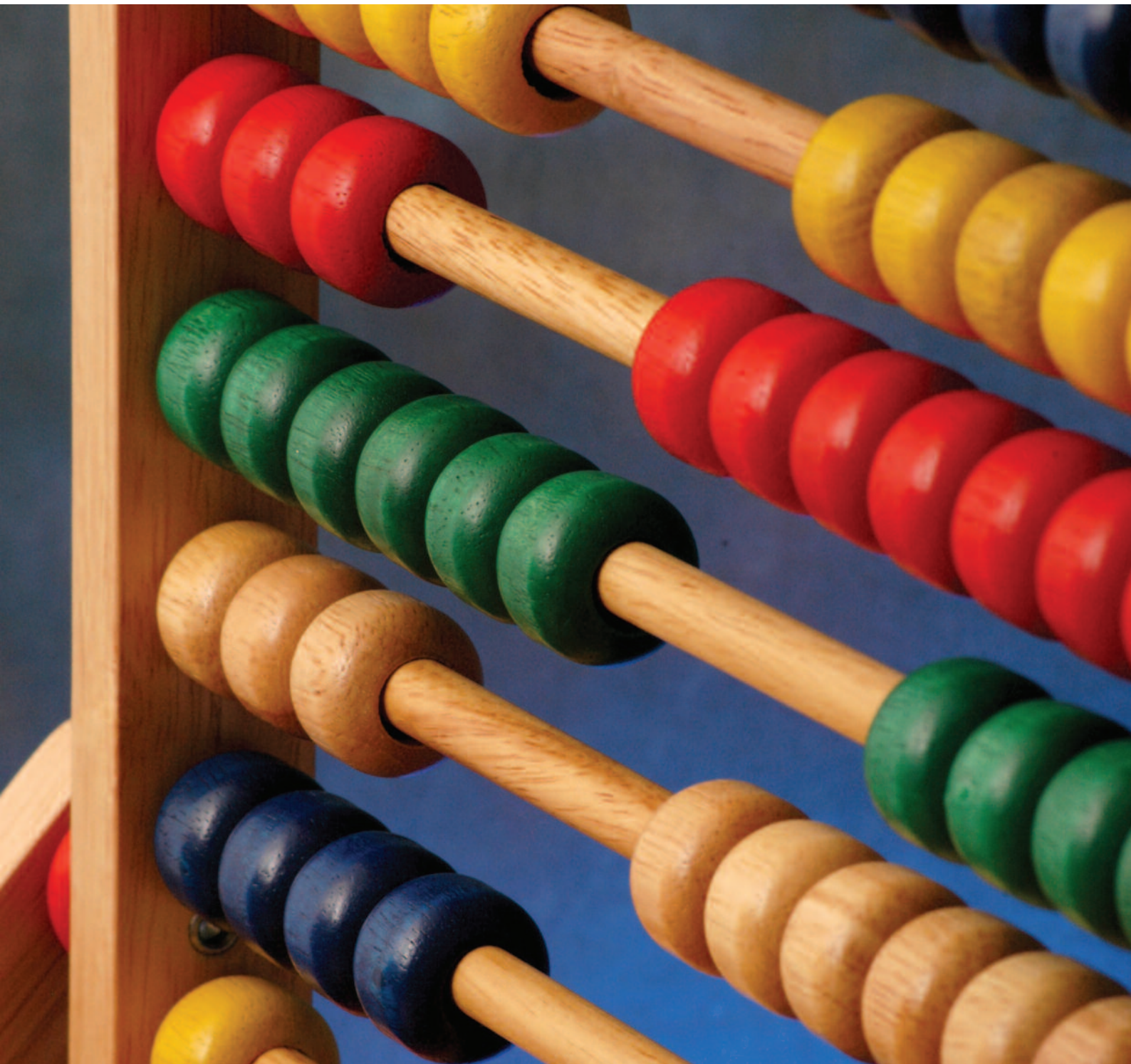


Regulatory Budgets: A Consultation Document



CONSULTATION ON THE INTRODUCTION OF A SYSTEM OF REGULATORY BUDGETS

<i>Who should read this document?</i>	Anyone with an interest in the Government's approach to better regulation. This may include large and small businesses, trades unions, social, environmental and consumer groups, regulators and enforcers, and lawyers.
<i>Making your views heard</i>	We are keen to gather all views on the subject of regulatory budgets, and any supporting evidence. You should not feel constrained by the specific questions or feel obliged to offer responses to all of them. Concentrate on those in which you have most interest. It would be helpful if you could describe your views, suggestions and experiences when responding, rather than giving 'yes' or 'no' answers.
<i>Additional ways to feed in your views</i>	Stakeholder events will be arranged to discuss these issues. If you are interested in participating, please contact Johannes Wolff via the address or phone number below.
Views are requested by 12 November 2008	
<i>Phone enquiries to:</i>	Johannes Wolff, on 020 7215 1206 or
<i>Email:</i>	regulatorybudgets@berr.gsi.gov.uk
<i>In writing:</i>	Regulatory Budgets Consultation Better Regulation Executive 3rd Floor Department of Business, Enterprise and Regulatory Reform 1 Victoria Street London SW1H 0ET
<i>Your details:</i>	Representative groups may wish to give a summary of the views of the people and organisations they represent, and where relevant how they consulted in reaching their conclusions. You may wish to include contact details for follow-up (e.g. name, phone number, email address).
<i>Confidentiality:</i>	The position regarding the confidentiality of information provided is set out at the back of this document. Unless you state otherwise (and an automatic disclaimer generated by your IT system will not be taken as such), we will assume you are happy for us to publish your response and to share it with other Government officials.
<i>Additional copies:</i>	Further printed copies of the Consultation Document can be obtained from: BERR Publications Order Line Admail 528 London SW1W 8YO Tel: 0845 015 0010 Fax: 0845 015 0020 Minicom: 0845 015 0030 Website: www.berr.gov.uk/publications

CONTENTS

FOREWORD	5
INTRODUCTION	7
EXECUTIVE SUMMARY	9
CHAPTER 1	
WHY THE GOVERNMENT IS CONSIDERING A SYSTEM OF REGULATORY BUDGETS	13
RECENT DEVELOPMENTS IN BETTER REGULATION	13
THE CASE FOR GOING FURTHER IN MANAGING REGULATORY COSTS	14
BETTER CONTROL OF REGULATORY COSTS	15
THE CONCEPT OF REGULATORY BUDGETS	16
REGULATORY BUDGETS AND ACTION TO ADDRESS CLIMATE CHANGE	17
PRE-REQUISITES FOR REGULATORY BUDGETS	18
CHAPTER 2	
PROCESSES AND INSTITUTIONS FOR MANAGING REGULATORY BUDGETS	19
PURPOSE AND SUCCESS CRITERIA	19
OVERVIEW OF THE PROCESS	19
SETTING THE BUDGETS	20
MANAGING THE BUDGETS	21
SHADOW RUNNING	22
ADMINISTRATIVE BURDENS REDUCTION TARGET	23
CHAPTER 3	
LEGISLATIVE BOUNDARIES FOR REGULATORY BUDGETS	25
IDENTIFYING WHAT WOULD BE INCLUDED IN REGULATORY BUDGETS	25
REGULATION INCLUDED IN A BUDGET	25
EU ORIGINATING REGULATIONS	27
OTHER INTERNATIONAL REGULATION	27
COST ELEMENTS ARISING FROM SPECIFIC REGULATORY ACTIONS	28
SPECIFIC ENFORCEMENT ACTION	28
SELF-FUNDING REGULATION	28
COSTS FROM CONTRACTUAL OBLIGATIONS	28
COURT CASES AND EU INFRACTION PROCEEDINGS	29

CHAPTER 4	
ORGANISATIONS ACCOUNTABLE FOR REGULATORY BUDGETS	31
GENERAL APPROACH	31
STATUTORILY INDEPENDENT REGULATORS, COMPETITION AUTHORITIES AND ECONOMIC REGULATORS	32
ALLOCATING BUDGETS BETWEEN REGULATORS AND SPONSORING DEPARTMENTS	33
CHAPTER 5	
THE BUDGETED COSTS	35
COSTS TO INCLUDE IN A BUDGET	35
CHAPTER 6	
ASSESSMENT METHODOLOGY	37
ASSESSING THE COSTS OF REGULATIONS	37
COST AND BENEFITS INCLUDED IN A REGULATORY BUDGET	38
THE APPROPRIATE COST MEASURE – TREATMENT OF TRANSITIONAL COSTS	38
TECHNICAL ANNEX ON METHODOLOGICAL ISSUES	40
BIBLIOGRAPHY	50
STAKEHOLDERS	52

FOREWORD BY JOHN HUTTON

High quality regulation is a cornerstone of a civilised society. Regulations help to protect citizens, consumers, workers, and businesses from harm. But it is crucial that regulation is focused where it is needed most and does not impose unnecessary costs on the economy and wider society.

As a government we have already made great progress in improving our regulatory regime. The UK is recognised as a world leader in better regulation and ranked by the World Bank as one of the top places to do business internationally.



But we want to go further, which is why we are consulting on the idea of introducing a system of regulatory budgets to make explicit the costs and benefits of new regulations.

Introducing Regulatory Budgets would be a radical new development, a world first in the management of regulation. We need to make sure that any system would work for all those affected by regulation which is why we are seeking views on key issues.

A handwritten signature in black ink that reads "John Hutton". The signature is written in a cursive, slightly stylized font.

John Hutton
BERR SoS

August 2008

INTRODUCTION

The Enterprise Strategy set out the Government's agenda for developing enterprise in the UK. A key element of this is ensuring the UK has the right regulatory framework in place to help its economy meet the challenges of the 21st century. All market economies need regulation; it plays a vital role in allowing businesses to operate and it ensures that businesses, consumers and employees are not unfairly exploited and the environment is protected. However, getting the type and level of individual regulations right and managing their cumulative impact is vitally important in supporting productivity and growth.

The Government is committed to ensuring that all new regulation is necessary and that any burdens imposed on business are minimal. More needs to be done to tackle the volume of new regulation faced by business, and so the Government is announcing, in this document, a system of regulatory budgets that will ensure the UK continues to be the one of the best places in the world to do business, whilst at the same time continuing to protect our environment and our society.

The Government believes that there is a strong case for a clear and robust process for determining the government's regulatory priorities and controlling the costs that businesses can be expected to absorb, whilst achieving the maximum benefits from that regulation.

A regulatory budget system will provide better prioritised regulation by government departments; greater transparency on the impact of regulation and better accounting of the opportunity costs of regulation; better maximisation of the benefits of regulatory interventions and minimisation of the costs; and greater scrutiny of regulatory proposals.

The introduction of regulatory budgets builds on the launch last year of a new template for Impact Assessments and a commitment by the Government to publish the benefit-cost ratio of regulation introduced from 2008. The foundations for regulatory budgets are in place. In taking this natural next step, the Government will be introducing additional transparency in setting out its ambition for regulation and greater control over the costs that will be introduced.

We hope you will share your views with us to ensure that we can deliver on this proposal.

EXECUTIVE SUMMARY

- I In March 2008 the Government announced that it would consult on the introduction of a system of regulatory budgets for departments that would set out the cost of new regulation that can be introduced in a given period. This consultation document explains the background to this proposal and discusses how such a system could work in practice. Responses to this consultation and further work by Government will help inform decisions to be taken on the possible implementation of a regulatory budgets system.

WHY THE GOVERNMENT IS CONSIDERING A SYSTEM OF REGULATORY BUDGETS

- II Effective and well focused regulation plays a vital role in correcting market failures, promoting fairness and increasing competition. Society expects the Government to provide protection for the public, consumers, employees and the environment consistent with the best international standards. However, inefficient regulation can impose significant burdens on the private, public and third sectors affecting our national competitiveness and the quality of public services.
- III It is the UK Government's intention to keep regulation to a minimum by reducing unnecessary burdens on business, the public and third sectors whilst maintaining the essential protections and benefits that regulation provides. In recent years the Government has taken a number of important steps to advance this agenda, including:¹
- a programme to reduce the administrative burdens of complying with regulation by 25% by 2010;
 - working with regulators and enforcement agencies to ensure they implement a risk-based approach;
 - strengthening the process of Impact Assessment, and starting to publish an annual cost benefit ratio of new regulation;
 - seeking to embed the principles of better regulation within Europe, including supporting the European Council's proposal for an EU-wide commitment to reduce administrative burdens by 25%;
 - new measures to ensure that the impact of regulation on Small and Medium Enterprises (SMEs) is proportionate; and
 - implementing a strategy to reduce bureaucracy in the public sector.
- IV The UK's programme of regulatory reform has contributed to it being one of the best places in the world to do business and the UK's open, highly competitive and flexible markets mean that it is well placed to respond to global economic challenges. However, there is a finite capacity for the economy to absorb the total costs of regulation and at present no mechanism for the Government to directly manage these costs.

¹ See the Better Regulation Executive website for more details: www.betterregulation.gov.uk/

- V** The Government believes there is scope to improve both the way it prioritises new regulatory proposals and the way it manages the overall costs of regulation. This consultation sets out proposals for the introduction of a new system of regulatory budgets and seeks views on whether the Government should take this step from April 2009. This would be a mechanism for managing the total cost of new regulations that could be introduced within a given period. Implementing this forward-looking limit on the costs flowing from regulation would be a world first for the UK, no other country has yet taken this step, adding further weight to our position as one of the best places in the world to do business. **Chapter 1** describes recent progress in delivering better regulation in the UK, explains what the Government means by “regulatory budgets” and sets out the rationale for considering them at this time.
- VI** The Government considers that regulatory budgets could deliver benefits:
- allowing departments to make better informed decisions about the detail, prioritisation and timing of new policies, including assessing potential conflicts and exploiting synergies; and
 - allowing Government as a whole to look at the potential future impact of regulation on the economy in a more coherent and evidence based way, by strengthening the ability to foresee the total impact of new policies.
- VII** Should the Government decide to proceed, successful delivery of these benefits would require a carefully designed system to mitigate the risk of unintended consequences both for Government and stakeholders. This would include ensuring that the benefits of regulation are taken into account, building in flexibility, including to allow the Government to respond to emergencies, and minimising additional bureaucracy.

