



Department for  
Business & Trade

# **SMARTER REGULATION AND THE REGULATORY LANDSCAPE:**

## **CALL FOR EVIDENCE**

**This call for evidence closes 11:59pm on 17 January 2024**

Published 17 October 2023



## Introduction

On 10 May 2023, the Government published [Smarter Regulation to Grow the Economy](#). This introductory report set out our vision for regulation and committed to a series of regulatory reform announcements across the year to benefit businesses and drive innovation and growth.

When delivered effectively, regulation and the work of regulators plays a vital role in protecting consumers, the environment and setting the right frameworks for businesses to thrive. Smarter regulation is about only using regulation where necessary, implementing it well, and ensuring its use is proportionate and future-proof. Through this lens, the Smarter Regulation programme across government - led by the Department for Business and Trade - has three core pillars:

- **Minimising regulatory burden and future-proofing regulations.** We are reforming the existing stock of regulation to cut regulatory burdens and future-proof our approach. This spans both reforms to Retained EU Law (REUL) using the powers in the Retained EU Law Act, as well as wider domestic regulations. Regulations that are not needed will be removed, while those that are needed must be proportionate, contemporary and forward-looking.
- **Making regulation a last resort, not a first choice.** This means putting downward pressure on the flow of new regulation, with alternatives deployed wherever possible.
- **Ensuring a well-functioning landscape of regulators.** Regulators have a significant footprint on the economy, and as such it is essential that regulators work well for the UK. They should operate in an agile and outcome-driven fashion and help drive economic growth - while protecting consumers and ensuring that markets work as well as they can.

Since 10 May 2023, we have already announced reforms across each of these areas. First, on the stock of existing regulation, we have already reformed or revoked over 1,000 pieces of REUL with 1,000 more reforms and revocations underway. We have also launched consultations on reforming REUL [employment law](#); [wine sector reforms](#); and the [product safety review](#) and [fire safety of domestic upholstered furniture](#). The latter two consultations will future-proof our approach to product regulation, alongside our announcement to [indefinitely extend recognition of the CE mark](#). Second, our new Better Regulation Framework launched in the summer, to put downward pressure on the flow of new regulation; encourage alternatives as far as possible and allow for a wider consideration of impacts. Third, we launched a series of consultations aimed at improving the outcomes that independent regulation delivers - this includes a [Strategic Steer for the Competition and Markets Authority](#); [Strategy and Policy Statement for Energy regulation](#); most recently we consulted on [extending the existing growth](#) duty to Ofgem, Ofcom and Ofwat and published wider findings on efficiency and effectiveness of regulation in an [independent review into the Civil Aviation Authority](#) as part of the [Cabinet Office Public Bodies Review programme](#).



A full collection of smarter regulation announcements can be found on the [Smarter Regulation Landing page](#).

There are more opportunities to seize in both reforming the stock of regulation and in ensuring that the wider landscape of independent regulation delivers for the UK. This call for evidence is the next step that the Government is taking to ensure that we have a world-leading regulatory system.



## The Purpose and Scope of this Call for Evidence

Stakeholder feedback and views is essential to informing the Smarter Regulation programme of regulatory reform, to improve outcomes for businesses and consumers. The first and principal focus of this call for evidence is to understand what works well and what could be improved in how regulators operate to deliver for the sectors they serve.

We are particularly interested in success stories and areas for improvement on regulatory agility; proportionality; and consistency of approach. Second, we are also interested to understand any further steps we can take to reform the existing stock of regulation on the UK Statute book (both Retained EU Law and wider regulations) and ask a supplementary question on this.

The questions that we ask are general and not specific to any given regulators. However, we welcome, where helpful in your answer, specific examples or case studies from your experience of interacting with individual regulators. For the purpose of this call for evidence, we welcome hearing about any central government public bodies with a regulatory function and a territorial scope of the whole UK, Great Britain or England and Wales only.<sup>1</sup>

We welcome hearing from all stakeholders with views on regulatory reform and how independent regulation works. We are particularly interested in responses from small businesses and consumers.

We welcome responses from all stakeholders across all sectors in the economy, but note that we are not seeking views on financial services regulators and regulations. These are handled by HM Treasury, where there have been positive and industry-welcomed reforms in this space in recent years.

