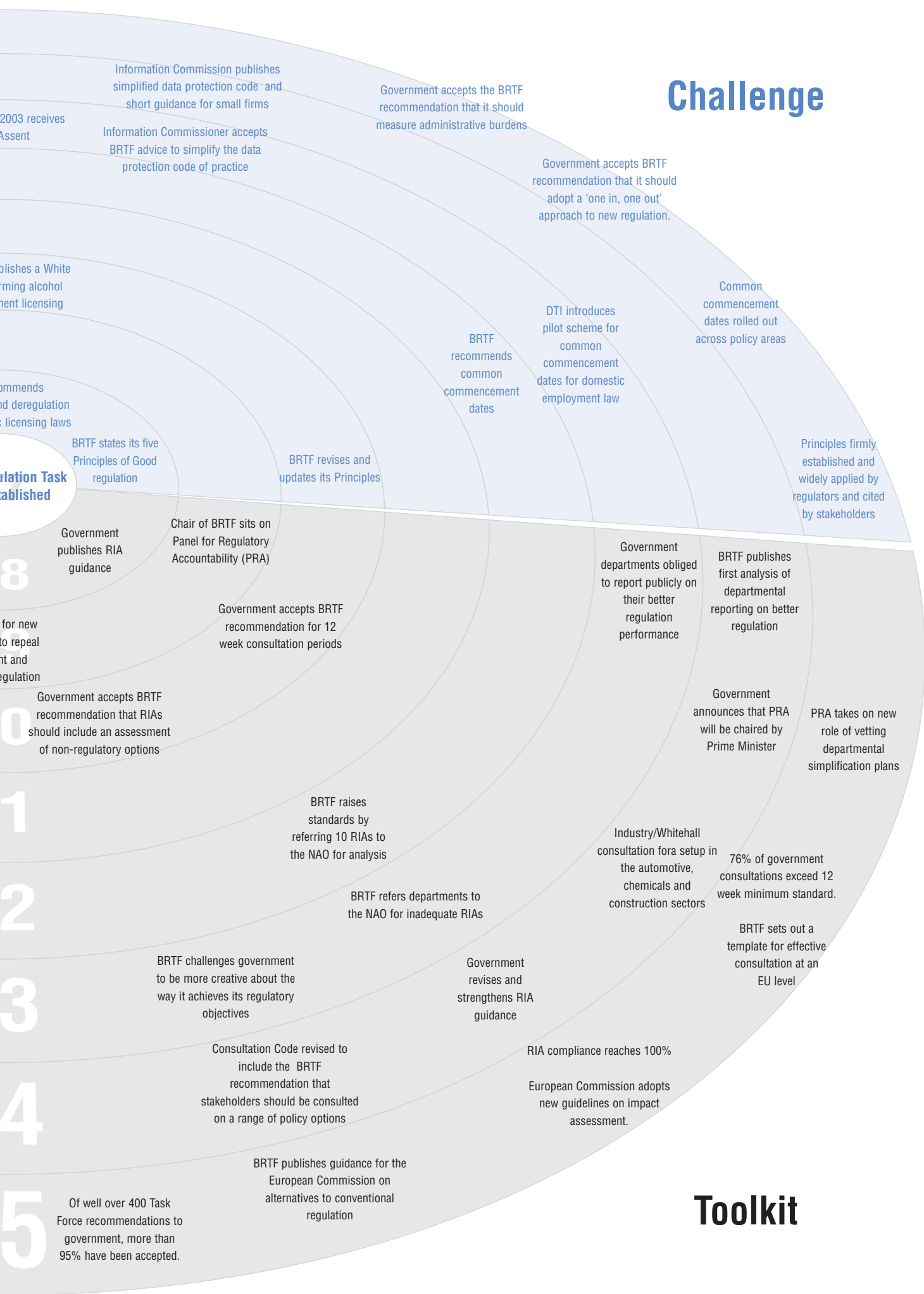
## Governance

## Levers and incentives



# Better Regulation

## Challenge



## Toolkit



## Make it Simple, Make it Better

*Make it Simple, Make it Better* (December 2004) is about how to simplify EU regulation. If the EU is to have long-term credibility, its institutions have to prove they are willing and capable of revising existing EU law, some of which has, rightly or wrongly, gained the EU a poor reputation among the general public. It is not enough to improve the way EU law is made in the future – the enormous body of existing legislation also needs to be simplified and improved, and the sooner the better.