PROCESSES AND INSTITUTIONS FOR MANAGING REGULATORY BUDGETS

- VIII** For regulatory budgets to be effective in managing the costs of regulation, systems, processes and institutions to set budgets will be needed. **Chapter 2** considers the key institutional and process issues and describes options for managing regulatory budgets which include:
- a budget period of three to five years;
 - flexibility to allow for contingencies and flexibility over time and between departments; and
 - a reporting process which would hold departments to account if they exceed their budgets, which could include provisions for appropriate parliamentary scrutiny.

ORGANISATIONAL AND LEGISLATIVE BOUNDARIES FOR REGULATORY BUDGETS

- IX** Identifying what would be included in a regulatory budget system and what would be excluded is essential. The system would need to be simple and clear for those working within it and to enable stakeholders to effectively scrutinise how well the budget holders are operating. To this end, there are three main issues to consider:
- i which regulation to include in a budget;
 - ii which organisations, or parts of organisations, should be accountable for the regulatory budgets; and
 - iii which costs to include in a budget.

- X** Each of these issues is discussed in **Chapters 3-5** respectively. These chapters set out proposals for:
- a definition of 'regulation', and a definition of regulatory costs that would include legislation of EU origin;
 - how to identify and capture the specific costs arising from regulation (i.e. enforcement activities, self-funding regulations, contractual obligations and legal proceedings) within a system of regulatory budgets;
 - a system of regulatory budgets that would include all the costs associated with regulation that have an impact on a business or third sector organisation; and
 - how to incorporate the functions of independent regulators into a system of regulatory budgets.

A METHODOLOGY FOR REGULATORY BUDGETS

- XI** The assessment of costs and benefits arising from government interventions and how they might be used to determine an efficient level of regulation involves a number of serious methodological challenges. **Chapter 6** discusses these challenges and proposes that:
- regulatory budgets take account of direct and indirect costs (including possible unintended effects) on all sectors of the economy; and that
 - regulatory budgets be set on gross cost estimates of regulation, rather than netting off estimated benefits when setting budgets.
- XII** **Chapter 6** also seeks views on whether there should be a single budget that places an upper limit on the equivalent annual cost of new regulations or separate budgets to limit the transitional (one-off or adjustment) costs and annual recurring costs of new regulations.

SUMMARY OF CONSULTATION QUESTIONS

- XIII** A summary of the questions included in the body of the consultation document is below. Please provide supporting comments in your response to these questions where possible. The deadline for responses is the 12 November 2008. A follow up document summarising responses and explaining how the proposals in this document will be taken forward and will be published within eight weeks of the end of the consultation period.²

² According to Government Guidance

Summary of consultation questions

Question 1 Do you consider that the Government should proceed with a system of regulatory budgets as a way of managing the costs of new regulation?

Question 2 Do you think regulatory costs should be scored at the point of enactment or when they come into effect?

Question 3 What, in the range of three to five years, would be an appropriate budget period?

Question 4 What are your views on the possible system to manage regulatory budgets outlined in paragraphs 2.9-2.31? Would this deliver a credible and effective system of regulatory budgets?

Question 5 Which forms of government action should be within scope of regulatory budgets?

Question 6 Do you agree with the outline of this approach to EU and international originating regulations? Are there other issues to be addressed in the context of EU and international commitments?

Question 7 Is the approach outlined in paragraphs 3.14-3.22 to costs arising from specific regulatory actions appropriate?

Question 8 What are your views on the approach set out in paragraphs 4.6-4.14 for treating independent regulators in a regulatory budget?

Question 9 Do you agree with the proposed categories of costs to include in a regulatory budget as outlined in Chapter 5?

Question 10 What are your views on the proposed assessment methodology outlined in Chapter 6, including whether budgets should set on a gross or net basis?

CHAPTER 1

WHY THE GOVERNMENT IS CONSIDERING A SYSTEM OF REGULATORY BUDGETS

1.1 The better regulation agenda seeks to maximise the benefits of regulation for society as a whole whilst minimising the costs to business and others of achieving those benefits. The Government has been undertaking a number of measures to deliver on its better regulation agenda, and while the UK regulatory environment is consistently recognised as amongst the best in the world, many of the UK's competitors are simplifying and eliminating regulation as the global economy becomes more competitive. This chapter outlines the case for taking the regulatory reform agenda further through the introduction of regulatory budgets in order to achieve:

- better control of total regulatory costs; and
- better prioritisation of new regulatory proposals within Government.

RECENT DEVELOPMENTS IN BETTER REGULATION

1.2 The Government's regulatory reform agenda is focused on delivering better regulatory outcomes while driving down unnecessary burdens. It is one of the most respected regulatory reform programmes in the world and ranked within the top three in the EU, based on the results of the following surveys:

- *the World Bank Doing Business Survey*³ which, in 2008, placed the UK second in the EU and sixth in the world for the best business conditions;
- *the Organisation for Economic Co-operation and Development (OECD) annual Going for Growth Survey*⁴ where the 2005 survey ranked the UK top among the G8 countries and second among all OECD countries for liberal product market regulation;
- *the OECD Economic Survey of the United Kingdom*⁵ which, in 2005, ranked the UK as first of the G7 countries and of the 30 OECD countries in terms of its macroeconomic performance.

1.3 In recent years the Government has taken a number of important steps to advance this agenda, including:

- a programme to reduce the administrative burdens of complying with regulation by 25% by 2010. This is a net target, meaning that there is a constraint on the amount of additional paperwork and record keeping requirements that can be introduced;

³ World Bank Doing Business Survey 2008 (September 2007):
www.doingbusiness.org/documents/FullReport/2008/DB08_Full_Report.pdf

⁴ OECD Going for Growth 2008 (March 2008)

http://www.oecd.org/document/58/0,3343,en_2649_34325_40157242_1_1_1_1,00.html

⁵ OECD Economic Survey of the United Kingdom 2005 (October 2005):

http://www.oecd.org/document/43/0,3343,en_2649_34569_35456619_1_1_1_1,00.html

- working with regulators and enforcement agencies to ensure they implement a risk-based approach;
- working to improve the quality of economic and other analysis underpinning policy-making and to increase transparency. For example, the process of Impact Assessment, which requires policy makers to assess the impact, costs and benefits of regulatory proposals, is now embedded across Government.⁶ The Government has also launched an area on the internet where summaries of all published Impact Assessments will be available, together with copies of the full assessments themselves.⁷ From 2008 the Government will publish a benefit-cost ratio indicator showing the ratio of the total benefits to the total costs from regulation over the last year;⁸
- seeking to embed the principles of better regulation within Europe, including by supporting the European Council's proposal for an EU-wide commitment to reduce administrative burdens by 25%;
- steps to ensure that the impact of regulation on SMEs is proportionate. Departments will now be required to undertake a more rigorous assessment of whether SMEs can be exempt from new regulations or benefit from simpler enforcement procedures or guidance. For existing regulation new work is being undertaken to examine the potential for new exemptions or the extension of existing ones in order to remove requirements from SMEs where this can be done without affecting essential protections; and
- implementing a strategy to reduce bureaucracy in the public sector, including a commitment to reduce the number of requests for data received by those on the frontline by 30% by 2010.

1.4 While these steps are successfully delivering greater scrutiny of regulatory proposals and greater transparency over costs, they do not involve any constraints on the total costs of regulation that can be introduced.

THE CASE FOR GOING FURTHER IN MANAGING REGULATORY COSTS

1.5 The Government has two main levers with which to achieve its social, environmental and economic objectives, fiscal (spending or taxation) or regulatory. Alongside the benefits they can offer by changing outcomes, incentives and behaviours, both approaches can impose a real cost on the economy, diverting resources from productive activities if they are not used proportionally. This is seen through adjustments to prices, wages and dividends. But they are subject to different degrees of scrutiny and control. For example, public spending and taxation are subject to strict controls by the Treasury and Parliament. However, the cost of regulation is both less precisely known and subject to less overall scrutiny within Government and more widely.⁹ There is therefore a risk (especially in a tight fiscal environment) that regulation is used even if it is not the best option, simply because the controls on other levers are so strong.

1.6 Effective and well focused regulation plays a vital role in correcting market failures, promoting fairness and increasing competition. However, inefficient regulation can impose significant burdens:

- by diverting resources away from productive activity or imposing constraints on the actions of business, the third sector and the public sector, regulation can hamper productivity, growth, and international competitiveness; and

⁶ www.berr.gov.uk/bre/policy/scrutinising-new-regulations/preparing-impact-assessments/page44077.html

⁷ The Impact Assessment Library: www.ialibrary.berr.gov.uk

⁸ This is for Public Service Agreement 6 "Deliver the conditions for business success in the UK", see indicator 5 "deliver better regulation that works for everyone at www.hm-treasury.gov.uk/media/1/D/pbr_csr07_psa6.pdf

⁹ In 1997 the OECD reported that "regulatory costs are the least controlled and least accountable amongst government costs. Many governments have no idea how much of their national wealth they are spending through regulation".

- while regulation can tackle market dominance and abuse, it can also create barriers to market entry, reducing the intensity of competition, and therefore discouraging the formation of new businesses and hampering the growth of existing ones. Weakened competitive pressures can also reduce incentives to invest and innovate and therefore impede productivity.

- 1.7** In addition, although each individual regulation can be justified on its own terms, as with the use of the fiscal levers (spending and taxation) to achieve social, environmental and economic objectives, there must, in principle, be a finite limit to the amount of new regulation the economy can absorb in a given period. For example, it may be difficult for businesses to keep pace with a large number of regulations introduced in a short period of time because of the information costs associated with keeping up with the regulations, or because the regulations are interrelated creating additional complexity.
- 1.8** The UK's open, highly competitive and flexible markets mean that it is well placed to respond to global economic challenges. Overall, the UK was the fastest-growing economy in the G7 last year and according to the IMF's latest forecasts, the UK is set to be the second-fastest growing G7 economy in 2008 (and 2009). There is, however, an increasing need to ensure that the UK maintains its position as one of the best countries in the world to do business in the face of ever greater global competition. The Government therefore strongly believes it is time to re-examine its approach to managing the costs of regulation.

BETTER CONTROL OF REGULATORY COSTS

- 1.9** The Government believes there is scope to improve both the way it prioritises new regulatory proposals and the way it manages the overall costs of regulation. The Government has considered a number of ways in which these objectives might be achieved, including:
- putting in place a more robust process for determining the Government's regulatory priorities, which would take into account the impact of any proposals and the economy's capacity to absorb the associated costs;
 - making transparent the costs and benefits of existing and planned regulations, by publishing a 'regulatory account'. This would bring the UK into line with the United States which publishes data for past federal regulations back to 1981;
 - setting a minimum net benefit requirement for all departments to deliver. Although departments already take account of costs and benefits in decisions on whether to regulate, a minimum net benefit requirement would be a more rigorous way of maximising net benefits; and
 - setting a constraint, or budget, for the total costs of regulation. This could act on the level or flow of costs, on an annual or multi-year basis.
- 1.10** A new process to determine the Government's regulatory priorities would ideally take into account the full impact of any proposals, including the capacity of the economy to absorb the associated costs. This would go beyond the existing draft legislative programme approach the Government has recently introduced. The output of such a process could be a public forward plan of regulations, with a more structured consideration of costs and benefits. This could include simplification measures to give the full picture of planned changes.

- 1.11** The benefit of this approach would likely be better prioritised regulation, taking more explicit consideration of costs and benefits, meaning departments and regulators would be better able to allocate resources to prioritised areas. Insofar as better prioritisation would also give greater certainty to the regulated community they would also be able to better plan their resource allocation on the basis of expected costs. However, the disadvantage of this option would be that without some form of anchor or constraint there would be no guarantee such a process would control the total costs of regulation introduced.
- 1.12** The next level of control could be to make transparent the costs and benefits of existing regulation by publishing an annual account of the total regulatory cost introduced. This would provide some incentive to minimise costs and ensure effective prioritisation by enabling greater scrutiny and external challenge. This approach is used in the US for past federal regulations and the publication of the new benefit-cost ratio indicator for the related Public Service Agreement target requires (from April 2008 onwards) the same underlying costs and benefits data that would appear in a regulatory account.¹⁰
- 1.13** Although the advantage of this approach would be greater transparency of costs and benefits, the main disadvantage would be the lack of a constraint on the costs introduced.
- 1.14** Because regulation should always be introduced for a reason, to address risk, to tackle a specific problem or to deliver social objectives, every regulation should seek to maximise the benefits and reduce the costs from its introduction. Although departments already take account of costs and benefits in decisions on whether to regulate, this could be taken further by setting a minimum net benefit requirement for all departments to deliver.
- 1.15** The benefit of such an approach is that it should drive more effective prioritisation and deliver higher net benefits. However, while this approach may stop regulations with low net benefits it would not necessarily constrain the total costs introduced over a period. It is also hard to value some benefits, which in turn makes comparing benefit-cost ratios difficult for a number of regulatory interventions.

