



ACCOUNTABLE GOVERNMENT

**(Reasonably) simple actions Whitehall,
Parliament and Brussels could do to
promote transparency and accessibility**

**Business Forum
Regulatory Best Practice Group**

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“Information is power, and any Government’s attitude about sharing information with the people actually says a great deal about how it views power itself.”

Rt Hon Tony Blair MP, commenting on the Scott Report, 1996

SMF’s Regulatory Best Practice Group

The Social Market Foundation’s Business Forum Regulatory Best Practice Group was formed in 1998, originally with the aim of promoting an improvement in the regulatory impact assessment systems within the UK and Brussels but broadening to the encouragement of greater transparency and accountability in the public policy process.

The Group initially canvassed views from organisations representing a significant section of the business community on the difficulties they face in dealing with the institutions of government and on their proposals for improving the system. 63 responses were received with a range of suggestions, and from those we selected a Top 20 list of points which we believed were representative of the whole.

The Top 20 Agenda

1. Political risk creates uncertainty and plays a significant role in inhibiting investment in some sectors. The Enterprise Act excludes political intervention in the bulk of merger decisions and interest rates are no longer politically determined. Both moves have been widely welcomed, and in the interests of ensuring that decisions are made with greater reliance on objective evidence, there should be a review of the scope for removing Ministers from further aspects of the policy process without prejudicing democratic accountability.
2. There should be a presumption that expert external advice to Ministers, and all scientific/technical advice or conclusions, should be published. Policymakers should be under a formal obligation to explain any departure from such advice. And Government publications which rely on secondary sources of evidence should cite references.
3. Regulatory Impact Assessment should be a powerful tool in guiding decision makers towards policy options which involve the fairest balance between burdens and benefits. Too often, however, the impression is given of cursory RIA drafting designed to justify decisions that have already been taken. Because this is only an administrative requirement, Departments are largely immune from challenge if they fail to cite clear evidence, use questionable data or appear to give little consideration to alternative policy options in RIAs. There is no reason why they should not be given equivalent status to Environmental Impact Assessments. There should be a statutory duty on Departments and regulators to produce them, meaning that failure to comply with methodological requirements or "irrational" data assessment or

"disproportionate"¹ political decisions (ie where the evidence could not support them) could be formally challenged. We do not anticipate that this would be a frequent occurrence because the existence of a legal requirement would sharpen Whitehall's focus. The Financial Services Authority, Food Standards Agency and the Environment Agency are already under a similar statutory obligation – indeed, the Food Standards Agency has made clear that its statutory requirement has fostered better evidence-based decision making as a result of taking greater care to demonstrate that proposals are justified and that their costs and benefits are proportionate, so why should the rest of the system not be subject to the same requirement?

4. Officials and Ministers must ensure that the European Commission meets its recently announced obligation to produce impact assessments before it includes proposals in its annual Work Programme; and the UK should as a first step check to confirm that proposals comply with assessment requirements before their substance is considered by Council working groups.
5. The Regulatory Impact Unit should be required to produce an annual report to Parliament, followed by a session with the Public Administration Select Committee, on its effectiveness in securing compliance with the impact assessment rules and on regulatory burdens which have been mitigated or avoided as a result of its work. And The RIU and/or the National Audit Office should produce and publish scorecards on the extent to which regulations comply with the RIA rules.
6. Sector regulators publish annual work programmes and take pride in setting - and, more often than not, meeting - deadline dates for every stage in the regulatory process. The European Commission also produces an annual programme. There is no reason why Whitehall should not follow suit. While factors such as large numbers of amendments may make it difficult to keep legislative timetables on track, there are many areas (for example, in the making of decisions on planning applications) where unnecessary political or regulatory risk could be removed from policy making if strict deadlines were applied.
7. Every Department, sector regulator or Government agency should be required to produce annual reports on the costs and benefits of their regulatory activities. Particular care should be taken to appreciate the impact new regulation may have on the cumulative burden borne by a sector. This necessitates a greater degree of coordination between Departments and between Departments, regulators and public bodies than occurs at present.
8. The 2001 Labour Business Manifesto proposed more sunseting and retrospective reviews of the cost:effectiveness of regulation. The Regulatory Impact Assessment rules should, following the example set in the European Commission's recently published better regulation proposals, require Departments automatically to undertake such reviews within three years of a new regulation being passed and the Regulatory Reform Act should be used to repeal or amend measures that are no longer efficient.