Our most important recommendation was to call for the Commission, Council and Parliament to adopt ‘ad hoc’ measures that would enable simplification proposals to be taken forward. We also examined three areas in depth where simplification is an urgent priority – food labelling, data protection and pollution control. Commissioners Verheugen, Mandelson and Kroes issued a joint statement of support for the report, welcoming our ‘constructive and thorough recommendations on how EU law can be simplified’.

In all three areas where we made recommendations, there has been a lot of progress, much of it led by the Commission. Most recently, for example, the Commission has made a commitment to include a review clause in all pieces of legislation and a sunset clause where appropriate.

The Commission has recently announced a rolling programme for simplification and there is some encouraging progress in all of the areas we highlighted. However we would still like to see further co-operation between the EU Institutions to make the process of updating, amending and simplifying EU law much more efficient and effective.

*“Better regulation is of vital importance to the future competitiveness of the EU. We are determined to make it a priority. We hope the working method in the report “Make it Simple – Make it Better” can be taken forward to help to make real progress on the programme of simplification of EU law. We look forward to further contributions from the Task Force to the better regulation debate in Europe.”*

Joint statement from EU Commissioners, Gunter Verheugen (Enterprise and Industry), Peter Mandelson (Trade) and Neelie Kroes (Competition)



*David Arculus with Minister Gerrit Zalm, Dutch Finance Minister, and Michael Gibbons*

# Get Connected – Effective Engagement in the EU

*Get Connected – Effective Engagement in the EU* is the second of three Task Force reports on better regulation in the European Union. It was published in September 2005 and makes recommendations to improve the way that the EU consults with its stakeholders.

Good consultation is at the heart of better regulation. It helps to improve the quality of policy outcomes and, at the same time, encourages interested parties and the wider public to get more involved in policy making and the design of regulation. The Task Force believes that good consultation means consulting at the right time, in the right way with the right people. Our study tested the Commission's consultation practices against this ideal. We also looked at how stakeholders should organise themselves to engage best with the EU.

We found that both the Commission and its stakeholders could do more to promote a genuine dialogue. Among our key recommendations, we called for more systematic and transparent engagement with stakeholders before a proposal is published for written public consultation, more detailed reporting of the Commission's compliance with its own minimum standards for consultation and more consistent application of good practice. We also called on stakeholders, especially business, to use the EU processes in a more timely and constructive way.

Our report makes practical and detailed recommendations to help improve the quality and legitimacy of EU legislation. We will continue to work closely with the Commission and other stakeholders to encourage implementation of our recommendations.



*John Hutton, Commissioner Verheugen and David Arculus*

Photo courtesy of Tony J Haresign of [www.webpix.co.uk](http://www.webpix.co.uk)

# Routes to Better Regulation – A guide to alternatives to classic regulation

“The European Union’s growth, jobs and international competitiveness depend on its ability to regulate better. Better Regulation is a priority for the European Commission and I particularly welcome the contribution to the debate of an independent body such as the Better Regulation Task Force.”



Peter Mandelson  
EU Trade Commissioner

Our third European study, *Routes to Better Regulation – a guide to alternatives to classic regulation* (December 2005) examines the European Commission’s use of alternatives to classic regulation, such as self-regulation and market-based instruments.

Classic regulation, in the form of prescriptive rules, is often the most common response to a policy problem. Sometimes this is the best and most appropriate way to implement proposals. In many cases, however, an alternative form of implementing policy – either on its own, or in conjunction with other methods – may be the most effective and efficient approach. Our view is not that regulation is always bad and that alternatives are always good – only that the full range of options needs to be considered at an early stage to ensure that the most appropriate tool is chosen. Alternatives can be a quicker, more flexible and cheaper way to achieve policy objectives and can minimise the burdens on stakeholders.