THE CONCEPT OF REGULATORY BUDGETS

- 1.16** The discussion above demonstrates that steps involving greater transparency and forward prioritisation alone would not necessarily limit the total costs of regulation or ensure effective prioritisation of regulatory proposals. This greater level of control could be achieved by developing a system which sets a constraint on the costs of regulation introduced in any specified period, 'a regulatory budget'.
- 1.17** There are two main expected benefits from implementing regulatory budgets:
- first, a system of regulatory budgets could result in a better allocation of resources across the economy, lower burdens for the same or better benefits, by making policy makers aware that regulatory costs are not a "free good". Regulatory budgets would therefore provide an incentive to use regulatory measures in a cost-effective manner. In order to ensure that decisions are not solely based on the cost of an intervention, the decision on which regulations to introduce would also take account of the scale of the associated benefits to ensure that the most cost-effective policies were prioritised. With regulatory budgets, departments would be able to make better-informed decisions about the detail, prioritisation and timing of new policies, including assessing potential conflicts and exploiting synergies; and

¹⁰ www.whitehouse.gov/omb/inforeg/regpol-reports_congress.html

- secondly, a regulatory budgets system could provide greater control over the total costs of regulation, giving the Government greater ability to balance the public benefits with the costs of the private resources used. It would allow Government to look at the potential future impact of regulation on the economy in a more coherent and evidence based way, by strengthening the ability to foresee the total impact of new policies.

- 1.18 The Government therefore believes that an effective way to manage and prioritise the total costs of regulation could be a system of regulatory budgets.** The proposal on which the Government is consulting is the introduction of a system of regulatory budgets to constrain the total amount of costs from **new** regulation brought in over a given period.
- 1.19** Under this system, budgets would generally be set at a departmental level, covering all the costs of all new regulation with an impact on business. This would be a significant step beyond the coverage of the Government’s target to reduce the administrative costs of regulation, which targets the ‘red-tape’ costs of compliance with, but not the wider costs of, regulation (see paragraph 1.6).
- 1.20** The distinction between new and existing regulation is important. Although the 25% target for reducing administrative burdens of regulation was based on an exercise to measure the administrative costs of existing regulation, the Government does not propose to measure the total cost of existing regulation. Doing so would be prohibitively expensive and require a new methodology whereas the recently strengthened Impact Assessment regime means that the data and systems needed to control the overall level of new regulation are largely in place.
- 1.21** However, a system of regulatory budgets would still provide incentives for departments to re-examine their existing stock of regulation as budgets would be net of measures that reduce existing regulatory costs. This would mean that simplification or removal of a regulation would be treated as ‘income’ and provide additional headroom within a budget to ‘spend’ on new regulation.

REGULATORY BUDGETS AND ACTION TO ADDRESS CLIMATE CHANGE

- 1.22** In developing a practicable system of regulatory budgets, the Government needs to ensure that it is able to meet its commitments on key cross-Government policy priorities, including climate change. The climate change agenda is long term, focused on achieving outcomes up to 2050 and beyond. The Government is committed to showing international leadership in tackling climate change and as part of the Climate Change Bill¹¹ is proposing to introduce a new system of carbon budgeting, capping emissions for the UK economy over successive five year periods to meet proposed statutory targets for reducing Carbon Dioxide (CO₂) emissions.
- 1.23** Government action to tackle climate change is spread across many Whitehall departments and agencies. The report setting out proposals and policies for meeting the carbon budgets will provide stakeholders with clarity about the action that will be taken to deliver the necessary emission reductions. All stakeholders will be able to influence the shape of interventions through the consultation processes for key elements of our strategy, such as energy efficiency. It is important that the measures implemented to reduce carbon emissions make economic sense, comply with the principles of better regulation and prove that a healthy low carbon economy is achievable. The Government is committed to monitoring climate change policies to ensure that we meet our carbon budgets in the most cost effective way.¹² Under these proposals the Government would therefore

¹¹ See www.defra.gov.uk/environment/climatechange/uk/legislation/

¹² Indicator 6 (the Proportion of emissions reductions from new policies below the Shadow Price of Carbon) of the Public Service Agreement 27. See www.hm-treasury.gov.uk/media/9/2/pbr_csr07_psa27.pdf

manage the new regulatory costs of tackling climate change but outside a system of regulatory budgets. To avoid regulations being unduly classified as tackling climate change to avoid being managed within regulatory budgets, a clear definition of climate change would be required.

PREREQUISITES FOR REGULATORY BUDGETS

- 1.24** The Better Regulation Task Force (BRTF) March 2005 report *Less Is More* recommended that the Government should develop a methodology for assessing the total costs of regulation, and consider introducing full regulatory budgets. As the BRTF acknowledged in its report, such a move would be difficult and take time, as well as being an international first.
- 1.25** Since then, the Government has been laying the foundations for implementing the BRTF's recommendations. It has radically reformed the Impact Assessment process, so that estimates of costs and benefits are stronger and more transparent. Also, the implementation of the administrative burden reduction programme has provided evidence that the discipline required for regulatory budgets could work.
- 1.26** In fact, although regulatory budgets would be a world first, there is academic literature¹³ on the prerequisites that would need to be in place for a successful system of regulatory budgets. The Government believes, based on this and other evidence, that the UK is now in a position to implement such a system.
- 1.27** Despite this, there are a number of practical difficulties to overcome. Regulatory budgets are dependent on robust estimates of the future impact of regulation. There are also genuine practical and methodological challenges in running a system of regulatory budgets. Options for overcoming these challenges, and managing regulatory budgets more widely, are outlined in the rest of this consultation document. Responses to this consultation and further work by Government will help inform decisions to be taken on the possible implementation of a regulatory budgets system.

Question 1 Do you consider that the Government should proceed with a system of regulatory budgets as a way of managing the costs of new regulation?

¹³ OECD, 1992. *Controlling Regulatory Costs: The use of regulatory budgeting*.

CHAPTER 2

PROCESSES AND INSTITUTIONS FOR MANAGING REGULATORY BUDGETS

PURPOSE AND SUCCESS CRITERIA

- 2.1** For regulatory budgets to be effective in managing the costs of regulation, systems, processes, and institutions to set, manage, and monitor budgets would be needed. A successful system of regulatory budgets would have an institutional model which:
- minimises additional bureaucracy;
 - allows explicit prioritisation;
 - is credible with external stakeholders;
 - minimises perverse incentives;
 - fits with existing budgetary and legislative systems and timetables;
 - is practically deliverable; and
 - provides external transparency.
- 2.2** This section considers the key institutional and process issues for regulatory budgets and describes a possible system for managing regulatory budgets.

OVERVIEW OF THE PROCESS

- 2.3** The first issue to consider would be the length of the budgetary period. There is a balance to be struck here. The flow of regulations over time is uneven and this might suggest that longer budgetary timescales would be beneficial. Some years may involve significant new regulatory activity while others may cover periods in which relatively few or minor regulations are introduced. Moreover, the longer the time period over which the regulatory budget is agreed the greater the number of new regulations and the greater the opportunity for policy makers to take account of trade-offs in terms of anticipated costs and benefits.
- 2.4** However, the information requirement for budget setting would also be greater for longer periods as would the degree of uncertainty in forecasts of future costs and benefits. In contrast, the information needed to set short, possibly annual budgets would be significantly less. However, the burden of calculating, negotiating and implementing budgets on an annual basis would be considerably more over time. Annual budgets also amplify issues associated with delays to legislation and end of budget term flexibility.
- 2.5** There would also be a link between the choice of budget period and the decision on when costs should be scored, i.e. on enactment or on implementation. A broad assumption is that implementation trails enactment by one to two years, which might mean a three year period based on enactment is similar in challenge to a four to five year period based on implementation.

- 2.6** If the scoring is on the basis of enactment, a three year budget period would be appealing. This could bring the additional advantage of aligning these with Government spending reviews. These also follow a three year cycle. It would enable Government departments to contrast fiscal and regulatory options where appropriate, and bid for a resource envelope sufficient to design and implement the flow of new regulations they will introduce over the same period. Using existing processes should also help minimise additional burdens associated with regulatory budget setting.
- 2.7** If the scoring is on the basis of implementation, a five-year budget period might be achievable. Whatever the length of budget period there may also be advantages to overlapping the final year(s) of the first period with the first year(s) of the second to remove perverse incentives at the end of a budget.
- 2.8** Balancing all these issues, the Government believes that a **three year budget** period might be appropriate but would welcome views on the issue.

Question 2 Do you think regulatory costs should be scored at the point of enactment or when they come into effect?

Question 3 What, in the range of three to five years, would be an appropriate budget period?

SETTING THE BUDGETS

- 2.9** There are three main stages to the budgeting process:
- i. Setting the budgets;
 - ii. Managing the budgets; and
 - iii. Reporting against budgets.
- 2.10** The first stage of the process is budget setting. Departments and relevant regulators would produce forward estimates of the likely costs and benefits of regulation they plan to introduce. The basis for these figures would be the Impact Assessment process, which is embedded across Government and requires all departments to publish an analysis of the costs and benefits of any new policy intervention. This process has recently been strengthened to provide greater transparency and more rigorous quantification. External stakeholders already take an interest in the analysis provided in Impact Assessments and the Government will consider how to further increase transparency and facilitate external input. The figures provided would also need to be consistent with the methodology discussed in Chapter 6.
- 2.11** The Government would then use these departmental estimates of costs and benefits to set budgets. These would need to reflect the Government's regulatory priorities in the same way that financial budgets reflect spending priorities. The budget setting process would be fundamentally similar to that for fiscal budgets: regulatory proposals would be prioritised subject to a budget constraint, in the same way that spending programmes are chosen. When setting departmental budgets the following factors could be taken into account:
- historical trends;
 - policy priorities (including existing commitments and manifesto announcements);
 - the costs and benefits of different regulations (see Technical Annex: A.13 - A.21 for more detail on benefits); and
 - the ability of the economy to absorb the regulatory cost.

- 2.12** The need to take benefits into account would be particularly important at this budget setting phase. It is likely that regulations with a high benefit to cost ratio would be given priority and have regulatory budget allocated to them.
- 2.13** The Government considers that, under a system of regulatory budgets, cost savings from new simplification measures should be taken into account in meeting departments' budgets. This would provide a strong incentive to continue searching for additional reductions in burdens arising from the stock of existing regulations. In other words, budgets would be net of estimated simplification savings.
- 2.14** Having decided on the levels of regulatory budgets, they would be announced to Parliament and the public to establish transparency.

MANAGING THE BUDGETS

- 2.15** Having decided the levels of the departmental regulatory budgets, there would need to be systems to manage these budgets. In the regulatory budgets system 'spending' would be the costs of regulation imposed, as measured in an Impact Assessment. Departments and relevant regulators would be responsible for recording these costs and monitoring their own performance against budget (subject to the reporting and monitoring arrangements discussed below).

Allowing flexibility in regulatory budgets

- 2.16** A budget would need to be flexible enough to allow for unforeseen events requiring a swift and significant regulatory response, or for unanticipated changes in regulatory costs due to external factors outside the control of the budget holder. Pre-budget cost estimates may also increase post-budget setting if information improves materially over time.
- 2.17** Consistent with financial budgeting systems there are three main mechanisms which may be used to provide flexibility in response to emergencies and other unforeseen circumstances, where the department is not able to manage this within its existing budget. These are end of period flexibility, cross departmental flexibility through 'trading' and a centrally-managed exceptional provision. The criteria for access to all three of these options would need to be clear to maintain the robustness of the system.
- 2.18** The first form of flexibility the system would need is **end of period flexibility**. If, for example, a piece of regulation which had been budgeted for was unable to come into effect in the budget period there might be a justification to carry budget over to the following period. Alternatively, budget could be 'borrowed' from subsequent years, to allow flexibility on the timing of regulations. Similarly, if reporting on budgetary performance was on an annual basis there might need to be flexibility between years within a budget period.
- 2.19** **Trading** of regulatory budgets between departments would also provide flexibility. Although a formal trading system of allowances would not be practical, a mechanism by which budget 'under-spends' could be re-allocated from one department to another, either directly according to priority or via a central brokering service, would also ensure flexibility in the budgetary system. This trading could take place across departments or within a 'family' made up of departments and regulators.
- 2.20** As a last resort, a department could seek an **exceptional provision** of budget coverage, for example where regulations were needed to cover an emergency. This would provide flexibility and mean that emergency regulations were not unnecessarily slowed down. However, to maintain the robustness of

the regulatory budgets system access to this exceptional provision would need to be tightly controlled to avoid the overall system being undermined.

Overlapping final years

2.21 Similar to the process by which financial budgets are managed, the final year(s) of the budgetary period could overlap with the first year(s) of the new budgetary period. This would reduce the risk of perverse incentives being created at the end of the budgeting period.

Reporting

2.22 In order to monitor the regulatory budgets system and provide transparency, departments and relevant regulators would need to report regularly on progress against their regulatory budgets. This could take place publicly in Annual Departmental Reports or other appropriate vehicles, and via a central report published at the end of the period. Reporting could cover:

- the department's regulatory budget for the period;
- the regulations imposed during that period (or the main ones depending on the level of detail required);
- the costs of the regulations imposed;
- whether regulatory costs were within budget; and
- the benefits of the regulations imposed (in monetised form).

2.23 As part of the reporting process, there would need to be a mechanism to hold departments to account if they exceed their budgets. For example, if it wished, Parliament (or a relevant Select Committee) could ask Ministers to report if their regulatory budget is exceeded, stating why the budget was exceeded and what measures are being taken to bring the department back within budget. The Government will also consider other mechanisms that could ensure compliance with budgets, including appropriate incentives.