¹ The principle of proportionality requires that policy decisions should demonstrate that burdens are proportionate to benefits. There is no clear guidance on application of the principle and detailed explanation of the way in which factors were balanced in arriving at a decision are rarely given

9. There is a need to bring Business closer to the heart of the policy process, both to improve accountability but also to stimulate better evidence from affected sectors. The Brussels concept of a Business Test Panel (a group of affected sector and other experts) could be introduced at the start of the process. These panels, which would be convened on an ad hoc basis, would operate as advisory committees, working with the system on whether regulation is the best solution to a problem and, if so, (accepting that value judgements will still to an extent apply) agreeing the methodology for assessing impacts and benefits and handling consultation with industry themselves. Officials would be able to vet the data collected through this process, ensuring that the system retains control, but the advantage of giving more responsibility to a BTP is that it creates an incentive to persuade respondents to provide more detailed information.
10. Government should ensure that it informs affected sectors of at least the broad outlines of its policy, and the positions taken by other Member States, on any issue under negotiation in Council Working Groups. Some Departments do this conscientiously and as a matter of routine, but in other cases it is left to sectors to take the initiative to find out what is happening. Better use could be made of departmental websites in this respect, with representative bodies being informed of the range of material available on line and being asked to communicate this to their members.
11. Organisations of all types may have to spend a considerable amount of time trying to find out who is responsible for a particular issue within Whitehall. It would save them, and Government, much effort if all departmental/regulator websites included their full internal directory, including email addresses, with clear organograms and notification of senior Civil Service promotions and moves. As one respondent commented, *"The Civil Service Yearbook is still imprecise and it is not always easy to work out who does what. In the interests of Joined Up Government there should include a search engine that would show all the officials from the relevant Departments working in a selected policy area."*
12. Departmental websites should be updated in real time. *"We should not have to wait two days to access a report or press release after its publication."*
13. Departmental and public body switchboard and telephone systems were the source of much frustration among our respondents, with complaints about lengthy waiting times, the inability of officials to transfer calls and a fair measure of ignorance over who does what. The impression is often given that outsiders are expected telepathically to know the direct number of every official with whom they may have to deal. *"We waste too much time being passed from one official to another, redialling in most cases. Why can't officials learn how to transfer calls?"*, was a typical response.
14. Parliamentary broadcasting and information dissemination was another area of interest. It would save time and money if Select Committees could be broadcast live on an interactive (ie selective) Parliamentary Channel 2.
15. Select Committee minutes should be published online within 48 hours (following the Scottish Parliament's example) rather than, as is sometimes the case, weeks later.