Our research showed that officials in the European Commission often don’t know about the potential of alternatives. Our report is intended as a guide that officials can refer to when proposals are being developed to help them consider the full range of delivery options. The report examines factors that contribute to the success or failure of alternatives, such as stakeholder buy-in and consumer interest. Examples such as the European New Car Assessment Programme (EuroNCAP) demonstrate that alternative approaches can be effective. In this example, car buyers regularly use EuroNCAP ratings to inform themselves better about the safety of cars, and this influences their buying decisions, leaving manufacturers with little choice but to improve standards.



David Arculus, Eve Salomon and Charlie McCreevy at the launch of “Routes to Better Regulation”





# The BRTF and the Independent Regulators

*“The Health and Safety Commission and Executive aim to be a modern regulator. Our close working relationship with the BRTF has helped us refine and improve our risk based approach. Better regulation means better health and safety outcomes and that means better jobs and better businesses.”*



Bill Callaghan  
Chairman HSE

*“I have seen the work of the Task Force, and of David Arculus, from the viewpoint of two very different regulatory organisations. He, and they, have been important champions of regulation that is effective, proportionate and fair – aims we share. We have appreciated and benefited from working with them towards these common goals.”*



Sir Callum McCarthy,  
Financial Services Authority

Our reports *Economic Regulators* (July 2001) and *Independent Regulators* (Oct 2003) highlighted the rapid growth in the number of independent regulators and the regulatory power the Government has delegated to them. They also raised important issues around governance, accountability, consultation and accessibility. We are pleased that most independent regulators have understood the need for better regulation and committed themselves to delivering it. Some, such as Ofcom and Ofgem, the Healthcare Commission and the Health and Safety Executive are pioneering new ways of consultation, impact assessment and risk-based regulation that have lessons for all, including some government departments.

In our reports we asked searching questions about why there are so many regulators, why government sets up a new regulator every time a problem emerges and how regulators could achieve the right balance between independence and accountability, in particular through adopting good governance arrangements. The government has responded positively through the Hampton Report, including agreeing to limit the number of new regulators, merge existing regulators, adopt more risk-based approaches and promote good governance.

In working with Independent Regulators, we have appreciated the co-operation of the National Audit Office (NAO) jointly hosting a series of successful better regulation conferences for independent regulators. The NAO shares our commitment to better regulation and has produced some excellent work on impact assessments. They have been particularly successful in getting the better regulation message across to the independent regulators and we would like to thank Sir John Bourn and Ed Humpherson and his team at the NAO for their support.



Dr Ian Peters at the Independent Regulators Conference in November 2005



# Some recent BRTF media highlights

## A better Europe will need better regulation

To compete successfully in a global marketplace and to win over a sceptical public, the EU must continue to improve its regulatory landscape, says David Arculus

### Comment

THE European Union better regulation agenda is at a key stage of its development. There is growing recognition within the major institutions of the need for reform. We have now

reached a point where the better regulation agenda does appear to be

moving forward. This has rarely been done in the past and is precisely that needs to become common practice. The Council has provided some much-needed mo-

## REGULATION Reports debunk red tape

By Andrew Taylor and Jane Hughes

Business complaints about red tape arising from the introduction of employment laws by both Brussels and the government, are based more on myth than hard fact, one separate report has suggested.

has stretched claims – by the chancellor, among others – that the European Union accounts for at least half of all new regulations.

The study and industry advice organisation yesterday informed business by stating: "We can find little hard evidence to support the assertion that EU regulations are being introduced

"where there is a clear problem identified which can only be remedied by regulatory intervention".

The Labour-research committee said it was "slightly bemused" by the "obsession with the growing number of regulations". Regulation of the labour market had increased since the 1990s, the report said, but

This will not sit well with the government. Gordon Brown responded to Tory proposals for action on red tape by saying last week's Budget to support the economy, rather than regulations for regulatory changes set out in the Arculus and Hampton reports. There, their has also shown the weight behind the reforms.

Dr Denis MacShane, the

which appears to substantiate the chancellor's assertion in his Budget speech that "half the major new regulations are from the European Union". Analysis of statutory instruments – secondary legislation – over the five financial years to April 2004 showed the proportion falling from 46 per cent a year, Mr MacShane said, to 31 per cent in 2004.