SHADOW RUNNING

2.24 If the Government decides to proceed with regulatory budgets, given the innovative nature of the system, the Government would begin with a shadow rollout to all departments and relevant regulators, for one year from April 2009, to allow trialling of the processes and methodology before full rollout.

2.25 In the Enterprise Strategy the Government raised the possibility of a pilot focussing on SMEs or a specific industry sector. Having investigated the methodological challenges associated with such a pilot the Government has concluded that this is not a practical option. This is because, for many regulations, it is difficult to disaggregate the costs for different sizes of business or sectors.

2.26 More generally, the Government is committed to taking further steps to ensure the impact of regulation on SMEs is proportionate, strengthening Government's "think small first policy." Departments will now undertake a more rigorous assessment of whether, in the light of the risk they pose, small and medium sized businesses (defined as those with fewer than 20 full time equivalent staff and a turnover of below £2.8 million) can be exempt from new regulations or benefit from simpler enforcement procedures or guidance. For existing regulation new work is being undertaken to examine the potential for new exemptions or the extension of existing ones in order to remove requirements from SMEs where this can be done without affecting essential protections. The new process will be in place for all primary legislation involving regulation from the 2009/10 Parliamentary session onwards,

and for all secondary legislation from 2008/09 onwards. When laying legislation before Parliament, the Government will explain the approach it has adopted towards small firms in explanatory memoranda.

- 2.27** The Government would start with a shadow rollout for the first year of the initial budget period. This would involve a budget being agreed using the budget setting process outlined above. Departments would commit to working within these budgets for the pilot period and abiding by the mechanisms in place to manage their regulatory costs. However, there would be no specific consequences if departments exceeded their budgetary limits during this shadow-operating period.
- 2.28** Running a shadow system for the first year would delay the introduction of the full system and therefore the full potential benefits of this new approach and the Government appreciates that there is a sense of urgency amongst some stakeholders. On the plus side, this approach would provide an opportunity to test the regulatory budget proposition and also allow some flexibility in the first year given the risks around such an unprecedented approach. It would be accompanied by an active learning process to identify and address any issues or risks which emerge in the first year.
- 2.29** The shadow rollout approach could also bring about a number of additional advantages. It would provide more time for departments to undertake the difficult task of developing a reliable set of cost estimates for the period from 2010 and also develop their capacity in this area. Furthermore, it would bring all departments into the system at the outset, providing everyone with the opportunity to ‘learn by doing’ rather than just a limited number of departments or groups in a smaller pilot and deliver the benefits from prioritising regulations across Government, rather than for a smaller group of departments.

ADMINISTRATIVE BURDENS REDUCTION TARGET

- 2.30** The existing administrative burden target is for the period to 2010. Before then the Government will decide how to continue to address the issue of unnecessary administrative burdens beyond 2010. Two options are:
- continue with a new target for administrative burdens separate, and in addition to, regulatory budgets; or
 - subsume the target into the regulatory budgets system.
- 2.31** Keeping the administrative target separate to regulatory budgets would explicitly allow stakeholders to identify whether such burdens are being tackled and hold departments and regulators to account. However it might be confusing as the target will address an existing stock of regulation while regulatory budgets will focus on new regulations. A system of regulatory budgets that included administrative costs would in any case provide incentives for departments to reduce administrative burdens, as budgets would be net of savings from expected simplification measures. The Government therefore proposes to integrate future work to reduce administrative burdens into a system of regulatory budgets from 2010 onwards.

Question 4 What are your views on the possible system to manage regulatory budgets outlined in paragraphs 2.9-2.31? Would this deliver a credible and effective system of regulatory budgets?

CHAPTER 3

LEGISLATIVE BOUNDARIES FOR REGULATORY BUDGETS

- 3.1** Chapter 1 outlined the case for moving the regulatory reform agenda forward through the introduction of a regulatory budgets system. This chapter discusses the proposed legislative boundaries for a regulatory budget system.

IDENTIFYING WHAT WOULD BE INCLUDED IN REGULATORY BUDGETS

- 3.2** Identifying what would be included in a regulatory budget system and what would be excluded is essential. The system would need to be simple and clear, both for those working within it and to enable stakeholders to effectively scrutinise how well the budget holders are operating. This chapter considers which regulations could be included in a budget, Chapters 4 and 5 respectively consider the organisations and costs which could be included.

REGULATION INCLUDED IN A BUDGET

- 3.3** To define which regulations would be within the scope of a regulatory budget system the UK Government takes as its starting point the definition of regulation in the Standard Cost Model used to measure administrative burdens.¹⁴ European and other supra-national regulations are discussed in paragraph 3.7 onwards.

¹⁴ Better Regulation Executive, 2005. *Measuring Administrative Costs: UK Standard Cost Model Manual*.

Regulation is defined as a rule with which failure to comply would result in a business coming into conflict with the law or being ineligible for continued funding, grants and other applied for schemes. This can be summarised as all measures with legal force imposed by central government and other schemes operated by central government, including:

- directly applicable EU Regulations;
- directly applicable sections of Acts of Parliament;
- Statutory Instruments;
- rules, orders, schemes, regulations etc. made under statutory powers by Ministers or agencies;
- licences and permits issued under central government authority;
- codes of Practice with statutory force;
- guidance with statutory force;
- codes of Practice/Guidance/Self-Regulation/Industry Agreements with government backing, e.g. “Approved Codes of Practice”; and
- bye-laws made by central government.

But excluding:

- Codes of Practice/Guidance without government backing;
- voluntary agreements between businesses including self regulation/industry agreements with no government backing;
- obligations arising from local government measures where these are not concerned with implementing central Government policy;
- obligations arising from the Common Law (e.g. of an employer to his employees);
- local authority bye-laws, pure local authority regulation; and
- devolved areas where policy responsibility has been transferred to the Scottish Executive, Welsh Assembly Government or Northern Ireland Executive.

- 3.4** By using this definition, the Government does not wish to create disincentives to use particular forms of regulation over others because some approaches are subject to a budget constraint and some are not. In light of this the above definitions may not be appropriate. For example the Government would not want to discourage departments from supporting an industry by developing a code of practice rather than an alternative regulatory intervention because in doing so the policy became subject to a regulatory budget. A simple approach might be to amend the list above to include in a budget only those Codes of Practice/Guidance/Self-Regulation/Industry Agreements which are statutory, for example ‘Approved/Statutory Codes of Practice’.
- 3.5** It is likely that there are regulations which do not fall into the above categories easily. Hence the eventual definition may need to be more detailed. The Better Regulation Executive would arbitrate on regulations which are not clear cut, working with the relevant department and regulator.

Question 5 Which forms of government action should be within scope of regulatory budgets?

- 3.6** It is proposed that regulatory budgets would apply to measures and activities with effects at a national UK Government level only, covering reserved and non-transferred matters for the UK and Great Britain as appropriate, and England, or England and Wales as appropriate, only for devolved or transferred matters. In practice it may not be straightforward to differentiate costs by geographic region and to do so might involve additional costs for departments and regulators. In addition, the Government does not propose that regulatory budgets should apply to local government.

EU ORIGINATING REGULATIONS

- 3.7** Legislation agreed at EU level forms a significant proportion of the UK regulatory regime, enabling businesses to operate in a Single Market and the UK to co-operate with other countries to tackle global challenges such as international trade liberalisation. As a result, the Enterprise Strategy¹⁵ stated that the system of regulatory budgets:

“will need to take full account of the cost of regulation that arises from EU legislation and other international obligations.”

- 3.8** The Government believes that, as far as possible, EU originating legislation should be treated consistently with other forms of regulation and be implemented in a proportionate and effective manner, although there may need to be some procedural differences to take account of EU processes.
- 3.9** Generally, there is good advance warning when the European Commission is considering new legislative proposals. In most cases, forthcoming major regulation is also included in the Commission’s annual legislative work programme and Impact Assessments are produced to ensure that the benefits of EU level interventions outweigh the costs.
- 3.10** Moreover, there is also generally a long lead-in for new EU legislation to be negotiated and then implemented in national legislation. In most cases there is between one and two years of negotiation followed by a similar period of implementation.
- 3.11** The Government believes that this predictability should facilitate the inclusion of legislation originating from the EU into regulatory budgets. However, some allowance needs to be made for the fact that timetables, especially during the negotiation phase, may slip and that the final stages can move extremely quickly.
- 3.12** Some legislation is agreed in line with the European Commission’s responsibilities as a competition authority, including limiting cartels and state aid policing. In this area it uses Commission decisions as a legal instrument of enforcement. The Government believes that this particular form of regulation should be excluded from regulatory budgets (in line with its thinking on domestic competition law).

OTHER INTERNATIONAL REGULATION

- 3.13** In general, other international commitments (e.g. UN treaties) have an even longer timescale and are more easily predictable than European legislation, again suggesting that they should be included. There are also very few where the UK does not have a right of veto. Where international commitments need to be implemented very quickly, the standard approach (as used for domestic emergencies – see Chapter 2) should apply.

Question 6 Do you agree with the outline of this approach to EU and international originating regulations? Are there other issues to be addressed in the context of EU and international commitments?

¹⁵ HM Government, 2008. *Enterprise: Unlocking the UK’s talent*.

COST ELEMENTS ARISING FROM SPECIFIC REGULATORY ACTIONS

3.14 This section considers four specific cost elements arising from regulation (i.e. enforcement activities, self-funding regulations, contractual obligations and legal proceedings) and whether they should also be measured and captured within a system of regulatory budgets.

SPECIFIC ENFORCEMENT ACTION

3.15 It is proposed that individual enforcement activities, or actions to ensure compliance with regulations, would be excluded from the regulatory budget system. High levels of compliance to a particular regulation will maximise the effectiveness of it achieving its purposes. Regulatory budgets are not intended to constrain individual regulatory action to end non-compliant activity.

3.16 The cost of complying with a new regulation, in terms of the new activities a business and the relevant enforcement agent will have to undertake, is captured in the associated Impact Assessment. This would score against the budget (see Technical Annex).

SELF-FUNDING REGULATION

3.17 A number of regulators recover costs through fees or licences, sometimes as required by statute. While financial controls limit the extent to which regulatory costs in the form of fees are changed, fees are costs to business nonetheless, in addition to the costs from complying with the requirements of the licences. There is consequently an argument for including new, and changes to, self-funding regulation in regulatory budgets.

3.18 However, there is a question whether all aspects of self-funding should be included. Regulatory budgets are intended to control the costs of new regulation but changes to the fees associated with self-funding regulation can occur for other reasons besides a change in regulation or enforcement regimes. For example, costs or fees could increase through inflation and it is proposed that in such circumstances the increase in fees should not be included. The Government would therefore propose to include changes to existing self-funding regulatory regimes except where increases in fees are driven by inflation.

COSTS FROM CONTRACTUAL OBLIGATIONS

3.19 The Government is aware that small business service providers and the third sector often perceive many of the contract monitoring and management processes associated with working with government in the same way that they perceive regulation itself, as both have impacts on their overall administrative costs. Contractual obligations such as those associated with providing services to government were largely excluded from the Administrative Burdens Measurement Exercise (ABME) and the target to reduce the net burden by 25% by 2010. In principle, additional costs through such obligations should be recovered through the contract pricing and negotiated in the contract agreement. It is therefore proposed to exclude contractual obligations from the current scope of regulatory budgets.

3.20 Ideally, those commissioning contracts should limit their contractual information obligations to those required by the law, keeping them targeted and proportionate. Over time it is anticipated that these will be consistent with the principles of ABME.

- 3.21** Furthermore, regulatory costs associated with the requirements of procurement processes are also intended to be outside scope, except where they are specifically required by law (e.g. under the EC Public Procurement Regulations). These existing regulations are currently covered within the ABME and associated reductions targets, despite the fact that they impact only on those businesses which choose to tender for government contracts. Any subsequent legal requirements in this area (domestic or EU in origin) would therefore be included within the scope of regulatory budgets.

COURT CASES AND EU INFRACTION PROCEEDINGS

- 3.22** The Government does not consider that changes to the interpretation of regulation coming from court cases, including infractions, should be part of a regulatory budgets system. Where the result of a court case requires a change to the law itself, the additional costs of such changes are then of course included. This might require re-prioritisation within a department's budget, re-prioritisation across government or recourse to one or more of the flexibility measures (see Chapter 2) if the costs are large or unpredictable.

Question 7 Is the approach outlined in paragraphs 3.14-3.22 to costs arising from specific regulatory actions appropriate?

CHAPTER 4

ORGANISATIONS ACCOUNTABLE FOR REGULATORY BUDGETS

- 4.1** Identifying which organisations, or parts of organisations, should be included within the scope of regulatory budgets is a key question. The greater the breadth of regulating organisations covered within any regulatory budget, the more comprehensive the budget. However, boundaries may need to be drawn around government to protect the independence of some arms length institutions.

GENERAL APPROACH

- 4.2** The Government believes that setting regulatory budgets at a departmental or regulator level is the best way to ensure accountability. It allows departmental ministers or accounting officers to be clear on their responsibility to Parliament and the public. Setting budgets at this level, rather than for a specific policy area, would also minimise additional bureaucracy because it is aligned with existing structures.
- 4.3** This then raises the issue of which organisations would be covered by regulatory budgets. The proposed general approach is that a government organisation should be included if it creates relevant legislation¹⁶, introduces rules which have the force of law and are capable of imposing new burdens, or enforces regulation (beyond ensuring individual case by case compliance), where it has significant discretion on the regulatory costs and burdens it imposes. This will include the set of regulators often called “Hampton regulators” because of their inclusion in the Hampton review.¹⁷ However, in practice the Government will need to look at the specific situation of each regulator to determine its inclusion or otherwise.
- 4.4** An organisation would be excluded on first principles if it only enforces regulation without being responsible for imposing costs and therefore has no significant influence over the form of the regulation it enforces or how it should be enforced, for example local government activities.
- 4.5** The system of regulatory budgets would not affect the way in which the Chancellor conducts the long-established Budget and PBR processes. Tax measures would be outside the scope of regulatory budgets because tax is not part of the classic regulatory regime. Tax is controlled through the financial budget process, ensuring that government can flexibly and fairly finance public services.