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<sup>1</sup> This definition means the scope of this review broadly covers most independent regulatory authorities, but not local authorities. If there is a particular regulator that you feel should be applicable to this Call for Evidence but does not meet this scope, please do let us know in your responses - setting out why, focusing for example on the significance of its impact.



## Audience of this Call for Evidence

The majority of the questions in this call for evidence are, unless otherwise stated, applicable to all stakeholders - businesses; consumers; regulatory bodies, and other bodies. We recognise that the lens through which you provide answers will differ:

- If you are a business, we want to hear about your experience of interacting with regulators, including both your perception of regulatory complexity and costs as well as the benefits. The more detail you can provide us, the better.
- If you are a regulator, we want to know about your experiences managing relationships with your regulated businesses; your sponsoring policy department; and the consumers you protect - or whoever the ultimate beneficiary of the regulatory activity is intended to be. We want to know what causes tension between your desire to help businesses grow; to secure good outcomes for consumers; and your need to discharge your statutory functions.
- If you are neither of those, tell us who you are and give us your views, making clear in what capacity you were involved in each example. For example, we welcome responses from consumers and consumer groups.



## Structure of this Call for Evidence

We encourage respondents to answer as many questions as possible, but also recognise that respondents may wish to be target responses to areas of interest. The call for evidence is structured as follows:

- **Section 1: Preliminary questions**, asks for some high-level views on the regulatory landscape. We ask that all respondents complete this section. (Questions 1 - 3)
- **Section 2: Complexity and Ease of Understanding the Regulatory System**, asks important questions on how easy it is to navigate the landscape of regulators and understand what their objectives are. We recommend that all respondents complete this section. (Questions 4 - 12)
- **Section 3: Regulator Agility, Responsiveness and Skills**, covers the speed with which regulators make decisions and whether they have the right balance of skills to deliver effectively. We particularly encourage regulatory authorities and regulated businesses to respond to this section. (Questions 13 - 19)
- **Section 4: Proportionality in Implementing Regulation**, is concerned with whether the approach of regulatory authorities to delivering outcomes is proportionate. We particularly welcome responses from regulated businesses and consumers. (Questions 20 - 27)
- **Section 5: Process and Governance**, is concerned with whether the governance structures of regulatory authorities are conducive to delivering the best outcomes and whether the rationale for decisions is well communicated. We particularly welcome responses from regulated businesses and regulatory authorities. (Questions 28 - 35)
- **Section 6: Regulator Performance**, asks for views on whether regulators are delivering on their objectives and whether there is sufficient performance monitoring in place. We particularly welcome responses from regulated businesses and consumers. (Questions 36 - 38)
- **Section 7: Concluding questions**, asks some general closing questions on regulation as a whole, including whether there are international examples of best practice that regulatory authorities could adopt. We encourage all respondents to answer these questions. (Questions 39 - 42)
- **Section 8: Closing Questions**, asks some background questions on the respondent, including the capacity in which they are responding to this Call for Evidence. We encourage all respondents to answer these questions. (Questions 43 - 49)



## **Duration of this Call for Evidence**

This Call for Evidence will last for 13 weeks and close on the 17<sup>th</sup> of January 2024



## Confidentiality of Responses

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable UK and EU data protection laws. [See our privacy policy.](#)

We may summarise all responses and publish this summary on [GOV.UK](#). The summary may include a high level list of respondents, but not people's personal names, addresses, e-mails, or other contact details

We do not intend to publish individual responses.





## Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: [smarter.regulation@businessandtrade.gov.uk](mailto:smarter.regulation@businessandtrade.gov.uk)



## Next Steps

Once the Call for Evidence has closed, the Review team will review and analyse the responses received.



## Section One: Questions on the Landscape of Regulation (Required)

There are around 90 regulators in the UK and they spend almost £5bn per year across regulatory activities and running costs, covering most sectors of the economy.<sup>2</sup> The scale and responsibility assigned to regulators makes the performance of these entities in delivering the best outcomes in the sectors/areas that they regulate key to the UK's economic success.

