



Inspiring business

Regulatory Reform Committee
House of Commons
London
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Call for evidence: Government's Deregulation Agenda

We appreciate the opportunity to participate in this call for evidence concerning the Government's deregulatory agenda. Needless to say, the issue is high up in the list of priorities for IoD members. The regulatory burden and the quality of regulations are linked to the growth of the economy and therefore it is important that Government's initiatives to reduce regulatory burden for businesses are evaluated.

Overview: IoD member data

The IoD supports an adaptable and innovation-friendly regulatory regime. Complaints from the business community about the scope and extent of Government regulation are as old as business itself, but these concerns are not less pressing or relevant for their regular repetition. 'Red tape' inevitably slows businesses down. While larger firms can have well-staffed departments dealing with regulatory compliance, this is rarely the case with small firms and almost never the case with start-up firms, who can often face confusion over regulatory compliance.

That is not to say IoD members want a completely unregulated free-market. Regulation of course has a huge role to play in ensuring a working market-based economy and our members realise that. IoD members consistently cite regulation as one of the top-four barriers to growth they experience in surveys, but we have found that often it is confusion about which regulations need be complied with and the fear of accidental non-compliance which causes this concern.

The vast majority of businesses are keen to meet their regulatory obligations and endeavour to do so, but are often overwhelmed by the sheer number of different bodies they need to interact with. The regulators therefore have a role in bolstering businesses' compliance capability.

Half of IoD members (52%) felt that Government regulation affecting the management time of their organisation became more demanding over the course of three years to March 2017. Only 2% said they felt regulation became less demanding, while 44% said it stayed about the same over that period.

Furthermore, 54% of members said they felt the cost of complying with regulation was high overall, with only 9% rating it as low, in the last 12 months to March 2017. In regards to complexity of

complying with regulation, 60% of business leaders found it complex, while only 10% said it was straightforward to comply with regulation.

Overall, 54% of directors think compliance management time is too burdensome and 39% say regulation is too inflexible with regards to changing technology and standards.

When presented with a list of possible regulatory improvements, 67% said they wanted 'simplification of existing regulation.' Meanwhile, 46% said they would like to see 'reduced paperwork and statistical burden' and 41% selected 'reduction in regulatory obligations' as a priority. Improved guidance also came high up in the list of priorities, with a third of members saying more could be done by the Government in regards to guidance.¹

Engagement with Government

The IoD is in regular contact with the Better Regulation Executive (BRE) and the Regulatory Policy Committee (RPC) and have found that both bodies are keen to engage with businesses. We have welcomed the appointment of Andrew Browne as the new Chair of the RPC and look forward to working closely with him and his team. In addition, we would hope that the Government shortly clarifies whether the RPC will remain the independent validating body (IVB) for regulatory Impact Assessments during this parliament.

The direction of travel by both the BRE and the RPC has been positive in recent years. However, some questions still remain about the Business Impact Target for this parliament. While the overriding aim of the Target is good, the fact that it is not designed to reflect all administrative and regulatory costs to business, in particularly excluding tax administration, means that it is often not as effective as intended to be, especially for small businesses.

Not all initiatives introduced by the Government are seen as regulatory compliance measures. However, businesses might still see them as something that adds to the overall administrative regulatory burden. One recent example of this is the Apprenticeship Levy. The Levy is not included in the Business Impact Target despite the fact that for many businesses it is in fact simply an additional cost. In addition, the complexities of the way the Levy is designed also mean that not all firms can benefit from it.

A quarter of IoD members who don't employ apprentices say they can't do so because of regulatory or administrative burdens, with 14% viewing the Apprenticeship Levy simply as a tax.² The policy was not intended to be seen as solely an additional cost to firms but rather a way to incentivise firms to invest in training. However, its complex design means that for many companies it is simply an extra cost and therefore there is an argument for having the Levy included in the Business Impact Target.