¹⁶That is, puts forward primary or secondary legislation to Parliament that is captured by the definition used for regulatory budgets.

¹⁷ *Reducing administrative burdens: effective inspection and enforcement*, Philip Hampton, 2005

STATUTORILY INDEPENDENT REGULATORS, COMPETITION AUTHORITIES AND ECONOMIC REGULATORS¹⁸

4.6 The Government is clear it does not wish to undermine the independence of regulators and competition authorities. However, it is the Government's view that participation in regulatory budgets is not incompatible with statutory independence. In the Enterprise Strategy, the Government said:

*"All departments and relevant regulators would be covered, particularly those which are part of the administrative burden exercise. ... [The Better Regulation Executive] will design a system which could closely control all regulatory costs while at the same time maintaining the independence of regulators and competition authorities."*¹⁹

4.7 In line with this, the Government would not intend to include competition functions and case specific remedies within the scope of regulatory budgets (the latter is consistent with the general rule that individual regulatory cases are not included – see paragraph 3.15).

4.8 The Government also proposes to exclude functions of economic regulators. The economic regulators have been established by statute with the explicit role of regulating a sector characterised by monopoly structures and market power. Their regulation acts as either a proxy for competition or as market opening and their independence from detailed political oversight is a key and proven element of the UK model of economic regulation.

4.9 The Government does not believe that this means the economic regulators are exempt from considering better regulation concerns. Their regulatory activities are already subject to a number of safeguards and constraints. The scope of their regulation is governed by statute and they clearly cannot go beyond that statute. Many of them will also be subject to the duty to review set out in Part 4 of the Regulatory Enforcement and Sanctions Act²⁰ requiring them to review their functions periodically and remove any unnecessary burdens.

4.10 Any changes to the remit of an economic regulator brought about by a department would be included in the accounting of the department's regulatory budget. This would include any re-organisation of a regulator, where the resulting objectives or activity of the regulator has an impact on those it regulates; where it reduces the costs on those it regulates the change would count as a simplification measure in the regulatory budget.

4.11 For practical reasons, the Government is inclined not to include the non-economic regulation functions of Civil Aviation Authority (CAA), Ofcom, Ofgem and Office of Rail Regulation (ORR) as dividing up a regulator's business in this way is unlikely to be practical, but has not yet taken a final view and will continue to explore this with the relevant regulators.

4.12 There are a number of Hampton regulators which have explicit statutory independence from Ministers, such as the Food Standards Agency. Under their current statutory arrangements, whether and how such regulators become part of a regulatory budget system is therefore a decision for their governing boards. However, it is the Government's view that participation in regulatory budgets is not incompatible with statutory independence, and it invites them to consider opting in positively.

¹⁸ For the purposes of this document "Competition Authorities and Economic Regulators" means Competition Commission (CC); Civil Aviation Authority (economic regulation aspects) (CAA); Gas and Electricity Markets Authority (economic regulation aspects) (Ofgem); Office of Communications (Ofcom); Office of Fair Trading (OFT); Office of Rail Regulation (except safety regulation) (ORR); Postal Services Commission (Postcomm); and Water Services Regulation Authority (Ofwat).

¹⁹ HM Government, 2008. *Enterprise: Unlocking the UK's talent*.

²⁰ See www.opsi.gov.uk/acts/acts2008/ukpga_20080013_en_1

ALLOCATING BUDGETS BETWEEN REGULATORS AND SPONSORING DEPARTMENTS

- 4.13** There is a trade-off when setting budgets between accountability and flexibility. Setting separate budgets for each institution would allow for direct accountability for regulatory costs but it would add more complexity. Combining budgets between a department and some or all of the regulators for which it is responsible would provide greater flexibility in managing the costs from new regulations. It would also help address any issues around the boundaries between departments and regulators when trying to determine where a burden should score against a regulatory budget.
- 4.14** For relevant regulators there could be a pragmatic choice between whether they have their own budget or are part of a 'family' budget held by their sponsoring department. Where a department sets a budget for its 'family' of regulators, and hence has accountability, it would be for the department to delegate the budget between its regulators. The regulators would be accountable to their sponsoring department. Departments could choose to what extent this budget allocation was flexible over the period between its 'family' members. It would be for the department and the regulator to agree where responsibility for the costs of implementing new regulations fall. Accountability for performance against regulatory budgets would not be lost as it would fit with existing governance structures between departments and regulators.

Question 8 What are your views on the approach set out in paragraphs 4.6-4.14 for treating independent regulators in a regulatory budget?

CHAPTER 5

THE BUDGETED COSTS

- 5.1** The specific categories of costs which the Government proposes to include in regulatory budgets are discussed below. Budgets need to be allocated according to a classification that follows the structures of government to be consistent with existing lines of accountability. Furthermore, important consideration needs to be given to whether the regulatory costs imposed on the public and third sectors should be included within regulatory budgets in addition to the costs incurred by the private sector.

COSTS TO INCLUDE IN A BUDGET

- 5.2** The Government proposes to set budgets at a departmental and regulator level, which would cover all policy areas, except for those which are the sole responsibility of any organisations which are outside scope. The department of the Minister who signs the Impact Assessment for a given piece or part of regulation²¹ would score the costs of the regulation against their budget. This would allow budgets to follow the lines of accountability within government and help avoid a risk of double counting, for example one set of energy regulations dealing with security of energy supply could be counted under both national security and energy.
- 5.3** However, as stated in the Enterprise Strategy Paper, the Government recognises that it will be important that a system of regulatory budgets does not prevent cost-effective action on key policy priorities.
- 5.4** The Government continues to explore mechanisms to make this possible while ensuring that a system of regulatory budgets would be credible. Providing flexibility to the system is one way of doing so and this is discussed in chapter 2.

Costs on business and third sector organisations

- 5.5** The Government proposes to include in a budget all the costs associated with regulation that have an impact on a business or third sector organisations. The definition of ‘business’ proposed will be consistent with that used in the Standard Cost Model to estimate administrative burdens.²² The third sector is also covered by this definition and would therefore be included in a system of regulatory budgets:

“the term ‘business’ should be taken to mean every sector of the economy, with the exception of the public sections of public administration and public services as defined by the Office for National Statistics for National Accounts purposes. This definition therefore includes business, charities and the voluntary sector.”²³

²¹ Sometimes a proposed piece of regulation has parts that cover the interests of more than one department. In these cases, there is normally an Impact Assessment for each Departments’ set of areas.

²² Better Regulation Executive, 2005. *Measuring Administrative Costs: UK Standard Cost Model Manual*.

²³ Better Regulation Executive, 2005. *Measuring Administrative Costs: UK Standard Cost Model Manual*.

Public sector and public service delivery

- 5.6** A key consideration for regulatory budgets is how impacts on public sector organisations should be treated. Where regulations impact on the private or third sector **and** the public sector (e.g. employment law regulations which affect all employees), the Government proposes to include the full economic impact (see Technical Annex) of the regulation within the scope of the budget.
- 5.7** A further consideration is the extent to which regulation that solely affects public service delivery is included. Regulation of public services is frequently less distinct and measurable than is the case with regulation affecting the private sector. Much of the regulatory burden that falls on front-line workers relates to performance and management information as opposed to compliance with legislation. It may also include administrative processes to improve the quality and efficiency of services which either govern the way in which services are delivered or set out the roles and responsibilities of those that deliver them.
- 5.8** Reducing regulatory burdens and unnecessary bureaucracy in the public sector remains a priority. The Government's strategy²⁴ to deliver this was recently bolstered by a commitment to a 30% reduction in the data-stream requests from central government to the front-line by 2010. This strategy does not operate in isolation. A range of government activities reinforce the key principles of the strategy, including:
- the work of the Prime Minister's Delivery Unit which focuses on effective public service delivery;
 - the streamlining of the local government performance framework following the 2006 Local Government White Paper *Strong & Prosperous Communities*;
 - through the constraints set by the management of public finances; and
 - by the Government's on-going drive for greater efficiency and value for money in public services.
- 5.9** It is important that progress continues to reduce unnecessary burdens on front-line public sector workers and ensure that their perception of the problem improves. However, due to the indistinct nature of this type of regulation and the likely difficulties with measurement, the Government is not convinced that a regulatory budget would get to the heart of the public sector issues. It is not clear that legislation is either the bulk of the problem or is what irritates front-line public sector workers the most. The Government does not therefore think that including public service regulations will add sufficient value at this point in time although, as discussed, regulation which affects either the private or third sectors as well as the public sector will be included.

Question 9 Do you agree with the proposed categories of costs to include in a regulatory budget as outlined in Chapter 5?

²⁴ *Cutting bureaucracy for our public services*, HM Government, 2007

CHAPTER 6

ASSESSMENT METHODOLOGY

- 6.1** The previous chapters outlined what the scope of a regulatory budgets system would be. This chapter discusses the methodological approach to the assessment of costs and benefits.²⁵ It raises a number of questions on which the Government would welcome views.
- 6.2** Regulation can correct market failures and promote an efficient and productive allocation of resources in an economy thus promoting welfare. However, it can also impose significant and sometimes unintended costs. The challenge for government is therefore to maximise the potential economic benefits from regulations while keeping their costs as low as possible.
- 6.3** This requires robust measurement and comparison of the likely costs and benefits of different policy options, including those requiring no government intervention. However, the assessment of costs and benefits arising from government interventions and how they might be used to determine an efficient level of regulation involves a number of serious methodological challenges. Using these costs and benefits as the information for regulatory budgets presents further methodological challenges that need addressing, to ensure consistent use of an appropriate approach. The technical annex to this document summarises these challenges.
- 6.4** A workable solution to these challenges requires a methodology which is transparent, accessible, rigorous and consistent in its application, and, as far as practical, follows existing processes and guidance.²⁶

ASSESSING THE COSTS OF REGULATIONS

- 6.5** It is proposed that regulatory budgets take account of direct and indirect costs as well as benefits, including possible unintended effects, and across all sectors of the economy.²⁷ The Government is concerned with the efficient and productive use of resources in the economy and the full economic impact of new regulations. Excluding the impacts on any one or more sectors or groups in an economy could bias decision-making and distort the efficient allocation of resources across the economy.

²⁵ For more detailed discussion, see Technical Annex.

²⁶ HM Treasury (The "Green Book"), www.hm-treasury.gov.uk/media/3/F/green_book_260907.pdf, and Better Regulation Executive "IA Guidance and Toolkit", www.berr.gov.uk/bre/policy/scrutinising-new-regulations/preparing-impact-assessments/page44077.html

²⁷ As discussed in chapter 5, the Government does not propose that regulation solely affecting public services should be included in a system of regulatory budgets

- 6.6** However, it is acknowledged that the monetary valuation of some costs and benefits, in particular those that may be indirect and/or unintended can be difficult and information requirements may be significant. Nevertheless, monetisation of as many costs and benefits as possible should be attempted and where required appropriate assumptions and sensitivity tests should be undertaken to provide a reasonable range of estimates. This approach is consistent with established guidance for Impact Assessment.

COST AND BENEFITS INCLUDED IN A REGULATORY BUDGET

- 6.7** The Government proposes that regulatory budgets be set on gross cost estimates of regulation. That is, the estimated benefits will not be netted off from gross cost estimates for the purpose of setting budgets. However, the proposal recognises this may create an incentive to underestimate costs. It may also lead to measures that would have delivered benefits not being pursued in order to keep the costs of complying with regulation within budget or create a bias towards low cost regulatory options at the expense of solutions that may be more costly but deliver greater economic benefits. There is, therefore, a clear need to consider benefits: to inform the setting of the budgets based on gross costs; to inform the prioritisation of regulations within budgets; to search for the most effective regulatory options; and for reporting progress against budget objectives.
- 6.8** Budgets would therefore be announced alongside anticipated benefits, and consistent with the new PSA indicators, where departments already have to collate and report on benefits and costs of new regulations.
- 6.9** The alternative would be to take explicit account of monetised benefits in budgets set on net costs. In effect this would amount to setting a minimum benefit-cost ratio requirement for new regulations (either in aggregate or at an individual regulation level). While such an approach could incentivise departments to seek regulations with the highest estimated net-benefit it may not provide sufficient incentive to search for the most cost effective options. Nor would it constrain the total costs introduced from regulation over a period – a department may continue to introduce regulations with significant costs as long as it can demonstrate they are estimated to yield more in benefits – or account for the costs and benefits of a regulation falling on different parts of society or the economy. There are a number of practical problems with including benefits in this way. Benefits from regulations tend to be more uncertain and difficult to value in monetary terms than costs. This could mean that if a department delivered quantified benefits which exceeded costs, the true benefits to the economy would be likely to be much higher. However, a net cost budget would also introduce an incentive to inflate benefit estimates. Moreover, in some cases where robust quantification and monetisation may not be possible, potential benefits could be underestimated and this may also lead to otherwise beneficial regulatory measures not being pursued. A further problem is that benefit-cost ratios will be affected where costs are very small yet benefits very large (the ratio tends to infinity), where costs are very large and benefits are small (ratio tending to zero) and where most of the impacts from a regulation relate to a transfer from one group to another (the ratio tends to 1).