The number introduced by the government fell from 10,000 in 2000 to 7,000 in 2004. The number of regulations introduced by the government fell from 10,000 in 2000 to 7,000 in 2004.

to Parliament in the UK, regulations account for the vast majority of new regulations introduced. The number of regulations introduced by the government fell from 10,000 in 2000 to 7,000 in 2004.

## Cutting red tape 'would lead to a £16bn rise in output'

By MICHAEL HARRISON  
Business Editor

THE GOVERNMENT should consider an ambitious programme of regulation cuts, a report says.



Business Editor's Interviewee  
TIENCE  
HEATCROFT

Chancellor of the Exchequer to consider even the Minister with the cut of his Budget, and they should be made a priority in his speech aimed at the economy. Gordon

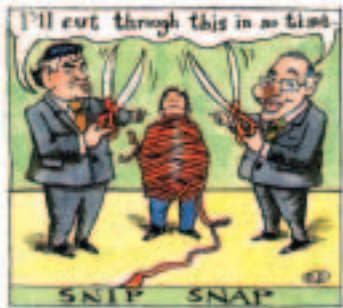
Better Regulation Task Force has produced a report that suggests that cutting the cost of regulation to business could produce an increase of about £16bn a year in GDP.

This is a figure that one Christian Union candidate to become even if he would prefer to be viewed as from his 10 Downing Street when there is 11. It may well be that Mr Brown will have announced that he is planning to set up the task force's report.

The first element involves following the Dutch example and first working out the cost of the paperwork demanded by regulation and then consulting to reduce it, setting targets has been a popular bit of the administration as this idea is likely to have particular appeal.

However, before the target can be set, there will have to be detailed work on calculating the cost of the current burden. The task force which has been looking at regulation for several years, can do no better than to estimate that complying with the administrative burden of regulation costs between £12 billion and £40 billion a year.

That might seem to offer plenty of scope for reductions for the task force, acknowledging that achieving targets for cutting back the bill would require inventing new services and



the task force and his report will provide Mr Brown with some of his material for his speech. The cartoon should not be too hard, whatever position he makes during the course of today's speech. Expect more working parties and committees before there is much sign of action.

### Figuring out the mysteries

By Caroline Merrell and Christine Buckley

## Buck lands on chairman's lap

THERE was nothing strange about the abrupt departure of chief executive Sir Ronald Green last month. In September 2003 the first group looked out from the window of their office in the company's new office premises. The recently appointed chairman, Sir John Gifford, dropped into the room to see the show while a replacement was hunted down.

Now the same tight discipline is preparing to get over a scheduled night as his departure with the services of the team he appointed to follow Mr Green. It seems that Mr Brown has been following the same strategy, trying to manage the three divisions of the company into a post-European project. The bank has apparently taken up to the fact that there are differences between a selling culture, such as that of the US investment bank that provides the core of the bank's largest products of global

## Blair urged to go Dutch

Jill Treanor

Tony Blair will today be urged to adopt the model used by the Dutch to assess the cost of regulation and in the process

## LESS IS MORE Chancellor's deregulation agenda is ambitious

in organisations with collective budgets of a staggering £4 billion. The excessive form filling and multiple inspections with which many businesses are all too familiar are "rooted in or exacerbated by" the horribly complicated regulatory structure, according to Mr Hampton: hence his plan to cut the number of inspection agencies and to tackle a culture in which there

## Bureaucracy faces cuts as Brown tries to appease business

By Caroline Merrell and Christine Buckley

BETTER regulation will be one of the key themes of Wednesday's Budget as the Chancellor seeks to appease the business lobby without committing himself to putting much cash in his way.

Daily Mail, Wednesday, March 12, 2008

### CITY & FINANCE

Budget preview • Brown in war on bureaucracy • Business protests grow

## Cut red tape, urges task force tsar



BRITAIN'S legislation that will likely end for a "red tape revolution" and urge the government to slash administrative costs by 20 per cent.