16. Select Committees should work in a much more joined up way to prevent cumbersome overlaps of enquiries. There are several examples of different Committees examining the same subject at the same time from different perspectives. Inquiries would be far more informative, far-reaching and credible if they were conducted by joint committees, and the instances of joint working have been generally successful. This would also reduce the workload of organisations repeatedly being asked to provide submissions to inquiries. Associated with this, respondents were impressed with the structure, professionalism and political neutrality of the joint committee considering the draft Communications Bill and believed that this scrutiny mechanism could be more extensively used for complex or controversial legislative proposals.
17. The Panel for Regulatory Accountability, a mechanism enabling the Cabinet Office to question Departments on their compliance with Better Regulation principles, meets behind closed doors. No outsider is told of the agenda, input from outside Whitehall is not welcomed, we have no idea what happens and there is no apparent action.. The Cabinet Office Minister should report to Parliament following each session or, preferably, they should be held in public.
18. There was widespread concern that the twelve week deadline for responses to consultation documents set out as the norm in the Cabinet Office's *Code of Practice on Written Consultation* is frequently ignored, and recent Parliamentary Answers confirm this shortcoming. As one respondent put it, "*There is no point in setting targets for timescales which Government has allowed for responses to consultation or for it to respond to reports (Select Committee, Royal Commissions etc) if it does not stick to them.*" It is accepted that there will always be circumstances necessitating rapid action, but a greater degree of collaborative planning between Whitehall, regulators and affected parties at an early stage, with clear and advance notice of the factors which may lead to restricted consultation arrangements, would be desirable. In addition, where consultation processes have not complied with the 12 week norm (including cases falling within the Cabinet Office's specified exceptions), Parliament should be notified and a clear explanation of reasons should be given at the time the consultation deadline is set.
19. A central source of information on proposals subject to consultation would assist with the objective of promoting joined-up government. The Central Office of Information or Cabinet Office should have on their websites a table showing all Government consultations currently underway, including details of the sponsoring department, closing date, and links to the documents.
20. Organisations frequently complain that they are omitted from consultation lists. A central web-based registration system similar to the European Commission's CONNECS database would enable them to notify the public sector of their areas of interest through a single access point. If allied to the proposal in 19. above, a true one stop shop for consultation could be created.

The next phase

Effective think tanks exist not just to create and deposit ideas but also to promote debate on them and to test their validity. Ultimately, they of course want to secure acceptance of those ideas. We therefore divided the Top 20 into short, medium, and long-term improvements, seeking to link as far as possible to the Better Regulation Task Force's *Imaginative Thinking for Better Regulation* and *Alternatives to Regulation* recommendations. With the aim of exposing the Top 20 to a second stage of testing, we also

- held a series of fora with sector regulators and Departments to discuss views on best practice in UK and EU policy and regulatory governance;
- consulted a second time with SMF Business Forum members; and
- had further discussions on practicalities of implementation with a number of Departments and other bodies, including DTI, Cabinet Office, Office of the e-envoy, Defra, Small Business Service, OFT, and the Environment Agency.

The outcome was a confirmation of the original 20 targets, with further refinements as set out below. Given that they are largely a synthesis of policy-makers' own views, we would put them forward as a best practice model.

User-friendly communication (Top 20 recommendations 11-15, 19, 20)

In October 2003, the SMF Business Forum wrote to the e-envoy and a number of Departments (for the full text, see Annex) proposing that

- Publications should be available on line as soon as they are announced and "What's New" pages should be updated in real time (it is still quite common to find that the most recent information listed is some days' old). Performance in this respect should be monitored and published. [Although the letter was copied to those regulators cited as examples of good practice in this respect, not all share the same standards: as an example of the frustrating practice typical across departments, Ofcom issued an announcement on 29 June 2004 of the publication of a document following consultation on the margin between wholesale prices of two BT products pivotal to much of the broadband market. The document was still not posted on line as at 5 July.]
- Government bodies should follow the example of regulators such as OFT, Oftel and Ofgem by establishing an automatic notification facility allowing outsiders to select the categories of information they want to receive and to have it sent as soon as it is published.
- A clearly signposted One Stop Shop should be put in place to allow outsiders to access and respond to all Whitehall, sector regulator and NDPB consultations through a single point, with a clear link to the parallel EU facility such as CONNECS or to DGs.
- Every Government body should offer on line access to clear and comprehensive organograms with contacts and responsibilities extending down to Grade 7 level.

We were encouraged that the e-envoy had consulted with the Heads of e-Communications Group, which brings together senior representatives from across government with responsibility for e-communications, and that it would establish a best practice group with external representation. It is expected to start work in the early Autumn. *Directgov*, the replacement for *ukonline*, is intended to become a one stop shop as we recommended, although at present it shares its predecessor's

shortcoming of being practically unknown by those who could benefit from its shortcuts to government bodies and other information.