*Please note that any questions asked about a 'regulator' is pertaining to the relevant regulatory body to your answer. We are not seeking information about individual persons employed by regulatory bodies.*

**Question 1:** Based on your experience, do you think that UK regulators are supportive of the individual businesses they regulate in a way that appropriately balances considerations of consumers and other businesses within the sector more broadly?

No.

We welcome proportionate risk-based regulation, but that requires some regulation to actually take place and to be seen to take place. Some regulators are better at this than others. We consider that Ofcom, for example, in its role as the broadcasting regulator, has demonstrated that it can deliver firm, fair, effective regulation that is both done and seen to be done, taking into account the wider context in which it conducts its activities.

Failure to enforce the law does not equate to good, proportionate or supportive regulation. When regulators fail to enforce the law, this creates inequality between - and has an anti-competitive impact in relation to - those organisations which seek to comply and those which choose to flout the law anticipating that they will not bear any consequences for doing so. When this is allowed to propagate, even consumers are unable to ascertain which organisations are compliant and there is therefore no tangible or intangible benefit to compliance – only cost. In practice, this approach to regulation favours the largest private sector organisations, and the public sector, who are likely to have the most contact – whether directly or through their legal advisers – with regulators, and is therefore most supportive of them, to the detriment of smaller private sector organisations, many of which will be home grown.

**Question 2:** Please name the UK regulator(s) you engage with most frequently:

Information Commissioner's Office

Ofcom

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<sup>2</sup> See <https://www.nao.org.uk/wp-content/uploads/2020/03/Overview-Regulation-2019.pdf>



## Competition and Markets Authority (CMA)

**Question 3:** What do you consider to be the most positive and/or negative aspect of how the UK regulators that you engage with operate?

We consider that the most positive aspect of the UK regulators we have identified is that they can be relied upon to seek to act justly and in accordance with public law principles.

We consider that the most negative aspect of the UK regulators we have identified is that, on occasion, one or more has failed to have regard to their wider obligations as public authorities, failing to take account of, for example, the public interest in the conduct of the entity being regulated.



## Section Two: Complexity and Ease of Understanding the Regulatory System

The large number of regulators in the UK is driven in part by the scale of our economy and the range of different sectors and activities that require some form of regulation, whether to ensure markets work well or to otherwise protect workers, consumers, and other members of the public. While this structure may have advantages in terms of scope, we also recognise that it creates risks of overlaps or duplications between the mandates of different - potentially increasing complexity for those being regulated and the burden of regulation.

Statutory duties are placed on the regulators through legislation. Regulators often have a set of duties across different primary and secondary legislation which they must fulfil in carrying out their core functions. They also frequently have wider objectives, for instance as set out in statutory guidance.

*We are aware that not all questions will be relevant to all respondents. Please address as many questions as are relevant to your experience.*

**Question 4:** Based on your experience or understanding of UK regulators, do you find it clear what the overall purpose and objectives of individual regulators are?

As professionals advising in this area, we are clear as to the purpose and objectives of regulators as a consequence, for example, of being familiar with relevant legislation, reviewing strategies, reading blog posts, attending events and contributing to consultations. In practice, we anticipate that many organisations and businesses lack such clarity.

**Question 5:** Within these overall objectives (as considered in the preceding question), do you find it clear what the specific statutory duties (i.e required by legislation) of individual UK regulators are?

Yes.

**Question 6:** Do you think that the statutory duties (i.e required by legislation) imposed on UK regulators:

1. Cover the right issues?



2. Are clearly stated in relevant statute, including where supplemented by relevant guidance?; and
3. Are sufficiently consistent across regulators, where this is relevant?

We would welcome clarity in legislation as to the wider issues to which regulators are required to have regard, in particular to wider Convention rights within the meaning of the Human Rights Act 1998.

We would not object to recognition in legislation that the role of regulators is not merely to, for example, protect the rights of individuals, but is also to promote or otherwise to facilitate the conduct of regulated entities in accordance with their obligations.

**Question 7:** As set out above, UK regulators have a remit that is set through legislation and guidance. Which of the below do you consider best applies?

1. Regulators always act within the scope of their remit;
2. Regulators go beyond their remit in a way that may negatively impact the outcomes that they are required to deliver; or
3. Regulators go beyond their remit in a way that supports the outcomes they are required to deliver

2.