David Arculus, chairman of the Better Regulation Task Force, will tell Tony Blair that the government's growth plan must be more than the number of regulations it can handle.

Arculus, who is also chairman of the UK's largest government-owned organisation, said he has been asked to lead a group of business leaders to the government to discuss the

By Edmund Conway

could save as much as £16bn a year within 12 years – but only if the government takes action to slash the cost of red tape. That the task force's conclusions may be overshadowed by another row between Prime Minister and Chancellor – for Gordon Brown will also be looking to the new jobs for cutting red tape.

This is based on a rival Treasury-commissioned report by

Hamptons' chairman Philip Hampton.

The threat of regulation costs is likely to be a major theme in a report by the Institute for Financial Innovation.

The task force's key recommendations are that the government should consider a number of measures to reduce the burden of regulation and then find a way of

It should also apply a similar

new approach to new regulation, with civil servants advised to consider the cost of regulation.

Arculus said: "A culture has developed in government in which the most-jerk response to any problem is to regulate."

The main complaint from business is the sheer volume of regulation.

"It's the excessive burden that we need to reduce, reducing the sheer volume of law and increasing the flow of new rules and regulations."

## Future Challenges

*“The Better Regulation Task Force has done much to raise the profile of the better regulation agenda.*

*Successive governments have talked about reducing “red tape”. But the gauntlet has now been thrown down to the government to actually deliver reductions in the cost of regulation, enabling business to focus on what it does best – innovating and growing market share – rather than form-filling and deciphering bureaucratic rules and regulations.*

Sir Digby Jones  
Director-General  
CBI

*“Better Regulation is essential if British business is to compete in world markets. The challenge now is to turn the good intentions into practical action. The Better Regulation Commission will have its work cut out in ensuring that the Government delivers on the Hampton agenda and starts to ease the everyday burden on entrepreneurs. We look forward to working with them on this vitally important task.”*

Miles Templeman  
Director-General  
Institute of Directors

While it is right to celebrate the progress made with better regulation, there is still much to do. The gap between words and actions, commitments and delivery, rhetoric and reality is often large and difficult to bridge. Government and regulators face calls for more regulation that often conflict with common sense, the Principles of Good Regulation and political commitments to cut bureaucracy and red tape. “Walking the walk” of better regulation is more difficult than “talking the talk”.

That is why it is important to have an independent body like the BRTF to monitor progress and hold departments and regulators to account. We are pleased that the government recognises this need and is building on the Task Force’s success by putting it onto a permanent footing from January 2006 as the Better Regulation Commission. Some of the priorities that the Commission may want to consider are set out below.

- 1. Balance.** Getting the right balance between delivering current better regulation targets and setting the better regulation agenda for the future. The Commission will want to drive forward the thinking on better regulation and raise expectations around what can and should be achieved.
- 2. Impact Assessment.** The quality of impact assessments needs to be improved and they need to be used earlier and more strategically to influence decision-making and have credibility with stakeholders. Departments should also undertake more post-implementation reviews linked to sunsetting ineffective or out of date regulations.
- 3. Maintaining focus.** The tools and political leadership are now in place to deliver better regulation. We need to maintain this focus over the three to five years that will be needed to reduce regulatory burdens. The focus needs to be on the sometimes unglamorous work of delivering what has already been agreed and not on new announcements or initiatives.
- 4. Monitoring progress.** The Better Regulation Commission should continue to monitor progress by government and regulators in delivering better regulation and issue an annual report. It will want to work closely with those being regulated to assess how the changes are making a difference on the ground. “What gets measured gets done” remains a valid approach.
- 5. Risk.** We need to get better at the analysis of risk and understand more about the links between risk, regulation and trust. The Prime Minister has called for a public debate on risk and regulation and this will form one of the Commission’s first studies in 2006.