Among Departments, the response was mixed:

- DTI replied promptly and we were impressed with its willingness to consider the SMF proposals (which were submitted jointly with British Chambers of Commerce, the CBI and the Institute of Directors). DTI has now instituted an automatic notification facility for press releases and will be extending this to all of its publications. It has also worked to reduce delays in posting documents on its site.
- DCMS is now examining automatic notification and will enable web access to its functional directory by the end of the year. It pointed out that the Freedom of Information Act may require this anyway. It believed that a move from reliance on central web development teams to content management systems, enabling self-publishing by divisions, had stimulated a stronger culture of ownership with DCMS and greater concern that announcements and publications should be available simultaneously. There are still, however, many mini-sites across Whitehall that have not been updated for many months and DCMS cautioned that the freedom introduced by content management systems must be tempered by central coordination.
- The Department of Health reported that it had made the linking of announcements and the availability of associated publications a priority and that it would be on a central platform enabling facilities such as automatic notification by 2005.
- Defra is also expecting to be able to improve its organogram and notification facilities with a move to content management software late in 2004.
- It was pointed out to us by a local government body that, for example, it is paradoxical for ODPM to propose in its recent consultation document, *Defining e-government priority services & transformation outcomes in 2005 for local authorities in England* that it should be mandatory for councils to provide a "Sign-up facility to enable citizens to be contacted via email or SMS text message for services that they request to be notified about, e.g. consultation, council papers" but that it should be reluctant to take the lead by offering such a service itself. In fact, ODPM does run such a service, *Info4local*, but it is only available to local authorities and a corresponding facility will not be offered until a single Whitehall access point can be established.
- As at the date of printing, no other replies were received, although we were encouraged that the Sustainable Development Commission contacted us unsolicited in order to seek to incorporate our recommendations (and, in contrast to some of the responses we received from Departments, was able to establish an automatic notification facility within two weeks of our suggestion).

The European Commission has also introduced a one stop link to all sites where consultations are listed and an automatic notification service for all consultations. While this is a welcome development, there has been little attempt to promote the site address and awareness of the facility is therefore low. DTI is issuing a leaflet to alert organisations to this and other EU information sources, but the Commission should advertise the links (http://europa.eu.int/yourvoice/index_en.htm; http://europa.eu.int/yourvoice/index_en.htm) both directly and via the CONNECS database of interest groups and other representative bodies.

Reducing political and regulatory risk (1, 2, 6, 9)

A large number of points were made by consultees. None underestimated the constitutional difficulties associated with political withdrawal from some areas of policy making, but there were several clear threads running through responses:

- There is a need for Business and officials jointly to explore potential candidates for reduced political intervention and to report to Government. One option would be for this to be led by DTI and Treasury but including other business-facing Departments such as ODPM and Defra; however, following discussion with Departments, it was suggested that the SMF should establish an independent commission and that members be invited from business, the City, former officials and academic and research bodies, with Departmental observers. This is now in train, with a planned conclusion at the beginning of 2005. It will examine five areas:
 - Defining "political and regulatory risk"
 - Assessing the scale of the impact of uncertainty created by political and regulatory risk (real or perceived)
 - Setting out options for mitigating those impacts (political withdrawal; greater procedural certainty etc)
 - Assessing the positive and negative implications (administrative/legal/constitutional) of mitigation proposals
 - Implementation options
- Some business consultees believed that "fear of political skewing" was a factor leading to a low incentive to contribute to consultation. This was echoed by at least two regulators, who were concerned that their attempts to submit proposals to "a painstaking process of scientific assessment" might do little to establish confidence in the system's objectivity if the resulting advice was overturned by Ministers
- There was strong support for the approach taken by some economic regulators of giving clear signals about decision making structures through consulting upon and publishing annual work plans and detailed timetables. The concern of Ofwat, as an example, over the impact of Defra's delay in reaching a decision on the water pricing review on the regulator's published timetable was widely publicised. As Ofwat DG Philip Fletcher said to the Environmental Audit Select Committee, "The key issue for which we are all waiting is the ministerial guidance. It is a bit like the Secretary of State saying "Godot must be round the corner soon". (EASC, 3/3/04).
- Regulators were particularly concerned about the signals point mentioned above. One believed that policy makers and regulators should develop a culture in which uncertainty is reduced through the creation of "reasonable expectations" that also bind successor regulators. It could be suggested that this is no more than is aimed for at present when, for example, bodies such as Ofcom seek to establish a five year policy framework for telecommunications, and that perfect foresight of market developments is impossible; but a presumption at the outset of the process that policy planners and consultees should assess the feasibility of developing "one time, last time" solutions would seem sensible. One regulator proposed a development of this principle, suggesting that the UK should press the Commission to accept a position whereby pan-EU economic regulators should only have a locus in cases where