**Question 8:** Do you often have to engage multiple UK regulators on the same issue or area?

1. Yes
2. No

Not at present, although we anticipate that this will increase significantly in the context of the implementation of the Online Safety Act 2023 and in relation to issues concerning the application of existing law and regulation to artificial intelligence (AI).

**Question 9:** Do you consider that UK regulators collaborate effectively with each other and their international counterparts?



While we acknowledge the informal structures that have arisen to enable collaboration between UK regulators, such as the Digital Regulation Cooperation Forum (DRCF), we would welcome formal structures and statutory obligations on regulators to co-operate.

In the context of individual investigations, we are concerned that co-operation between regulators can be opaque and that informal advice is given which is not recorded and is based upon limited information being shared, but which can then inform the direction of an investigation or even enforcement action. We consider that co-operation in such contexts should always be appropriately recorded, transparent and subject to input by the affected regulated entity.

Equally, in relation to their international counterparts, we acknowledge the informal structures that have been established, such as the Global Online Safety Regulators Network, we welcome the statutory powers (and restrictions) granted to Ofcom under s.114 Online Safety Act 2023 to co-operate with overseas regulators.

UK regulators continue to have a role in convening and/or participating in such international networks, and the importance of the ability to do so effectively, to share information and to take co-ordinated enforcement action will only become more important.

**Question 10:** Where you engage with multiple UK regulators, do you find it clear which regulator is responsible for a specific issue or area, and how regulator mandates interact?

While we consider it clear which regulator is responsible for which issue, it is not always clear when and how regulators interact in the context of specific investigations, for example, and – as set out above - we consider that co-operation in such contexts should always be appropriately recorded, transparent and subject to input by the affected regulated entity.

**Question 11:** Do you consider there to be underregulated areas of the economy, or gaps in regulatory responsibility between UK regulators?

Artificial intelligence is an obvious area where there are gaps in regulatory responsibility and where there are public bodies, such as the Intellectual Property Office (IPO), which do not have formal regulatory responsibility in this area currently, but which clearly have a crucial role to play. We would welcome a wider role for the IPO as a regulator. As stated above, we would welcome formal structures to mandate co-operation between regulators and facilitate such co-operation.

While we consider that data protection compliance is not under-regulated, we are of the view that existing regulation is under-enforced.

**Question 12:** Do you consider that guidance issued by UK regulatory bodies makes the regulatory system clearer and easier to understand?



No. Too often guidance issued merely regurgitates legislation rather than identifying what constitutes good or best practice.

Furthermore, we are aware of a number of instances where the Information Commissioner's Office, for example, has published guidance on social media which drastically over-simplifies or simply mis-states the law. In our experience, even when these issues are highlighted, the relevant posts are not removed. This is unforgivable and causes difficulties for individuals, regulated entities and the regulator themselves.

See for example:

[https://www.linkedin.com/posts/information-commissioner%27s-office\\_decisions-about-your-personal-information-activity-7139569580212940800-FXIY/](https://www.linkedin.com/posts/information-commissioner%27s-office_decisions-about-your-personal-information-activity-7139569580212940800-FXIY/)





## Section Three: Regulator Agility, Responsiveness and Skills

Regulators need to be responsive to change and wider systemic factors. As new issues and novel technologies emerge, regulators must be adaptive, coherent and coordinated to ensure that issues do not fall through the cracks and that responses are timely. Regulator agility means quick and effective implementation of current rules, as well as adapting rules when circumstances change and it is appropriate to do so.

*We are aware that not all questions will be relevant to all respondents. Please address as many questions as are relevant to your experience.*

**Question 13:** Do you find UK regulators to be agile and responsive to new and emerging issues?

No. We often find regulators to be hesitant and unwilling to indicate any position publicly, albeit that they are often more willing to do so in private. When an indicative position is set out publicly, this does not always appear to be well-considered or to take into account all relevant information, potentially giving regulated entities a false sense of security. We consider that there can be a gap between what regulators say their position is and their actual enforcement activities.