*“Having worked for the NHS for over 30 years, primarily as a nurse and midwife and more recently as a risk manager for the Bournemouth Teaching Primary Care Trust, I have been all too aware of the ever increasing amount of information being received, which is now essential to keep up to date with current best practice and changes in legislation. The recent changes made by the Health and Safety Executive to only release new policy and guidance changes in April and October each year have been well received within our Trust and has reduced the risk that we may inadvertently miss some vital communication.”*



Jo Easton  
risk manager  
Bournemouth Teaching  
Primary Care Trust

6. **Europe.** We need to keep up the pressure for better EU regulation. The BRTF reports on simplification, consultation and alternatives have helped set the agenda but will need active follow up.
7. **Legislative changes.** Reducing regulatory burdens needs government and Parliament to get the necessary simplification measures through the legal system quickly and efficiently and the proposed Regulatory Reform Bill is a good start. We have also called for a Deregulation Bill in 2006 and suggest that it should include provisions to update the statutes of independent regulators.
8. **Culture Change.** This is about embedding better regulation principles in the hearts and minds of all those working in government and regulators. By this, we mean that;
  - Better regulation should be the only kind of regulation we tolerate
  - Ministers and civil servants should be promoted and rewarded for delivering less and better regulation
  - All government departments and regulators should want to manage their regulatory business according to our Five Principles
  - There should be consistent and visible leadership from the top and explicit commitment to better regulation at every level of government.

*“The BRTF report “Higher Education - Easing the Burden” was hugely influential in raising awareness in Government and among key stakeholders of the growing and increasingly onerous impact of accountability demands on Higher Education”.*

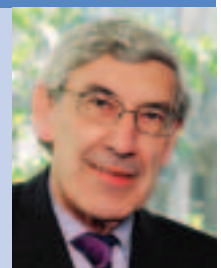
John Lauwerys  
Secretary and Registrar, Southampton University

*“The Task Force has been instrumental in challenging the government to think before they regulate. It's my job to ensure their vision becomes a reality.”*



William Sargent, Executive  
Chair of the Better  
Regulation Executive

*“I have welcomed the opportunity to support the work of the Better Regulation task Force in its role of challenging the need for regulation. In this work it has always been at the cutting edge of the debate and has never been afraid of tackling difficult issues head on. I admire the way that David Arculus has worked tirelessly to help move regulation to the top of the policy-making agenda and I look forward to continuing and developing this fruitful relationship with the Task Force’s successor, the Better Regulation Commission.”*



Sir John Bourn, Comptroller and Auditor General,  
National Audit Office

## Moving Forward

**Rick Haythornthwaite**  
Chair of the Better  
Regulation Commission



*Rick Haythornthwaite*

The strength and effectiveness of the Better Regulation Task Force has flowed from its clarity of analysis, consistency of quality, impartiality of viewpoint and, above all, the practicality of its recommendations. Its reputation as the cool, calm, objective voice of reason in the emotional and often partisan world of regulation has been deserved. It is my hope and intention that the work of the newly-formed Commission will command a similar standing.

That said, the nature of our work will necessarily shift slightly in direction.

The foundation for action has been laid down in the Arculus and Hampton reports. Now is the time for effective implementation. Our role must be to ensure not only that the government sticks to its promise of change but also that the stakeholders in all sectors enter into the spirit of the effort – offering up hard-edged advice as to where the priorities for change must lie and giving credit where credit is due when progress is made.

Meanwhile, we must find a way to make sure that we build on the excellent suite of reports on European regulation, seeking to use our limited resources to the greatest possible effect.

Finally, we shall continue to seek to set the agenda for the future, providing the fuel to keep the Better Regulation fire ablaze, continuously seeking new ways both to deliver policy objectives and improve effectiveness and efficiency in all sectors, all the while reducing the net burden of regulation on society as a whole.

My hope is that, when a successor to this report is written in three years time, it will be able to congratulate the Better Regulation Executive and Departments of State on the unambiguous progress they have made in delivering the Better Regulation programme and to welcome the enormous enthusiasm for future change that has been born of such success.

If so, then we shall feel quiet pride in the role that we will have played as the independent source of fact-based challenge, scrutiny and disclosure. We will feel that our time had been well spent.

A handwritten signature in black ink, appearing to read "Rick Haythornthwaite", with a horizontal line underneath.