Small businesses: compliance with regulation

For small businesses, which form the majority of IoD membership, the issue is often not so much about the number of regulations there are, but more about the time it takes to comply with them.

¹ IoD Policy Voice survey March 2017

² IoD Policy Voice survey March 2018

The focus on net business cost rather than compliance process is a potential issue with one of the Government's most well-known deregulatory initiatives: the one-in, three-out policy. The rule focuses solely on the cost of each regulation – it doesn't take into consideration the overall time that it takes to comply with the regulation, which is often the most important factor for businesses. It also doesn't take into account the benefits of each regulation when calculating the net cost. This can, and often does, lead to regulations being removed despite the fact that they don't require much time or resources to comply with. Meanwhile, new regulations being introduced can be much more burdensome in terms of time and general complexities of compliance than the two or three other regulations that are being removed put together. Although it's hard to measure, there's likely to be an opportunity cost for businesses in complying with regulation and this should be taken into account by regulators.

We would therefore recommend for the Government to review the one-in three-out rule and look more closely into the regulations that they are removing as part of the process. While this policy is a good idea in principle, wider factors need to be considered, in particular the time taken to comply, when making decisions on which regulations should be removed.

One crucial way in which the Government can lessen the burden of regulation for small companies in particular is by improving guidance and upping early communication with businesses, as emphasised by our member statistics outlined in the previous section. Small businesses tend to leave compliance with regulation until the last minute – the most common reason being limited resources – which means that they can often face having to complete compliance processes for a number of different regulations at the same time. For example, the start of this year saw changes to the National Living Wage, changes to pensions auto-enrolment rates and the introduction of GDPR. We discuss the effects of compliance with GDPR on small businesses in the last section of this consultation, but what we essentially would like to see is more early communication of guidance by the regulators to the business community. This would help to increase early awareness of different upcoming regulations by small firms, therefore helping to lessen the burden of compliance.

The introduction of the Primary Authority Scheme to help improve regulatory guidance for businesses was a welcome step forward. However, when presented with a list of government support initiatives and asked about awareness of them, only 3% of IoD members said they knew about the scheme.³ Therefore, whilst it is a very positive initiative from which many business leaders could benefit, more needs to be done to promote it.

Another way in which the regulators can help small businesses comply with the rules is by simplifying the language used to set out regulation. Guidance can often be seen as jargonistic and while larger companies that have specialists who will have few problems navigating it, smaller firms that are stretched for time and resources can suffer. For this reason, we would urge regulators to review the language aspect of regulation and ensure that guidance is simple and straightforward.

³ Policy Voice survey March 2017

The Government should essentially treat the smallest firms like consumers – keeping the guidance straightforward and ensuring it is communicated to business leaders effectively would go a long way in helping companies comply with regulation.

Concerns as the UK leaves the EU

With the United Kingdom's impending exit from the European Union, there is a very clear need to establish as quickly as possible a level of equivalence in regulatory matters that could affect British companies', as well as universities and research institutions', ability to either sell in the EU or to access finance from EU-derived bodies. On balance, the business community is more interested in establishing certainty in the short-term before pursuing deregulatory opportunities down the line once our relationship with the EU and indeed the wider world comes into clearer focus.

Concerns remain around whether there will be any drastic changes in regulatory measures after we leave the EU. When consulted on the issue, 44% of IoD members said they support transferring all European legislation into British law in the short term and considering repeal and/or simplification at a later date. Only 8% said that no European regulation should be transferred to British law.⁴ In addition, 51% of directors have said that 'maintaining regulatory alignment with the EU's Single Market to keep our current level of EU market access' is more important to their organisation, while 21% said 'departing from the Single Market rules to make changes to domestic regulation' was more important for them.⁵ The Government should keep these views of British business leaders in mind when working out priorities for the post-Brexit regulatory landscape.