market dominance exists, but we have not yet examined the consistency of this proposal with existing Community legislation or case law.

Transparency and evidence-based decision making (2-5, 9, 17)

Many public bodies have appreciated that awareness among affected parties of governance deficiencies has increased and that efforts have to be made to demonstrate that the system is listening and that it assesses evidence fairly. Since the Top 20 list was published, most of the major regulators have produced Good Governance principles, and within Whitehall we noted DTI's appointment of a Consultation Champion and Defra's lengthy review of its regulatory role.

Many consultees nonetheless claimed that there was not a great deal of demonstrable improvement in the process, as distinct from good intentions. Several points were made at our fora by policymakers and business:

- More than one regulator pointed out that the confidence of stakeholders in a "Reasonable Expectations" approach can be destroyed by a political overlay to the policy process that does not appear to be founded on sound evidence. "We think we bend over backwards to get the science right", one commented, "but our relationship with the industry sags every time Ministers choose to ignore scientific advice drawn from sources we and those companies respect."
- Although the Prime Minister has taken personal charge of the Panel for Regulatory Accountability, in the absence of any reports on its activities or evidence of its effectiveness there was widespread cynicism over its role. "Accountable to whom?" was a comment made by one organisation and echoed by several others.
- On the same theme, it was stressed that good governance cannot just exist: it must be shown to operate. It is surprising that Departments and public bodies have not taken the opportunity to give a higher profile in publicising cases where consultation has been shown to change minds or where Regulatory Impact Assessment has genuinely informed decisions on options.
- One regulator proposed the following menu to be followed by his own and other bodies, drawing from the Top 20 list and the BRTF's Principles of Good Regulation -

Observe the Cabinet Office 12 week consultation requirement or explain why it cannot be followed

HOW TO DO IT – OFGEM AND THE DISTRIBUTION PRICE CONTROL REVIEW

The approach taken by Ofgem to this major review has been applied to its smaller-scale policy and regulatory exercises and is also adopted to a greater or lesser extent by other regulators such as Ofwat and Ofcom. We will therefore set out the broad principles rather than focus only on the DPCR:

- It started by publishing a draft Approach Paper, setting out the way in which it proposed that the Review be conducted, and invited views. This allowed affected parties to recommend methodological assumptions and governance principles at the outset
- It held hearings on the Approach Paper and on subsequent consultation papers. Some Departments are starting to adopt this practice

- It allowed affected parties to comment on the methodology to be used for the calculation of costs and benefits
- And it set out a clear timetable for the review, with target dates for every stage

Establish small expert groups at the outset to agree methodologies and consultation formats, including the detailed questions most likely to elicit reliable data from consultees

Offer a clear explanation at the outset of why regulators/Government need to regulate and show that a genuine assessment of non-regulatory options has been undertaken

Undertake ex-post review of regulation to compare projected and actual impacts; then fast-track required amendments