**Rick Haythornthwaite**  
*Chair of the Better  
Regulation Commission*



## Annex 1

### BRTF publications – the complete list 1997 – 2005

Since its formation in 1997, the BRTF has provided advice to government in 50 separate reports. Of these:

- 11 have provided advice on improving regulatory processes
- 27 have provided advice on improving specific areas of regulation
- 3 have dealt with European regulation
- 2 have dealt specifically with Independent Regulators
- 7 have been annual reports

Since 1997, over a thousand people and organisations have worked with us to research issues and make suggestions to improve regulations. Together, we have made some 400 recommendations to government and others, of which over 95 per cent have been accepted. In the vast majority of cases, government, regulators and stakeholders have understood our concerns, welcomed our advice and been ready to work in partnership with us to achieve results that matter and make a difference.

2005	
BRTF Final Report Better Regulation – From Design to Delivery	<i>December</i>
Routes to Better Regulation – a guide to alternatives to classic regulation	<i>December</i>
Better Regulation for Civil Society	<i>November</i>
Get Connected – EU consultation	<i>September</i>
Regulation – Less is More. Reducing Burdens, Improving Outcomes	<i>March</i>
2004	
Make it Simple – Make it Better	<i>December</i>
Review of Departmental Reporting on Better Regulation	<i>November</i>
Avoiding Regulatory Creep	<i>October</i>
Bridging the Gap – Participation in Social Care Regulation	<i>September</i>
Annual Report 2003 – 2004: The Challenge of Culture Change – Raising the Stakes	<i>June</i>
Better Routes to Redress	<i>May</i>
Regulation of Child Employment	<i>February</i>
Alternatives to State Regulation – leaflet to accompany Imaginative Thinking for Better Regulation	<i>January</i>
2003	
Independent Regulators	<i>October</i>
Imaginative Thinking for Better Regulation	<i>September</i>
Environmental Regulation: Getting the Message Across	<i>July</i>
Government, Supporter or Customer?	<i>May</i>
Annual Report: – Champions of Better Regulation	<i>February</i>
Scientific Research: Innovation with Controls	<i>January</i>
2002	
Higher Education	<i>July</i>
The Local Delivery of Central Policy	<i>July</i>
Employment Regulation: Striking a Balance	<i>May</i>
2001	
Annual Report 2000 – 2001	<i>October</i>
Housing Benefit: a case study of lone parents	<i>September</i>
Economic Regulators	<i>July</i>
Local Shops: a progress report on small firms regulation	<i>July</i>

<b>2000</b>	
Regulating Cyberspace – Better Regulation for e-commerce	<i>December</i>
Environmental Regulations and Farmers	<i>November</i>
Annual Report 1999 – 2000	<i>October</i>
Revised Principles of Good Regulation	<i>October</i>
Protecting Vulnerable People	<i>September</i>
Alternatives to State Regulation	<i>July</i>
Tackling the Impact of Increasing Regulation – a case study of Hotels and Restaurants	<i>June</i>
Helping Small Firms Cope with Regulations – Exemptions and Other Approaches	<i>April</i>
Red Tape affecting Head Teachers	<i>April</i>
Payroll Review	<i>March</i>
<b>1999</b>	
Self-regulation interim report	<i>October</i>
Annual Report 1998 – 1999	<i>September</i>
Regulation and Small Firms: a progress report	<i>July</i>
Fit Person Criteria: a review of the criteria used to judge people's suitability for certain occupations	<i>May</i>
Anti-discrimination Legislation	<i>May</i>
Enforcement	<i>April</i>
<b>1998</b>	
Annual Report 1997 – 1998	<i>September</i>
Early Education and Day Care	<i>July</i>
Access to Government Funding for the Voluntary Sector	<i>July</i>
Licensing Legislation	<i>July</i>
Packaging Waste	<i>June</i>
Long-term Care	<i>May</i>
Consumer Affairs	<i>May</i>
<b>1997</b>	
Principles of Good Regulation	<i>December</i>

All these reports can be accessed via the web ([www.brtf.gov.uk](http://www.brtf.gov.uk)). We still have hard copies of some of these reports. Please contact the Secretariat for further details at:  
[commission@cabinet-office.x.gsi.gov.uk](mailto:commission@cabinet-office.x.gsi.gov.uk)

## Annex 2

# The Five Principles of Good Regulation

These Five Principles are perhaps the Better Regulation Task Force's best-known product. We first published them December 1997 and we revised them in October 2000. Since then, they have been widely adopted as the gold standard for judging regulation, not only by government departments, regulators and organisations in the UK but also in several other countries.