**Question 14:** What factors do you think work for and against UK regulators' ability to respond sufficiently rapidly?

We consider that regulators often lack sufficient technical knowledge and understanding of emerging issues. As public bodies they are unable to compete for the best talent to advise and/or staff turnover is accelerated. There appears to be a reluctance to place down markers or to pre-empt decisions, but we would welcome regulators identifying best/good practice even if in practice a less rigorous approach could still be determined to be compliant.

**Question 15:** Do you consider the processes that UK regulators have in place allow them to make decisions in an appropriate time frame?

We would welcome statutory timeframes for making and publicising decisions.

**Question 16:** In the sector(s) that you operate in, do you think there are specific improvements that UK regulators and / or the Government could make to facilitate a more agile implementation of rules and regulations?



We would welcome early public indications of when regulators consider how regulations apply to emerging issues and, if they consider that regulations don't or shouldn't apply steps to secure legislative or regulatory changes or otherwise a clear public statement to the effect that they intend to apply law and regulation in a particular way. At present, we consider that certain regulators pick and choose what to enforce and when, preferring commercial convenience for a regulated entity over the law, with little clarity for other regulated entities or the public and this causes confusion, diminishes confidence and dissuades organisations from compliance.

**Question 17:** Do you think UK regulators have the appropriate mix of skills to deliver their objectives?

We acknowledge efforts made by, for example Ofcom in seeking to recruit from the private sector entities which are now subject to the Online Safety Act 2023. As set out above, we note the challenges facing regulators in attracting the best talent and consider that flexibility and imagination is required to enable appropriately qualified individuals to be recruited or to otherwise support regulators' activities.

**Question 18:** Do you think UK regulators are appropriately resourced to discharge their duties?

No.

**Question 19:** Do you think existing processes enable UK regulators to test new regulatory reform proposals?

Between consultations and concepts such as regulatory sandboxes, we consider that there are mechanisms in place to test proposals. We would be concerned, however, if regulators sought to effectively 'soft-launch' new approaches before these were the subject of formal reform.



## Section Four: Proportionality in Implementing Regulation

The methods regulators employ to meet their objectives can increase or decrease the burden on those they regulate. A proportionate approach to managing risk is key to balancing important protections with an environment that fosters innovation and accelerates economic growth and technological development.

*We are aware that not all questions will be relevant to all respondents. Please address as many questions as are relevant to your experience.*

**Question 20:** Do you consider UK regulators to be proportionate in the measures they take, e.g. in applying regulations or responding to emerging issues?

No. Regulators appear to take a zero-sum approach to regulation whereby they either take no action at all or want to impose large fines. There are a range of appropriate regulatory responses which as a minimum lay down a marker and encourage compliance which don't require heavy handed approaches. In relation to emerging issues, regulators can be too focused on encouraging innovation without regard to the consequences.

**Question 21:** In making decisions that involve risk, which of the below do you consider most accurate?

1. UK regulators are too risk averse in their decision making
2. UK regulators achieve the right balance of risk in their decision making
3. UK regulators allow for too much risk in their decision making

We consider that regulators often veer between being too risk averse and allowing for too much risk, with the latter in relation to the largest commercial organisations.

**Question 22:** Do you consider that individual UK regulators have the appropriate level of discretion when taking decisions that involve risk?

Yes.



**Question 23:** If you are a business or consumer, how does the approach that UK regulators take to risk impact your own decision-making?

As an adviser, we would be remiss if, in addition to advising on the law and regulation and what best practice looks like, we did not also advise clients on the reality of the regulatory and/or legal risk they face for non-compliance. Where regulatory enforcement is lacking and the threshold for bringing legal proceedings is too high or prohibitively expensive, then in reality the risk of any challenge – let alone a successful one – is low, and the cost of compliance can be high. Regulation should encourage compliance, not reward non-compliance.

**Question 24:** UK regulators often need to balance delivery across a range of different legislative duties or regulatory requirements, some of which may involve trade-offs. Do you consider that they balance these trade-offs effectively and transparently?

In our experience regulators tend to be trading-off their legislative duties or regulatory requirements against the stated desire of the government to reduce regulatory burdens and to boost the economy, and therefore to turn a blind eye to non-compliance. We do not consider that trade-offs are effective or transparent.