Questions also remain around how Brexit will interact with the work of the BRE and RPC. In particular, it is still unclear whether the regulations transferred from the EU law and any increased burden on businesses post-Brexit will be meaningfully reflected in the Business Impact Target. While EU regulation is currently not included in the Target, there is uncertainty around what will happen after we leave the EU. What companies need are reassurances that there will be very few changes to the regulatory agenda immediately after we leave the EU and clarity on which particular sectors are likely to be affected, if any at all, in the immediate aftermath. We would urge the Government to provide clarity on the post-Brexit regulatory plans as soon as possible, even if it means simply highlighting the message that there will be no changes for at least a few years a number of times. This would go a long way to giving business leaders much-needed reassurance during a time filled with change and uncertainty.

Looking further ahead, the IoD thinks that our regulatory system must remain flexible and open to innovation after we depart from the EU. Where possible, we should attempt to put in place a regulatory regime which makes the UK a place of new ideas, innovations and technologies. This of course does not mean complete deregulation. In fact, 59% of IoD members have said that minimising potential regulatory divergence from the EU was a top priority for them in this area. Businesses feel it would be burdensome to comply with any new regulatory regimes and divergence would effectively cut UK firms off from the EU market.

⁴ Policy Voice survey March 2017

⁵ Policy Voice survey October 2017

Instead, the Government should aim to develop a sensible and dynamic regulatory regime that responds to new technologies and innovations rather than attempt to restrain them. With disruptive new technologies coming on stream so quickly this has never been more important.

Case study on compliance burden: GDPR

The General Data Protection Regulation (GDPR) is by far the most time- and resources-demanding regulation introduced in recent years, affecting every business and self-employed person. While we recognise the importance of it, we feel that the Government should have dedicated more resources to help small businesses to become compliant.

In July 2017, a third of IoD members had not heard of GDPR, while 40% did not know whether their company will be affected by the new rules.⁶ While there is a tendency for small businesses to leave compliance with regulation until the last minute, such high level of unawareness of one of the biggest new regulations just 9 months before it comes into force was concerning. However, it is worth pointing out that awareness and understanding of the issue has picked up since last summer.

The introduction of the helpline by the Information Commissioner's Office (ICO) was a welcome move, but the lack of resources meant that many business leaders seeking help faced long waiting times or were often unable to get through to an adviser. The feedback we received from our members and different departments by the IoD that tested the helpline reinforced this observation.

Meanwhile, compliance with GDPR has been by far the single biggest issue raised by our members to IoD's Information Advisory Service (IAS), a member-facing service which gives advice and guidance to business leaders on a variety of issues, including ones related to regulatory compliance.

This rapid surge in queries about GDPR compliance highlights just how complex the process of becoming compliant is, especially for small businesses and the self-employed that lack time and don't have the resources to hire often very costly specialists to consult on the new data protection regulation. Our members' experience of GDPR compliance is an interesting case study and reinforces the point made in the previous section that the Government should treat small businesses like consumers and ensure they receive early and adequate help and guidance to comply with regulation.

It should also serve as a reminder that regulators must be equipped with the communications resources to provide specific guidance to not just different sectors of the economy, but also different sizes of business. This need may only intensify as we move towards Brexit and through the implementation period.

Conclusion

While the Government's deregulatory drive has been moving in a positive direction overall, there is more that regulators can do to help small businesses comply. We would urge the Government to dedicate more resources for regulators where possible. Meanwhile, regulators themselves should up

⁶ IoD Policy Voice survey July 2017



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early communication with businesses, simplify the language around regulation and improve the guidance available for companies. These important yet relatively simple steps would go a long way towards reducing regulatory burden for businesses. As outlined in this consultation response, business leaders want to comply with regulation. The focus of regulators should not only be on getting rid of existing burdensome regulations, but also on making the existing compliance processes as straightforward as possible.

Thank you once again for giving the IOD the opportunity to participate in this call for evidence and we hope you find our comments useful. If you require any further information on any of the issues discussed, please do not hesitate to get in contact.

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