<p><b>Proportionality</b></p>	<p><i>Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.</i></p> <ul style="list-style-type: none"> <li>• Policy solutions must be proportionate to the perceived problem or risk and justify the compliance costs imposed – don't use a sledgehammer to crack a nut.</li> <li>• All the options for achieving policy objectives must be considered – not just prescriptive regulation. Alternatives may be more effective and cheaper to apply.</li> <li>• "Think small first". Regulation can have a disproportionate impact on small businesses, which account for 99.8% of UK businesses.</li> <li>• EC Directives should be transposed without gold plating.</li> <li>• Enforcement regimes should be proportionate to the risk posed.</li> <li>• Enforcers should consider an educational, rather than a punitive approach where possible.</li> </ul>
<p><b>Accountability</b></p>	<p><i>Regulators must be able to justify decisions and be subject to public scrutiny.</i></p> <ul style="list-style-type: none"> <li>• Proposals should be published and all those affected consulted before decisions are taken.</li> <li>• Regulators should clearly explain how and why final decisions have been reached.</li> <li>• Regulators and enforcers should establish clear standards and criteria against which they can be judged.</li> <li>• There should be well-publicised, accessible, fair and effective complaints and appeals procedures.</li> <li>• Regulators and enforcers should have clear lines of accountability to Ministers, Parliaments and assemblies, and the public.</li> </ul>
<p><b>Consistency</b></p>	<p><i>Government rules and standards must be joined up and implemented fairly.</i></p> <ul style="list-style-type: none"> <li>• Regulators should be consistent with each other, and work together in a joined-up way.</li> <li>• New regulations should take account of other existing or proposed regulations, whether of domestic, EU or international origin.</li> <li>• Regulation should be predictable in order to give stability and certainty to those being regulated.</li> <li>• Enforcement agencies should apply regulations consistently across the country.</li> </ul>

<p><b>Transparency</b></p>	<p><i>Regulators should be open, and keep regulations simple and user-friendly.</i></p> <ul style="list-style-type: none"> <li>• Policy objectives, including the need for regulation, should be clearly defined and effectively communicated to all interested parties.</li> <li>• Effective consultation must take place before proposals are developed, to ensure that stakeholders’ views and expertise are taken into account.</li> <li>• Stakeholders should be given at least 12 weeks, and sufficient information, to respond to consultation documents.</li> <li>• Regulations should be clear and simple, and guidance, in plain language, should be issued 12 weeks before the regulations take effect.</li> <li>• Those being regulated should be made aware of their obligations, with law and best practice clearly distinguished.</li> <li>• Those being regulated should be given the time and support to comply. It may be helpful to supply examples of methods of compliance.</li> <li>• The consequences of non-compliance should be made clear.</li> </ul>
<p><b>Targeting</b></p>	<p><i>Regulation should be focused on the problem and minimise side effects.</i></p> <ul style="list-style-type: none"> <li>• Regulations should focus on the problem and avoid a scattergun approach.</li> <li>• Where appropriate, regulators should adopt a “goals-based” approach, with enforcers and those being regulated given flexibility in deciding how to meet clear, unambiguous targets.</li> <li>• Guidance and support should be adapted to the needs of different groups.</li> <li>• Enforcers should focus primarily on those whose activities give rise to the most serious risks.</li> <li>• Regulations should be systematically reviewed to test whether they are still necessary and effective. If not, they should be modified or eliminated.</li> </ul>

The Five Principles remain an important test of the quality of regulation. The Task Force remains firmly of the view that, should a proposed regulation not meet each of the five tests, it should not be adopted. Similarly, if an existing regulation is found not to meet the five tests, it should be amended.



*David Arculus and Prime Minister  
Tony Blair*



*David Arculus and Chancellor  
Gordon Brown*