Make compliance with the Commission's better regulation package (covering consultation and Impact Assessment) a standard request at the start of any EU legislative process. If stakeholders point out omissions (see the Home Office example below), demonstrate responsiveness by taking them up with Brussels and the Cabinet Office

- Others added to this, referring to their success in allowing consultees to share their models and ensuring that they are understood (too often it is impossible to assess how RIA cost and benefit estimates were arrived at). Another feature used by some regulators and which was strongly welcomed for wider adoption on major policy issues was "Approach Documents" inviting views on how reviews or consultations should be run and how impacts and benefits should be assessed.

HOW NOT TO DO IT – THE HOME OFFICE, COUNCIL OF MINISTERS AND PASSENGER INFORMATION

In order to address concerns over terrorism and illegal immigration, a number of overlapping measures were proposed by the Home Office and the Council of Ministers. Two of them – the Asylum and Immigration (Treatment of Claimants) Bill and the Draft Directive on the Obligation of Carriers to Communicate Passenger Data – demonstrated a clear disregard for the most basic governance rules. The following is a summary of what not to do:

Shortly before publication of the Asylum Bill, the Home Office told international carriers that it was planning to insert a power to require them to copy passenger documents (passports, visas etc). A meeting was convened with airlines, who explained that photocopying would lead to lengthy queues but no other option was discussed. The Home Office then wrote to airlines requesting estimates of costs associated with copying. In order to provide reliable data, carriers would have had to consider terminal and check in desk configuration, staff and other administrative resources and national data protection law covering several dozen (in BA's case, 170) airports worldwide. They were given six working days to do this, despite a Cabinet Office Code of Practice on Written Consultation guideline of 12 weeks. No explanation was given for such a marked departure from the Code.

Despite calls in Standing Committee for sight of the draft Regulatory Impact Assessment, it had not been published by the time the amendment setting out the new power was debated or even tabled, a further breach of the Cabinet Office's RIA

requirements. When it did emerge, it set out costs for photocopying while claiming that this was likely to be the most expensive option – yet no others were costed. Given that the then Minister, Beverley Hughes, had declared that the option to be selected would depend on the result of a trial that did not involve photocopying, it is difficult to see how she could have signed the certificate that accompanies all RIAs and which declares that a proportionate balance had been struck between costs and benefits. While the power can only be triggered by an SI, which would require a further RIA, as far as the Bill was concerned the House was being asked to accept an enabling provision under circumstances in which the Home Office did not know how it would be implemented or what the costs associated with implementation might be.

At the same time, the Council was working on its proposal. It is more specific in the categories of information it allows Member States to demand; but although the proposal was first tabled in April 2003, and despite several requests from airline bodies, no consultation took place until three weeks before political agreement was reached and no Impact Assessment was produced at any time, in breach of the requirements of the Commission's June 2002 governance package. Furthermore, the UK did not consult airlines on the workability or costs associated with the proposal and, as far as we are aware, the Home Office did not respond to requests that it should press the Council to produce an Impact Assessment. It meant that Member States were negotiating on the draft in working groups without clear knowledge of the ease of availability of the information they wanted, the options for obtaining it or of the balance of costs and benefit involved.

The UK's own rules require Departments to undertake an early assessment of costs in order to guide their negotiating position in Council. In fact, the Home Office only produced a Regulatory Impact Assessment following an inquiry into the Council proposal by Lords EU Home Affairs Committee [*Fighting illegal immigration: should carriers carry the burden*, HL 29, 12 February 2004], which concluded that

It is doubtful, however, whether the transmission of passenger data prior to boarding will assist the identification of such passengers. If they arrive without documents, it will be difficult to identify the flight on which they travelled and so establish a link with the information provided at check-in. It is also doubtful whether the proposal would help to detect passengers travelling with false documents, since it seems unlikely that such people would choose to travel in the identity of someone already on the list of inadmissible passengers. In our view an adequate case for the need for the proposal has not been made.

and

We find it astonishing that serious consideration could be given to such a far-reaching measure without a rigorous examination of all the direct and indirect costs to weigh against the benefits claimed for it. The financial implications of the proposal should be fully assessed. There should be no question of adopting the Directive in advance of submission of a detailed Regulatory Impact Assessment.