**Question 25:** If you are a UK regulator, are there specific areas where you consider it would be beneficial to seek further steer or guidance from the Government?

N/A

**Question 26:** In general, do you consider the approach that UK regulators take to requests for information to be proportionate to any burden they may impose on you?

2.No

In our experience advising and representing our clients, regulators often make significant requests for information, which are not appropriately tailored, and impose unreasonable deadlines for the provision of information. The impact of such conduct is exacerbated when multiple requests for information are made during a short period of time and without notice, meaning that there is no opportunity to seek to redeploy resources in an effort to meet these requirements.

**Question 27:** Do you ever receive duplicative requests for information from the same or multiple UK regulators? (i.e., requests asking for essentially the same information)?

2.No





## Section Five: Process and Governance

Regulators have a variety of governance structures (for example decision making boards or external advisory committees) which underpin their decision making. Responsibility is also assigned throughout the regulatory system between Government departments and regulators. The balance of this relationship is vital for the successful delivery of regulatory outcomes. Regulators are in place to deliver certain outcomes, as set out in their duties and guidance. As in any organisation, internal processes need to be put in place to operate effectively and consistently. It is however crucial that those processes drive rather than limit outcomes.

*We are aware that not all questions will be relevant to all respondents, please address as many questions as are relevant to your experience.*

**Question 28:** Do you consider that UK regulators have in place the right governance structures to deliver the best outcomes? If not, how can they be improved?

No. Given the volume of work which some regulators face, in our experience this often leads to incongruous decisions by junior staff which, once made, are difficult to secure independent review of or challenge to.

**Question 29:** Do you consider that UK regulators use digital systems in their interactions with you in an efficient fashion? (e.g. data transfer or other digitised methods)?

No. Data, even where digitised, is often stored in systems which appear to be designed for obscurity and the inability to interrogate them for relevant information. This inhibits consistent decision making.

**Question 30:** Do UK regulators sufficiently communicate the processes they follow to make decisions?

1. Yes
2. No
3. N/A

2.



**Question 31:** Are you provided sufficient opportunity to input into decision making by UK regulators processes (e.g., via consultations, workshops etc)? If not, how would you suggest improving the process?

Sometimes.

Consultations should take place on guidance prior to the relevant law being enforceable.

When government and regulators are consulting on similar issues at once, as is currently the case in relation to Ofcom, the ICO and the Department for Science, Innovation and Technology, for example, we would welcome acknowledgment that considering and responding to such consultations itself presents a regulatory burden and the planning and staggering of such work.

We have experienced consultation processes whereby poor quality drafts are published, mis-stating the law for example, and effectively expecting industry to pick up the slack, resulting in multiple consultations on revised drafts of the same document. This should be sought to be avoided.

**Question 32:** Do you consider the processes that UK regulators follow deliver reasonable outcomes?

No. A focus on regulating/enforcing only the most harmful conduct results in ex post-facto regulation, to the ignorance of high volume, low risk non-compliance, which could be addressed before harm occurs. In practice, where only the most harmful conduct is enforced by regulators, having regard to the difficulties in bringing claims before the courts, this means that much unlawful conduct simply goes without challenge. If that is the intention of the government and regulators in achieving 'proportionate regulation' then it would be better not to legislate on these issues at all. That is not to say that we consider enforcement must mean fines, for example. A public statement to the effect that, e.g. "It has come to our attention that regulated entities are engaging in X practice, which we consider may fail to comply with obligations for reasons Y and Z, and we therefore advise regulated entities to refrain from such conduct or seek their own advice. We reserve the right to take action in respect of such conduct/any similar future conduct", can be extremely effective in encouraging good practice fairly and proportionately, while minimising regulatory burdens and the cost of regulation.

**Question 33:** Do you think UK regulators treat those that they regulate consistently?

No. As set out above, we consider that the largest organisations who – either directly or through their advisers – have the closest relationships with regulators are often less stringently regulated than smaller or domestic entities. We anticipate that some regulators may be hesitant to engage in potentially protracted and expensive legal battles, and therefore simply prefer to stick their head in the sand in relation to unlawful conduct.

**Question 34:** As a business, do you think the process to challenge a UK regulator you interact with is sufficiently clear, robust and fair?