THE APPROPRIATE COST MEASURE – TREATMENT OF TRANSITIONAL COSTS

- 6.10** Businesses, employees, consumers and other groups have often expressed their concern with the more immediate impacts of new regulations, notably the costs associated with implementing them. The issue is therefore whether to set and monitor separate budgets on transitional and annually recurring costs of new regulations, or a single budget capturing both types of costs.

- 6.11** The advantage of separate budgets would be to give those administering the system greater flexibility if they want to focus more effort on reducing transitional costs. However, costs and benefits arising from new regulations can occur over much longer and different periods of time to those included in regulatory budgets. In order to compare these it is necessary to express anticipated streams of costs and benefits in equivalent present day prices and values. This requires discounting them to their present value using an appropriate measure of anticipated inflation and rate of time preference.²⁸ This calculation must be produced for every proposed regulation and presented in the new Impact Assessment template.
- 6.12** A single budget based on equivalent annual costs would therefore take account of the full economic cost of new regulations over time, and would incorporate one-off transitional costs and annual recurring costs. Equivalent annual cost is a standard method in finance used to express and compare the costs of alternative projects with different time and costs profiles.

Question 10 What are your views on the proposed assessment methodology outlined in Chapter 6, including whether budgets should set on a gross or net basis?

²⁸ Time preference refers to people or organisations' inclinations towards current consumption over future consumption and reflects comparisons of utility across different points in time or different generations. HM Treasury guidance recommends that the Social Time Preference Rate (STPR), measured as 3.5 per cent per annum, be used as the standard real discount rate.

TECHNICAL ANNEX ON METHODOLOGICAL ISSUES

- A.1** As Chapter 6 explains, the assessment of costs and benefits arising from government interventions and how they might be used to determine an optimal or efficient level of regulation involves a number of serious methodological challenges. Using these costs and benefits as the information for regulatory budgets presents further methodological challenges, to ensure consistent use of an appropriate approach.
- A.2** A workable solution will require the design of methodology to underpin a system of regulatory budgets to be transparent and accessible, rigorous and consistent in its application and, as far as practical, follow existing processes and guidance.²⁹ Scrutiny will also be important to ensure that departments follow best practice and continue to monetise as many costs and benefits as possible.
- A.3** This technical annex summarises the methodological challenges relevant to a regulatory budget regime. It also sets out a number of proposals, which have been made by the cross-departmental technical working group that was set up to inform the development of this policy.
- A.4** We are seeking views on the full set of methodological proposals in this technical annex. In addition, we would welcome further salient worked examples that would help clarify these and other methodological issues and will be of use in developing budget guidance.

WHOSE COSTS TO INCLUDE

- A.5** If Government is concerned with the efficient and productive use of resources in the economy it is relevant to consider the full economic impact of new regulation. Impact Assessments consider the full economic cost, which includes costs accruing to all sectors of the economy.³⁰
- A.6** To focus on the impact on one particular sector of the economy (e.g. to privately owned business) would ignore the incidence and impact of costs falling on other sectors of the economy. For example, a cost may be imposed on privately owned business as a result of a policy, but some of these costs may be passed on to consumers in the form of higher prices.
- A.7** Therefore, it is proposed that for those regulations, departments and regulators within a regulatory budget, the full economic costs should be included.

²⁹ HM Treasury: The Green Book: Appraisal and Evaluation in Central Government and Better Regulation Executive: Impact Assessment Guidance

³⁰ Impact Assessments consider impacts associated with implementation and enforcement (but excluding costs associated with the design of the policy).

THE TYPES OF COSTS (E.G. DIRECT/INDIRECT) TO BE INCLUDED

- A.8** The better regulation agenda is concerned with the economy's ability to absorb costs, irrespective of the 'type' of cost. This includes direct costs, indirect costs, administrative costs and policy costs.
- A.9** Some indirect costs (i.e. the lost consumer and producer surpluses that are the result of regulation that impacts on markets) are extremely difficult to quantify. For this reason it can be argued that, for pragmatic purposes, such costs should be excluded from a regulatory budget, leaving the focus on those that can be reasonably measured. However, the exclusion of indirect costs could bias certain types of policies and create perverse incentives; for example it could incentivise departments to ban products rather than regulate their use as a ban would involve mainly indirect costs.³¹
- A.10** In addition, guidance encourages monetisation of as many costs and benefits as possible. Where accurate valuation is difficult, appropriate assumptions and sensitivity tests should be undertaken to provide a reasonable range of estimates. Exclusion of indirect costs for the purpose of a regulatory budget could undermine such guidance and inadvertently discourage greater monetisation.
- A.11** Impact assessments do not differentiate between different types of costs (e.g. compliance costs vs. indirect costs). Therefore any exclusion of costs for the purpose of regulatory budgets could impose a potentially significant burden on policy makers as the information in Impact Assessments would need to be further disaggregated.
- A.12** Therefore it is proposed that all costs that have been monetised in the Impact Assessment should count towards the regulatory budget.

TREATMENT OF BENEFITS

- A.13** In setting a regulatory budget there is an argument for using net costs (i.e. costs net of potential benefits) because a gross cost measure does not give consideration to the scale of the potential benefits from a regulation – it could bias the regulatory process in favour of those who might be subjected to the regulations and against those who would be protected by them.³² In addition a gross measure could introduce a bias in favour of lower cost options compared to more expensive options which are more cost beneficial/effective (i.e. have higher benefit-to-cost ratios).
- A.14** One way to overcome both problems highlighted above is to take account of potential benefits in setting (and justifying) the level of the budget and then leave it up to departments to maximise benefits within that constraint.³³
- A.15** A gross measure could also discourage policy makers from conducting a more disaggregated analysis of the effects of a policy (which is important in order to identify any distributional effects). This is because such analyses could result in higher gross costs (although the net impact should not change). For example, if a department was considering the impact of migration on wages, they could estimate the average impact on wages or they could estimate impacts at a more disaggregated level (e.g. using income quartiles or deciles). If some parts of the workforce are gaining and others are losing, the more disaggregated analysis could produce a higher gross cost.

³¹ Morrall, J. F. (1992): *Controlling Regulatory Costs: The Use of Regulatory Budgeting*, Unclassified OECD document, Public management Occasional Papers, Regulatory Management and Reform Series No. 2.

³² Meyers, R. T. (1998): *Regulatory Budgeting: A Bad Idea Whose Time has Come?*, Policy Sciences, Vol. 31, pp. 371-384.

³³ Crews Jr., C. W. (1998): *Promise and Peril: Implementing a Regulatory Budget*, Policy Sciences, Vol. 31, pp. 343-369.

- A.16** However, even though gross costs could be higher for the more disaggregated assessment, there will be additional benefits to those parts of the workforce who are gaining (compared to an assessment that just estimated the average impact on wages). It will be important that these benefits are identified to justify the costs and should be taken into account in setting the level of the budget. While the gross cost level could be higher than a net cost level, it would be equivalent so a budget set on a net cost basis would be correspondingly lower. Departments should therefore not be discouraged from conducting more detailed assessments that result in higher gross costs (and higher benefits) if benefits are considered in setting and justifying budgets.
- A.17** Whether or not it is meaningful in terms of budgets to focus on net or gross costs would also depend on whether the focus of the regulatory budget was on a particular sector (e.g. privately owned business) or the whole economy. If the focus was business, the relevant net cost measure would be net costs to business; but as the proposal is to consider the whole economy, it would be costs net of all benefits, which would not necessarily be consistent with a regulatory budget regime, but more of a threshold situation.
- A.18** It is well understood that some benefits (e.g. social benefits) are very difficult to quantify.³⁴ Even if it is possible to place a monetary value on such benefits, some stakeholders may find these controversial in terms of measurement methodology.³⁵ This could undermine the agreed accuracy (and therefore legitimacy) of a budget based on a net cost approach. In addition there may be an incentive to overstate the benefits of their activities under a net cost approach.³⁶
- A.19** Finally, a net cost approach would not impose a strict constraint on the total costs that Government can impose on the economy (see the accompanying Impact Assessment for a fuller discussion on this). This is because regardless of the budget level, departments could introduce as many cost neutral regulations (where the benefits exactly offset the costs) as they like without this having any effect on their budget.
- A.20** In light of the issues above, it is proposed that gross costs should be measured, but that benefits³⁷ should be considered in setting and justifying the level of the budget. To avoid focussing too heavily on costs there should be an explanation accompanying the announcement of the budget levels, which explains how the potential benefits justify the levels agreed. Benefits should also be part of the reporting on progress against a budget, to allow stakeholders to determine whether the benefits have been delivered for the costs introduced.
- A.21** To ensure consistency, it is also proposed that all impacts are scored as a positive entry in the Impact Assessment. That is, a negative cost should not be netted off the total costs; it should be scored as benefit. In addition costs and benefits imposed on the same agent should not be netted off but scored separately as a cost and benefit.

TREATMENT OF TRANSFER PAYMENTS

- A.22** There is an argument that transfer payments should not be included in regulatory costs as they result in no net loss to society. However, some economists argue that transfer payments are not costless to society because of the resources expended attempting to influence the political process by those parties who could benefit from the transfer (rent seeking).³⁸ In addition, if the government is concerned

³⁴ HM Treasury: The Green Book: Appraisal and Evaluation in Central Government- Valuing Non-Market Impacts

³⁵ Kiewiet, D. R. (2006): The Regulatory Budget, paper delivered at the Conference on Fiscal Challenges: An Interdisciplinary Approach to Budget Policy, University of Southern California, Feb. 10-11, 2006.

³⁶ HM Treasury: The Green Book: Appraisal and Evaluation in Central Government – Optimism Bias

³⁷ Note this will also include benefits that are not (easily) quantifiable.

³⁸ Hughes, S (1998): Regulatory Budgeting, Policy Sciences, Vol. 31, pp. 247-278

with economic agents' ability to absorb costs, a transfer payment represents a real cost to an individual economic agent (even though there is a corresponding benefit imposed on a different agent).

- A.23** It is best practice to include both sides of transfer payments in the Impact Assessment summary sheet (sometimes referred to as a 'double entry book keeping' approach). If the proposed approach was to exclude transfer payments, information on the relevant gross costs (i.e. gross costs net of transfers) may not be readily available. This could impose a burden on those administering the system of regulatory budgets.
- A.24** It is therefore proposed that the cost element of transfers be included in the estimate of gross costs. However, it should be noted that if benefits are taken into account in setting and justifying budget levels, the inclusion of transfers should not affect the strength of the constraint imposed by the regulatory budget.

TREATMENT OF FINES AND PENALTIES

- A.25** Costs will be imposed on parties that do not comply with government regulations. Such costs are not included in Impact Assessments; to include them going forward would impose additional burdens on policy makers. In addition, the treatment of fines and penalties is linked to assumptions on compliance, which is discussed below.
- A.26** It is therefore proposed that fines and penalties should not count towards regulatory budgets.

ASSUMPTIONS ON COMPLIANCE

- A.27** Assumptions made on compliance will affect the scale of the costs and benefits estimated in the Impact Assessment. Current Impact Assessment guidance states that policy makers should not necessarily assume 100% compliance but that they should consider the impact of lower levels of compliance as appropriate.
- A.28** Under a gross cost approach, there may be incentives to assume lower levels of compliance in order to reduce estimates of gross costs. However, assumptions of lower compliance would also reduce benefits and if these are taken into account in setting and justifying budget levels, this would merely result in a lower budgetary ceiling (and not change the strength of the constraint imposed). In addition, if low levels of compliance are assumed/achieved, serious questions should be raised as part of the scrutiny process about each of the underlying rationale for Government intervention, policy design and enforcement.
- A.29** There is an argument for assuming 100% compliance for the purpose of a regulatory budget if the Government is concerned about the potential cost of regulation. In addition, it could be argued that the proposal to exclude fines and penalties implicitly assumes 100% compliance and that any other assumption would be inconsistent with this approach.
- A.30** However, if policy makers have more accurate information on levels of expected compliance, this is what they will currently be inserting into Impact Assessments and would lead to estimates which more accurately reflect the costs imposed as a result of regulation. In addition, if the decision were left to departments and the assumptions were made clear (i.e. identified in the 'risks and sensitivities' section

on the Impact Assessment summary sheet), it would be obvious if some options or regulations lead to lower compliance levels. Questions surrounding policy effectiveness could then be raised as part of the scrutiny process as appropriate.

- A.31** It is not obvious from a regulatory budgets perspective what the appropriate assumption on, or treatment of, compliance levels should be. This is an issue that needs further consideration going forward.

AN OVERALL REGULATORY COST CEILING

- A.32** The advantage of an overall regulatory ceiling (applied on a departmental basis) for the flow of new regulation is that it forces policy makers to consider the trade-offs of introducing each regulation. It forces them to consider the wider picture and justify regulation in terms of whether it really is the best use of resources. The benefits from specific regulations could then be used to justify the overall budget level.
- A.33** There is no precise way to determine what the optimal level of regulatory expenditure should be but this applies equally to the optimum level of fiscal expenditures. However, budgeting decisions must be made and the fiscal budget process has provided a mechanism through which the merits of various programmes are debated before arriving at a compromise.
- A.34** As noted, a regulatory cost ceiling could be set based on the potential benefits that a department provides, leaving it up to departments to maximise benefits within that constraint.
- A.35** An alternative approach involves setting an individual budget for each new regulation proposed. This approach would allow for more explicit consideration of benefit-to-cost ratios. However, it would be very onerous to administer and would not achieve better cross prioritisation and planning of regulation across Government.
- A.36** Taking into account the issues discussed above, it is proposed to set the budget at the total level (i.e. an overall regulatory cost ceiling). However, it is possible that some of the particularly costly regulations are identified separately within the overall budget. Such an approach should stop departments from making use of the significant additional headroom created if such policies are delayed.