This time, the Home Office gave carriers only four working days to assess worldwide costs. The resulting RIA was not in fact published until after the Council had reached political agreement on the Directive. It somewhat questionably cited consultation meetings on a parallel exercise, known as e-borders, as synonymous with consultation on the Directive. It set out rough estimates of costs for one of three options listed, but “*As this is not considered a viable option at present more detailed costings have not therefore been undertaken.*” No costs were set out for the favoured option – e-borders – since the viability of its mechanics had not been established. Give these omissions, how could Ministers have attested to the

proportionality of the Directive in signing the RIA's certificate, still less reach political agreement?

It should be noted that carriers on several occasions asked the Regulatory Impact Unit to intervene in both cases. If it did take up the case with the Home Office, there is no evidence that the Department paid any attention.

The Home Office example cited above is not an isolated case. Government has been responsive to the Regulatory Best Practice Group's recommendations for improvements to the RIA process, and most of our participants agreed that current Cabinet Office guidelines should result in useful cost:benefit analysis that can act as a genuine tool for policy makers. Furthermore, in contrast to Brussels, where major regulatory proposals (for example, the Council's passenger information Directive) are still being driven through without an Impact Assessment, the instances of RIAs not being produced at all are dwindling as a consequence of the Regulatory Impact Unit's oversight. However, it is impossible to conclude that quality is not poor and, as several officials have acknowledged to us, all too often the process is undertaken half-heartedly and with an eye to a conclusion already reached. The process of signing off an Impact Assessment at ministerial level is frequently just as dismissive: one Special Adviser admitted to us that "It would not be far off the truth to say that [my Minister] would hardly remember having seen [an RIA]. They have never made any difference to our work – we've got commitments to discharge and we're not going to let this procedure get in our way."

This is not a shortcoming unique to the UK – AEI-Brookings' annual reviews of the US impact assessment system have frequently made the same observation. Although we have in the past disagreed with those like AEI-Brookings who believe the best solution is for RIAs and EU Impact Assessments to be produced independently, we have had to conclude that the only way in which cultural change can be effected and neutral, evidence-based assessments guaranteed is through separating the process from those who have an interest in driving through a proposal.

The National Audit Office or Audit Commission are best placed to discharge the task, drawing on departmental and external stakeholder expertise on the lines of our original recommendation 9. It would therefore be for a disinterested body in public, rather than an involved Minister behind closed doors, to determine upon and declare whether the proportionality test has been satisfied. A decision to act against the RIA's conclusions would be legally challengeable. Such a change involves considerable resource, and might be best introduced through stricter oversight by the NAO, which is currently in a position only to undertake random sampling, with the sanction of independent reassessment being available if Departments fail in their governance requirements. The likelihood of less burdensome regulation and improved trust in the policy process would make this a change for the better.

The following organisations attended SMF's Regulatory Best Practice forum series or contributed comments

<p>ABN Amro AstraZeneca Barclays Capital Better Regulation Task Force British Chambers of Commerce BT Competition Commission Confederation of British Industry Department of Health Department of Trade and industry Dimension Data DTI Institute of Directors BAT plc BG Transco BNFL British Chambers of Commerce British Energy British Generic Manufacturers Association CAA Cabinet Office Centrica Easynet EDF Energy Energis Environment Agency Ernst & Young Financial Services Authority Food Standards Agency</p>	<p>General Dental Council Hill Samuel Asset Management H M Treasury Innogy Marks & Spencer Medical and Healthcare Products Regulatory Agency Merck Sharp & Dohme National Audit Office National Grid Transco NERA ntl O2 Ofcom Office of Fair Trading Office of Health Economics Office of the Rail Regulator Ofgem Ofwat Pfizer Powergen Shell UK Small Business Council Thames Water T-Mobile Vincent Cable MP Vodafone Wanadoo Water UK</p>
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ANNEX