No. Challenging regulators during the course of the enforcement process, as is often required, merely enables the regulator to maintain an adverse position while perfecting their deficient reasoning. Cost rules on appeals mean that it can be prohibitively expensive for regulated entities to challenge an adverse regulatory decision.

**Question 35:** What steps, if any, do you think could be taken to further improve the effectiveness and clarity of the reviews and appeals processes?

Regulators should be obliged to make clear the route(s) of appeal open to regulated entities. Where decisions of regulators are overturned they should be presumed to be liable to pay the costs of the appeal.





## Section Six: Regulator Performance

How regulators seek to meet their objectives, implement and enforce regulation is just as important as regulatory structures. Regulation is only effective if it achieves its desired outcome and tackles the problems that it is trying to solve.

*We are aware that not all questions will be relevant to all respondents, please address as many questions as are relevant to your experience.*

**Question 36:** In your experience, have UK regulators that you interact with delivered on their stated objectives in that interaction?

Sometimes.

**Question 37:** Do you think UK regulator performance reporting is proportionate, objective and transparent?

No. We would welcome more structured records of activities being pro-actively published to support the understanding and analysis of enforcement activities, both to inform compliance programmes and to assess regulatory performance and value for money.

**Question 38:** Do you think UK regulators report on the right set of criteria and metrics to monitor their performance and ensure accountability?

No. We repeat that we would welcome more structured records of activities being pro-actively published to support the understanding and analysis of enforcement activities, both to inform compliance programmes and to assess regulatory performance and value for money.



## Section Seven: Concluding Questions (Required)

**Question 39:** If you could suggest a single reform to improve how UK regulators operate, what would it be?

The publication of guidance prior to legislation and regulations becoming enforceable which doesn't merely regurgitate the law but identifies at least good practice.

**Question 40:** Are there any examples of international approaches to regulation that you think set best practice that UK regulators could learn from?

*Please provide further detail here. Examples are welcomed.*

**Question 41:** What is the best designed regulation you face, and why?

Communications Act 2003.

**Question 42:** Are there any further points you would raise about regulation, including the functioning of the regulatory system or any recommendations you have on the stock of regulations from the Government which should be removed or reformed and modernised?

On occasion, and potentially becoming more prevalent, regulators have published press releases whereby they appear more concerned with securing column inches than fulfilling their statutory obligations. While headlines about stringent regulation may be flattering or contribute to a strategy of wanting to be seen to be tough and that legislation is therefore working, fairness toward both regulated entities and beneficiaries and the provision of a true reflection of the state of regulation should be priorities.





## Section Eight: Closing Questions (Required)

**Question 43:** In what capacity do you interact with UK regulators or regulated businesses? (Please select the most appropriate option that represents you, and respond according to your primary responsibilities)

- Regulated entity (i.e. business)
- Other

We represent regulated entities.

**Question 44:** If you are a business, how many employees do you have?

- 1 – 9 employees

**Question 45:** Please name the Sector(s) that you operate in - you may wish to reference [Standard Industrial Classifications](#)

69109 Activities of patent and copyright agents; other legal activities n.e.c.

82990 Other business support service activities n.e.c.

70229 Management consultancy activities other than financial management

**Question 46:** If you are a regulated business, how much as a percentage of turnover does demonstrating compliance with regulation cost your business?

- Not Applicable
- Less than 1% of turnover
- 1 to 5% of turnover
- More than 5% and up to 10% of turnover
- Over 10% of turnover



*If possible, please provide more specific figures on the cost of compliance with regulation here. Compliance costs may for example include costs of staff responsible for engaging with regulators, responding to requests for information and demonstrating compliance.*

*Compliance costs may for example include costs of staff responsible for engaging with regulators, responding to requests for information and demonstrating compliance to the regulator. It is these costs we are concerned with, rather than the costs of delivering the policy intent of the regulation.*

**Question 47:** What is your name, or the name of your organisation?

Handley Gill Limited

**Question 48:** What is your e-mail address (optional response)?

info@handleygill.com

**Question 49:** We usually publish a summary of all responses, but sometimes we are asked to publish the individual responses too. Would you be happy for your response to be published in full?

- Yes



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