MEASUREMENT OF COSTS

- A.37** Businesses in particular are concerned with transitional costs as well as (or even more so than) annually recurring costs. In addition, the inclusion of both annually recurring and transitional costs would be consistent with the proposal above to focus on full economic costs.
- A.38** When measuring costs, one approach is to identify the Present Value of Costs (PVC). However, a PVC measure scored in an individual year would not accurately reflect the way in which the costs are incurred (which could be over a number of years).
- A.39** One way to overcome this problem is to calculate an Equivalent Annual Cost (EAC). This is a standard method in finance for expressing projects with different time phasing of costs on an equivalent annual basis.

A.40 If a policy involves transitional (and possibly recurring costs), the EAC will fall as the salient length of the policy analysis increases (because the transitional costs will be spread over a greater number of years). To illustrate, consider a policy with transitional costs of £30m in both years 1 and 2, then with annually recurring costs of £5m thereafter. If the policy is to be in place for 10 years, the EAC is £10.7m (PVC 89.1m divided by $\frac{1 - \frac{1}{(1+r)^t}}{r}$ where, t=time period (yrs) and r=discount rate (here 0.035)).

For 15 years, the EAC becomes £9.1m (PVC £105.1m) and for 30 years the EAC is £7.6m (PVC £139.5m). Although the typical time period over which policies are considered in Impact Assessments is 10 years, in practice there are a number of exceptions to this.

A.41 One way to prevent biasing longer policies (i.e. incentives to assume longer time periods) is to always calculate the EAC based on a 10 year time period. However, there may be some policies with large terminal costs that occur more than 10 years into the future (e.g. nuclear decommissioning) and a 10 year assumption would mean that these costs (and potentially benefits) are not taken correctly/fully into account. Using the previous example, but now also assuming that there are terminal costs of £100m in years 29 and 30. The EAC over a 10 year period remains £10.7m; over a 30 year period it is now £11.3m. Whilst for this example the added terminal cost and salient time period does not make that much difference to the EAC, if the terminal costs are £500m for both years 29 and 30, the EAC over a 30 year period becomes a much larger at £27.1m.

A.42 This said, in practice there are unlikely to be many policies with large terminal costs; thus assuming a 10 year time period for the purpose of calculating the EAC should not be problematic in most cases.

A.43 An alternative approach would be to have separate budgets for annually recurring and transitional costs (which could always be presented as an equivalent PVC figure). This option could potentially give those administering the system greater flexibility if they wanted to focus on transitional costs, for example. However, this option could also make administering the system and the reporting of the figures more burdensome. In addition, for separate budgets there may be definitional issues with transitional costs that accrue over a number of years.

A.44 Thus, whilst both annually recurring and transitional costs are readily available from IA summary sheets, there are likely to be differences in how these costs are divided and the time periods used, thus potentially making some of these costs not directly comparable.

A.45 It is proposed that costs should be measured as equivalent annual cost. This cost should be scored once, meaning that in reality regulatory budgets would apply to the total amount of equivalent annual costs that can be introduced by Government over a period of time.

NETTING OFF SIMPLIFICATION MEASURES

A.46 Allowing for cost savings to be netted off the budget³⁹ would generate incentives for departments to review the stock of existing regulation on a continuous basis to reduce the burden as they would be “rewarded” with additional headroom to introduce new regulation.

A.47 Although simplifications by their very nature should impose negative annually recurring costs, it is very likely that they will impose positive transitional costs because businesses would need to familiarise themselves with the new regime. For departments to claim additional headroom from their

³⁹Note that Morrall (1992) implicitly allows for cost savings to be netted off a department’s budget; “Once the statutory ceiling was reached, new regulations would require either additional legislation to raise the ceiling or offsetting changes in other regulations”.

simplification measures, they would therefore need to conduct a transparent assessment to demonstrate there was a net benefit (i.e. a 'light touch' Impact Assessment).

- A.48** For the purpose of the 'light touch' Impact Assessment, the benefits (including from reducing costs) and costs should be scored separately and positively, e.g. reduced annually recurring costs should be entered as a positive benefit alongside any new positive costs associated with a simplification measure. The real net benefit will then be taken and added to the department's budget level. For example a simplification measure may result in equivalent annual costs of £1million (as a result of transitional costs) and equivalent annual benefits of £2million (from a reduction in annual costs). The net benefit (of £1million) would then be calculated and added to the department's total budget level. By consistently inputting all costs and benefits as positive entries for the whole regulatory budgets regime (not just simplification measures) there is no scope for real economic costs being mistakenly treated as negative benefits and thus failing to be accounted for in departments' total cost estimations.

TREATMENT OF RANGES

- A.49** There is often uncertainty around the likely costs and benefits from introducing a new regulation. To accommodate this, Impact Assessments often include ranges. This presents a difficulty in terms of which figure to use in a budget. To accommodate the full range of estimates in the budget would leave them too open and the budgets would lose credibility.
- A.50** Using the lower end of the range when setting the budget would incentivise departments to bear down on costs. But is likely to be unrealistic and lead to inflated cost estimates, where the lower end just reflects the best estimate. The same could be said if the upper end of the range was used. On the other hand, taking the midpoint of the range could disincentivise the use of ranges.
- A.51** The Impact Assessment summary sheet requires policy makers to present their best estimate (i.e. the most likely outcome) of both costs and benefits. It is proposed that this estimate should be used for the purpose of regulatory budgets.

THE TIME PERIOD OVER WHICH THE REGULATORY BUDGET IS IN PLACE

- A.52** The longer the period over which the regulatory budget is in effect, the greater the number of regulations between which policy makers would need to consider the trade offs. On the other hand, if a budget applies to a long period of time, the authority setting the cap will have less certain information on which to base their decision, which could seriously undermine the effectiveness of the system.
- A.53** A further issue that should be considered in deciding the relevant time period is the burden of calculating, negotiating and implementing budgets. The overall burden is likely to be greater the shorter the regulatory period.
- A.54** The Better Regulation Task Force ("Less is More" report) noted that the relevant timescale needs to be short enough to ensure that departments remain focussed but long enough to include complex, cross-Government projects which could reduce burdens significantly (4-5 years).
- A.55** Ideally, the relevant period should also be consistent with other reporting processes already in place (for example the three year Government spending reviews) to minimise any additional burdens associated with the new regime. If regulatory budgets were run concurrently with spending reviews, this would allow departments to better align financial resources and the amount of regulation they plan to introduce over the period.

A.56 It is therefore proposed that budget periods should be consistent with Government spending reviews and should probably last three years. Ideally, they should be run concurrently with the spending review period to allow full consideration of the Government's intervention in the economy. It will further be necessary to decide for both accuracy of cost incursion and consistency, whether costs should be counted against budgets from policy enactment or implementation (see Chapter 2).

ENSURING ALL COSTS WITHIN A REGULATORY PERIOD ARE DIRECTLY COMPARABLE

A.57 Current Impact Assessment guidance advises that costs and benefits are estimated in today's prices. This would lead to estimates that are not directly comparable within a given regulatory period (which is likely to run for a number of years).

A.58 The Administrative Burden Reduction Programme requires that administrative burdens are estimated in 2005 prices. If costs and benefits in the Impact Assessment were, initially, also estimated in 2005 prices, this will ensure comparability within the regulatory period and it should also minimise any additional burdens on policy makers.

A.59 For these reasons it is proposed that all costs and benefits included in the Impact Assessment should be estimated in 2005 prices using the most relevant deflator (as set out in the IA toolkit⁴⁰). Re-basing should occur at the beginning of each new regulatory budget period.

ALLOCATION OF REGULATORY BUDGETS

A.60 As one of the aims of a regulatory budget regime is to improve cross prioritisation of regulation, there is an argument for different cross-cutting policy agendas to have their own budgets. However, the main disadvantage associated with this approach is the complexity associated with administering such a system (including the allocation and apportioning of budgets between departments that contribute to a cross-cutting area). In addition there would not be clear lines of accountability so it would be very difficult to secure the necessary commitment of all the departments involved.

A.61 An alternative approach is to allocate budgets on a departmental basis. Although better cross prioritisation would mainly take place within an individual department, budgets allocated on this basis would be much easier to administer. More importantly, there would also be clear lines of accountability. It is therefore proposed to allocate regulatory budgets on a departmental basis so that the department responsible for signing off the Impact Assessment incurs the full costs associated with that regulation.

FLEXIBILITY IN REGULATORY BUDGETS

A.62 Setting budgets that are not binding could seriously undermine the credibility of the Government's commitment to reduce the regulatory burden and departments would have less incentive to reduce costs towards the beginning of the regulatory period.

A.63 However, one problem associated with binding regulatory budgets is that they do not allow departments to respond to unanticipated risks until the next budgetary period.⁴¹ As discussed, one way for a department to create additional headroom is to simplify their existing regulations.

⁴⁰ www.berr.gov.uk/bre/policy/scrutinising-new-regulations/preparing-impact-assessments/toolkit/page44262.html#AdjustmentofPrices

⁴¹ Time preference refers to people or organisations' inclinations towards current consumption over future consumption and reflects comparisons of utility across different points in time or different generations. HM Treasury guidance recommends that the Social Time Preference Rate (STPR), measured as 3.5 per cent per annum, be used as the standard real discount rate.

- A.64** A second way in which flexibility could be introduced would be for departments to seek an exceptional provision of budget coverage. This would allow for contingencies, for example where regulation was needed to cover national emergencies and ensure that such regulation was not unnecessarily slowed down. However, to maintain the robustness of the regulatory budgets system the criteria for access to this exceptional provision would need to be quite restrictive, and be strictly adhered to. So, there would need to be an agreed definition of an emergency which restricted use of exceptional provision to genuinely urgent situations.
- A.65** The third form of flexibility involves end of period flexibility. If, for example, a piece of regulation which had been budgeted for was unable to come into effect in the budget period there might be a justification to carry budget over to the following period. Alternatively, budget could be 'borrowed' from subsequent years within the three year budget period, to allow flexibility on the timing of regulation.
- A.66** Another form of flexibility would include the trading of 'under-spends'. Under this system a portion of a regulatory budget could re-allocate from one department to another, either directly according to priority or via a central mechanism. However, as with access to exceptional provision, the criteria for access both to end of period flexibility and inter-departmental re-allocations would need to be similarly clear to maintain the robustness of the system.
- A.67** In light of these issues, it is proposed to set binding ceilings over a fixed period of time but allow for exceptional provisions, end of period flexibility and the trading of a certain portion of 'under-spend', both within budget families and across departments.
- A.68** A second problem associated with binding budgets is that of changing cost estimates. It is possible that cost estimates developed to inform budget setting may be revised as the Impact Assessment is finalised, for example, if information improves materially over time.
- A.69** One option is to deal with this using the flexibilities described above. However, the way in which changing costs are dealt with could create perverse incentives within the system. For example, if costs increase as a result of more information and budget ceilings remain fixed, there may be an incentive to simply ignore the new information.
- A.70** Consequently, there may be a need to deal with changing ex ante cost estimates in a slightly different way. One possible solution could involve accommodation of costs up to a certain threshold, beyond which departments could make a bid for access to exceptional provision. For example, if the increase in costs is small, a department could be expected to accommodate the increase by reducing costs elsewhere (this could be by simplifying existing regulation or reducing the costs of other regulation also included in the forward estimates). However, if the increase in costs is large the department could bid for access to exceptional provision. In doing so, the departmental economists should explain why the cost estimates have changed and why the information that led to this change has only just become available.
- A.71** There are a number of alternative ways of dealing with changing cost estimates, which have not yet been explored in detail. This is an issue that requires further thought.

EX POST IMPLEMENTATION REVIEWS

- A.72** As part of the policy making process, departments are supposed to carry out ex post implementation reviews of their regulation. These reviews should estimate the actual costs and benefits imposed as a result of a regulation and provide a useful check against the estimates in the ex ante Impact Assessment.
- A.73** As this information is likely to become available after the relevant regulatory period has passed, it would not seem appropriate to change departmental budgets retrospectively. However, such information should help the relevant department improve the accuracy of the regulatory impacts estimated. This information should also help the department and the budget setting authority negotiate regulatory budget levels so that, going forward, they more accurately reflect the real costs imposed by Government on the economy. It should also help accurate reporting on progress against a budget, to allow stakeholders to determine whether the benefits have been delivered for the costs introduced.

BIBLIOGRAPHY

LITERATURE

Better Regulation Executive (2005), *Measuring Administrative Costs: UK Standard Cost Model Manual*.

Better Regulation Task Force (2005): *Regulation – Less is More Reducing burdens, Improving Outcomes*, a BRTF Report to the Prime Minister.

Crews Jr., C. W. (1998): *Promise and Peril: Implementing a Regulatory Budget*, Policy Sciences, Vol. 31, pp. 343-369.

HM Government, (2007). *Cutting bureaucracy for our public services*.

HM Government, (2008). *Enterprise: Unlocking the UK's talent*.

HM Treasury. *The Green Book: Appraisal and Evaluation in Central Government*.

Hughes, S. (1998): *Regulatory Budgeting*, Policy Sciences, Vol. 31, pp. 247-278.

James Jr., H. S. (1998): *Implementing a Regulatory Budget: Estimating the Mandated Private Expenditure of the Clean Air Act and Safe Drinking Water Act Amendments*, Policy Sciences, Vol. 31, pp. 279-300.