13 October 2003

A Pinder Esq
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SW1V 1LQ

Dear Mr Pinder

We are writing at the request of the Confederation of British Industry, British Chambers of Commerce and the Institute of Directors, with whom we have been working as the principal members of our Simply Government project designed to improve transparency and accountability. We greatly welcome the initiatives that have led to the establishment of *ukonline* and the DTI's Business Portal project but believe that there is further scope significantly to improve access to information and consultation, and to simplify interaction between Government Departments and NDPBs and those who need to deal with them, through a number of improvements to websites and the approach that is taken to electronic dissemination of information. We have given some thought to the changes that would have the greatest impact and would offer the following suggestions:

1. Departments and NDPBs vary in the speed with which publications are available online following their announcement. It can be frustrating for a company to find a press release with a link to a document that is only available hours or days later. Since some Government bodies regularly achieve immediate posting of items, this should become an immediate standard across Whitehall. Similarly, "What's New" pages should be updated in real time: it is still quite common to find that the most recent information listed is some days' old.
2. There is a need for Government bodies to follow the example of regulators such as OFT, Ofcom and Ofgem by establishing an automatic notification facility that will allow outsiders to select the categories of information they want to receive and to have it sent as soon as it is published. These systems are very popular; they work well; and by avoiding the need actively to search for announcements they offer the prospect of more organisations learning about developments in public bodies; a better rate of response to consultations and a longer effective consultation period because consultees are informed immediately.
3. At present, there is a *ukonline* site - *Citizenspace* - offering a listing of all live Government consultations, but it could be improved and, crucially, it is largely unpublicised - indeed, we only discovered it when the Better Regulation Task Force sought suggestions on improving consultation (BRTF was unaware of it as well). The concept of a One Stop Shop is, however, welcome and we hope that a better, higher profile facility could be put in place that would allow outsiders to access and respond to all Whitehall, sector regulator and NDPB consultations through a single point, with a clear link to the parallel EU facility, *CONNEX* or to DGs.

4. It can be difficult, time-consuming and frustrating for many organisations to try to find officials with whom they may have to deal. Switchboards frequently misroute calls, listed enquiry points are often unsure of responsibilities or contact details and directories such as the Civil Service Yearbook tend to be out of date almost as soon as they are published. We welcome the initiatives taken by Departments such as DTI and Defra in featuring organograms on their websites; however, these tend only to cover the most senior officials or to exclude detailed responsibilities or individual contact numbers. It would save much time on the part both of outsiders and of Government if every Government body could make available on their site an organogram with contacts and responsibilities extending down to Grade 7 level (this may be best achieved through development of DTI's organogram format which uses "reveals" to avoid having to list every name on a single chart.

Umbrella bodies such as ours would be happy to assist in alerting our members to these improvements, which will boost transparency and efficiency, and we hope you will agree that these proposals are sensible and worthwhile.

This letter is jointly addressed to yourself and to a number of Cabinet and other Ministers, with copies to a number of regulatory bodies.

Yours sincerely

Charles Miller
Director, Simply Government Programme
on behalf of the BCC, CBI, and IoD

cc Rt Hon Tony Blair MP
Rt Hon John Prescott MP
Rt Hon Gordon Brown MP
Rt Hon Patricia Hewitt MP
Rt Hon Margaret Beckett MP
Rt Hon John Reid MP
Rt Hon Tessa Jowell MP
Rt Hon David Blunkett MP
Rt Hon Alistair Darling MP
Douglas Alexander MP
David Edmonds Esq., Oftel
Philip Fletcher Esq., Ofwat
Alistair Buchanan Esq., Ofgem
John Vickers Esq., OFT