Kiewiet, D. R. (2006): *The Regulatory Budget*, paper delivered at the Conference on Fiscal Challenges: An Interdisciplinary Approach to Budget Policy, University of Southern California, Feb. 10-11, 2006.

Hampton, P. (2005): *Reducing administrative burdens: effective inspection and enforcement*

OECD (1992). *Controlling Regulatory Costs: The use of regulatory budgeting*.

OECD Economic Survey of the United Kingdom 2005 (October 2005)

OECD Going for Growth 2008 (March 2008)

Meyers, R. T. (1998): *Regulatory Budgeting: A Bad Idea Whose Time has Come?*, Policy Sciences, Vol. 31, pp. 371-384.

Morrall, J. F. (1992): *Controlling Regulatory Costs: The Use of Regulatory Budgeting*, Unclassified OECD document, Public management Occasional Papers, Regulatory Management and Reform Series No. 2.

Regulatory Impact Unit (2000): *A Note on Regulatory Budgeting*, unpublished paper.

Tozzi, J. (1979): *Towards a Regulatory Budget: A Working Paper on the Cost of Federal Regulation*, US Office of Management and Budget (OMB) Position Papers on a Regulatory Budget.

World Bank Doing Business Survey 2008 (September 2007):

WEB RESOURCES:

HM Treasury (The “Green Book”), http://www.hm-treasury.gov.uk/media/3/F/green_book_260907.pdf, and

Better Regulation Executive “IA Guidance and Toolkit”, www.berr.gov.uk/bre/policy/scrutinising-new-regulations/preparing-impact-assessments/page44077.html

The Impact Assessment Library: www.ialibrary.berr.gov.uk

Better Regulation Executive website: www.betterregulation.gov.uk

Public Service Agreement 6: www.hm-treasury.gov.uk/media/1/d/pbr_csr07_psa6.pdf

STAKEHOLDERS

3i Plc
 Accounts Commission
 Action with Communities in Rural England
 Adam Smith Institute
 Advertising Association
 Advertising Standards Authority
 Age Concern
 Agency Chief Executives (ACE)
 Agent for Greater London
 Agricultural Industries Confederation AIC
 Alliance of Voluntary Sector Organisations in Health & Social Care
 Allied Industry Association
 Amicus
 Animal Health
 Asda
 Association of British Insurers
 Association of British Offshore Industries (ABOI)
 Association of British Oil Industries (ABOI)
 Association of British Travel Agents (ABTA)
 Association of Chartered Certified Accountants
 Association of Chief Executives of Voluntary Organisations
 Association of Chief Police Officers
 Association of Convenience Stores
 Association of Electricity Producers
 Association of Police Authorities
 Association of Port Health Authorities
 Association of River Trusts
 Association of the British Pharmaceutical Industry
 Assured Food Standards Ltd
 Audit Commission
 Bar Council
 Barclays Plc
 Bio Industry Association
 Biosciences Federation
 Black Environment Network
 Black Training and Enterprise Group
 BMW Group
 British Association of Record Dealers (BARD)
 British Bankers Association
 British Beer and Pub Association
 British Cement Association
 British Chambers of Commerce (BCC)
 British Chemical Distributors and Traders Association Ltd
 British Dental Trade Association
 British Hallmarking Council
 British Hospitality Association
 British Metals Recycling Association
 British Overseas NGOs for Development
 British Potato Council
 British Poultry Council
 British Retail Consortium
 British Soft Drinks Association
 British Vehicle Rental and Leasing Association
 British Woodworking Federation
 Business for New Europe
 Campaign to Protect Rural England
 Capital for Enterprise Ltd
 Carbon Markets Association
 Carbon Trust
 CBI
 Central Science Laboratory
 Centre for Competition Policy, University of East Anglia
 Centre for Environment, Fisheries and Aquaculture Science
 Centre for European Reform
 Centre for Risk and Insurance Studies
 Centre for the Study of Regulated Industries, University of Bath
 Centre on Regulation and Competition, University of Manchester
 Charity Commission for England & Wales
 Chartered Institute of Environmental Health
 Chartered Institute of Public Finance & Accounting (CIPFA)
 Chartered Institution of Wastes Management (CIWM)

Chartered Institution of Water and Environmental Management
 Chemical Industries Association
 Citizens Advice Bureau
 City of London Corporation
 Civil Aviation Authority
 Cleaning and Support Services Association
 Climate Action Network Europe (CANE)
 Climate Change Capital
 Climate Group
 Coal Authority
 Combined Heat & Power Association
 Commission for Rural Communities
 Competition Commission
 Confederation of British Industry (CBI)
 Confederation of Forest Industries
 Consultation Institute
 Consumer Council for Water
 Corporate Leaders Group on Climate Change
 Corus
 Country Land and Business Association
 Countryside Alliance
 Countrywide Farmers Plc
 Crop Protection Association
 Dairy UK
 Demos
 Deutsche Bank
 Disability Awareness in Action
 E.on UK plc
 East of England Development Agency (EEDA)
 E-business Regulatory Alliance
 Economic and Social Research Council
 EDF Energy
 Electrical Contractors Association of Scotland
 Emissions Trading Group
 Energy Industries Council
 Energy Networks Association
 Energy Saving Trust
 Energywatch
 Engineering Employers Federation (EEF)
 English Heritage
 English Partnerships
 Environmental Services Association
 Environment Agency
 Environment Council
 Environmental Industries Commission (EIC)
 Environmental Protection UK
 Environmental Services Agency
 Environmental Services Association
 Environmental Transport Association
 Enviros
 Envirowise
 Equality and Diversity Forum
 Equality and Human Rights Commission
 Equality Network
 European Commission
 Federation of Environmental Trade Associations
 Federation of Master Builders
 Federation of Small Businesses
 Federation of Wholesale Distributors
 Financial Reporting Council
 Financial Services Authority
 Fire and Rescue authorities
 Fire Industry Confederation
 Food and Drinks Federation
 Food from Britain
 Food Standards Agency
 Foodaware
 Football Licensing Authority
 Forestry Commissioners
 Forestry Contracting Association
 Forum of Private Business
 Friends of the Earth
 Gambling Commission
 Gangmasters Licensing Authority
 General Medical Council
 General Motors
 General Optical Council
 General Social Care Council (GSCC)
 General Teaching Council for England (GTCE)
 Genewatch UK
 Gin and Vodka Association
 Global Action Plan
 Global Cool
 Government Decomination Service
 Green Alliance
 Green Globe Network (GGN)
 Greenpeace
 Health and Safety Executive
 Health Protection Agency
 Healthcare Commission
 Hearing Aid Council
 Henley Centre
 Home Grown Cereals Authority
 Home Builders Federation
 Homeless Link
 House Builders Association
 House Builders Federation

Housing Corporation
 HSBC Bank Plc
 Human Fertilisation & Embryology Authority
 Human Tissue Authority
 Information Commissioner
 Institute for Economic Affairs
 Institute for European Environmental Policy (IEEP)
 Institute for Public Policy Research (IPPR)
 Institute of Asian Business
 Institute of Chartered Accountants of England and Wales
 Institute of Chartered Foresters
 Institute of Directors (IoD)
 Institute of Environmental Management and Assessment
 Institute of Interim Managers
 Institutional Investors Group on Climate Change
 Intergovernmental Panel on Climate Change (IPCC)
 International Carbon Reduction and Offsetting Association
 International Institute for Environment and Development
 Involve
 Joint Nature Conservation Committee (JNCC)
 Judge Business School
 Judicial Studies Board
 Justice
 Justices' Clerks' Society
 Kirklees Council
 KPMG
 LANTRA Trust
 Law Society
 Lawyers Association
 Lehman Brothers
 Lesbian and Gay Foundation
 Liberty
 Linking Environment & Farming (LEAF)
 Livestock Traders Association of Great Britain Ltd
 Living Earth Foundation
 Local Authority Co-ordinators of Regulatory Services
 Local Government Association
 Local Government Employers
 London Investment Banking Association
 London School of Economics
 Marine Conservation Society
 Marine Fisheries Agency
 Marks and Spencer Plc
 Medicines & Healthcare Products Regulatory Agency
 Met Office
 MIND
 Monetary Policy Committee
 National Association for Voluntary and Community Action (NAVCA)
 National Association of Agricultural Contractors
 National Association of Citizen's Advice Bureau
 National Association of Local Councils (NALC)
 National Association of Young Farmers
 National Audit Office
 National Consumer Council
 National Council for Voluntary Organisations
 National Counter Terrorism Security Office
 National Energy Foundation
 National Environmental Trust
 National Federation of Fisherman's Organisations
 National Federation of Women's Institutes (NFWI)
 National Grid
 National Housing Federation
 National Institute for Clinical Excellence (NICE)
 National Landlords Association
 National Lottery Commission
 National House Building Council (NHBC)
 National Housing and Planning Advice Unit
 National Society for Clean Air and Environmental Protection
 National Trust
 National Union of Farmers
 National Youth Agency
 Natural England
 Natural Environment Research Council (NERC)
 New Local Government Network
 Nirex CLG Ltd
 Office for Standards in Education (OFSTED)
 Office of Communications (Ofcom)
 Office of Fair Trading (OFT)
 Office of Gas and Electricity Markets (Ofgem)
 Office of Information and Regulatory Affairs (OIRA)
 Office of Rail Regulation (ORR)
 Office of Water Regulation (OFWAT)
 Organic Food Federation
 Organisation for Economic Co-operation and Development (OECD)
 Oxfam
 P & O
 Path National UK
 Pension Protection Fund (PPF)

Pesticides Safety Directorate (PSD)
 Policy Exchange
 Policy Studies Institute
 Postcomm
 Proprietary Association of Great Britain
 Race Equality Foundation
 Radio Electrical and Television Retailers Association (RETRA)
 Rail Safety & Standards Board
 RBS Group
 Regulation Initiative, London Business School
 Regulatory Policy Institute
 Renewable Energy Association
 Restorative Justice Consortium
 Royal Commission on Environmental Pollution (RCEP)
 Royal Institute of British Architects
 Royal Institute of Chartered Surveyors
 Royal Mail
 Royal National Institute for the Blind
 Royal National Institute for the Deaf
 Royal Society
 Royal Society of Arts, Manufacturing and Commerce
 Royal Society of Chemistry
 Royal Society for the Prevention of Accidents
 Royal Society for the Prevention of Cruelty to Animals (RSPCA)
 Royal Society for the Protection of Birds
 Royal Town and Planning Institute
 RSPB
 RSPCA
 Rural Climate Change Forum
 Rural Payments Agency
 Said Business School, University of Oxford
 Sainsburys
 Sea Fish Industry Authority
 Sea Fish Industry Authority (SFIA)
 Secretariat of the Convention on Biological Diversity
 Security Industry Authority
 SERCO
 Shell
 Shelter
 SITPRO
 Small Business Europe
 Small Business Forum
 Society of British Water & Wastewater Industries
 Society of Chief Officers of Trading Standards in Scotland (SCOTSS)
 Society of Chief Officers of Trading Standards Officers (SOCTSO)
 Society of Local Authority Chief Executives (SOLACE)
 Society of Motor Manufacturers and Traders
 Society of Pension Consultants
 Soil Association
 Sports Industries Federation
 Standard Chartered
 Stonewall
 Sustainable Development Commission (SDC)
 Tenant Farmers Association
 Tesco Plc
 Thales
 The British Private Equity and Venture Capital Association
 The Kings Centre for Risk Management
 The Pensions Regulator
 The Royal Society
 The Smith Institute
 Trademarks, Patents and Designs Federation
 Trades Union Congress
 Trading Standards Institute
 Turning Point
 UK Business Council for Sustainable Energy (UKBSE)
 Union of Shop, Distributive and Allied Workers
 United Kingdom Environmental Law Association (UKELA)
 United Kingdom Sports Council
 Veterinary Laboratories Agency
 Veterinary Medicines Directorate
 Waste & Resources Action Programme (WRAP)
 Waste Working Party of the UK Environmental Lawyers' Association
 Water Services Regulation Authority (Ofwat)
 Water UK
 Wellcome Trust
 Wildfowl and Wetlands Trust
 Which?
 Wine and Spirit Trade Association
 Women's Environmental Network
 Women's National Commission
 World Bank
 World Wildlife Fund
 Chartered Institute of Taxation
 Chartered Institute of Public Finance and Accountancy

CONFIDENTIALITY OF INFORMATION PROVIDED

Information provided in response to this request for views may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act (DPA) 1998 and the Environmental Information Regulations 2004. If you want the information that you provide to be treated as confidential please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Business, Enterprise and Regulatory Reform will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

If you have any queries about these issues, please contact the Regulatory Budgets team using the contact details at the start of this document.

ALTERNATIVE FORMATS

We are able to supply copies of this document in alternative formats (such as large print or Braille) upon request.

If you have any comments or complaints about the way this consultation has been conducted, these should be sent to:

Vanessa Singhateh, Consultation Co-ordinator
Better Regulation Team
1 Victoria Street
London SW1H 0ET

Tel: 020 7215 2293

Fax: 020 7215 0235

Email: vanessa.singhateh@berr.gsi.gov.uk

Better Regulation Executive
Department for Business, Enterprise
and Regulatory Reform
3rd Floor, 1 Victoria Street
London SW1H 0ET

Publication date: August 2008

URN 08/1030

© Crown copyright 2008

Tel: 020 7215 1206
Website: www.bre.berr.gov.uk

The text in this document may be reproduced free of charge in any format or media without requiring specific permission. This is subject to material not being used in a derogatory manner or in a misleading context. The source of the material must be acknowledged as Crown copyright and the title of the document must be included when being reproduced as part of another publication or service.