

Confindustria speech by Hugh Morgan-Williams, 16 June 2004

“REGULATION – THE UK EXPERIENCE”

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Opening Remarks

Good morning ladies and gentlemen. First of all, I'd like to say what a great honour it is to have been invited here to speak as a guest of Confindustria.

My name is Hugh Morgan Williams and I represent the Confederation of British Industry.

For those of you not already familiar with the CBI, let me first tell you something about us.

The CBI is the voice of business in Britain. It represents businesses of all sizes, from all sectors and in all locations throughout the UK. The CBI's role is to influence policymakers and other actors who affect how UK based companies do business throughout the UK, Europe and internationally. Our aim is to make sure that they understand what UK business needs in order to be able to compete and prosper.

I chair the Small & Medium Enterprise Council at the CBI, which is the forum for SMEs to shape policymaking from their perspective. In my business life, I



am managing director for Canford Group plc. This is an SME that I co-founded in 1978, and specialises in supplying professional audio video and broadcast products.

Where are UK SMEs now?

There are 3.8 million businesses in the UK, an increase of 1.3 million since 1980. Overall, SMEs make up 99% of this total. They employ over 10million people - over half of UK private sector employment - and account for a large part of new job creation. Almost two thirds of SMEs are in services and knowledge-based activities, such as software, IT/internet services, automotive, electronics, telecom and finance - sectors which have seen tremendous expansion since 1980.

The UK also has a strong science and technology base, with world class design, research and development disciplines. UK SMEs are also at the forefront of markets as diverse as chemicals, aerospace, horticulture, pharmaceuticals and e-commerce.

Labour market flexibility

And one of the biggest reasons that UK SMEs have been able to grow over the past 20 years is our labour market flexibility. It has provided a source of competitive advantage, and is one of the main reasons why Britain creates more jobs than any other country in Europe.

Against a backdrop of difficult global trading conditions, unemployment in the UK is currently running at about 5% – well below the 9% Eurozone average. It cannot be a coincidence that we also have the most flexible labour market.

Yet over the past few years there has been mounting concern that the UK's highly prized flexibility is slowly being chipped away.

This is part of a wider increase in the regulatory burden across a number of areas, including environmental, health and safety and planning. This is of major concern for all firms – but particularly for smaller firms.

Nearly half of UK businesses now cite regulation as one of the key obstacles they face, with 1 in 5 small businesses viewing regulation as the greatest obstacle to the success of their business, more than any other factor.

It is estimated that the total cost to business in compliance costs of regulations introduced since 1997 is Euro45bn.

This sharp increase in cost is not only extremely alarming, but is damaging to growing business.

But, let me make this clear, the CBI is not opposed to regulation full stop. It is opposed to unnecessary, ill-conceived and poorly implemented regulation.

Yorkshire business

Let me give you an example of what I mean- I heard a story recently about a business in the north of England.

The business had recently won a new contract, and was looking to grow over the coming few years. To cope with this, the owner decided to build an extension to the factory.

He went through all the correct procedures and spent thousands of pounds. On completion of the extension, the health and safety inspector made an inspection.

He advised the owner that a window in the extension was too low- that there was a risk of people falling out of it.

So- as a result, the wall was rebuilt. A new, and slightly higher window was fitted.

A few days later, the fire inspector came round to do his inspection.

He advised the owner that the window was now too high. In the event of a fire, people may not be able to use the window to escape.

So we have two inspectors, both working for government, enforcing two sets of regulations, which leave business with an unanswerable conundrum.

What does business want from regulation?

Business needs a proper regulatory environment. Regulations are important – they help to protect citizens, promote a safe society and instil confidence in products and services.

And, appropriate regulation can be beneficial for business. It can help to pursue efficiency, promote the working of markets and boost economic performance.

But whilst regulation needs to be robust and stable, it needs to be sufficiently flexible to allow business to innovate and meet the challenges of the global market.

Business also needs a system where implementation of legislation is carried out in a manner that is appropriate to the market, and avoids overzealous ‘goldplating’. And importantly where enforcement is consistent, so that business knows what is expected of them.

But over the past few years, we have seen a significant increase in the burden of regulation. This is having a damaging effect on the ability of entrepreneurs to run and grow their business. It is damaging our competitiveness at a time where we really need to be striving to be more competitive.

If we really are going to achieve the goals set by the EU in the 2000 Lisbon agenda - the creation of 20m jobs and the most productive economy in the world by 2010 – we really are going to have to take action to turn this steady tide of regulation in general, and ‘bad regulation’ in principle.

UK's Regulatory Environment

I am pleased to say that the UK government has recognised some of these concerns. Let me share with you today some of the positive features of the UK regulatory system that have been put in place in recent years.

Let me start right at the top. There is a Ministerial Panel for Regulatory Accountability.

This group is chaired by the Prime Minister, and has a brief to take a strategic overview of the regulatory system to ensure that the burden of regulation on business is kept to the minimum necessary.

Any regulatory proposal that is likely to impose a major new burden on business requires clearance from this Panel! This puts responsibility for regulation firmly at the door of the Prime Minister, and underlines how seriously this issue is taken.

Think Small First

The UK Government also has a commitment to ‘Think Small First’. This is that the regulatory environment should be developed with the needs of small businesses at the forefront.

The approach taken by the UK Government to this- which I support- is that we must concentrate on getting the legislation right for all firms.

We really should not be looking to exempt small firms at the last minute from ill thought out regulations. Because, ultimately, exemptions create barriers to growth.

We have to ensure that policies are developed which enable small businesses to thrive and prosper. Because, the chances are- if the regulation is conducive for small businesses, it is conducive for all businesses.

Better Regulation Task Force

Also, back in 1997, the UK Government set up a Better Regulation Task Force. It is an independent body of UK entrepreneurs that advises Government on action to ensure that regulation is good regulation! Let me just emphasise again- the Task Force is not made up of civil servants- but entrepreneurs- business people who have to comply on a day to day basis with the regulations.

One of its first pieces of work was to set out five principles for better regulation. They have been accepted across Government, and more widely across the business community.

They are that regulations should be:

Proportionate: Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.

Accountable: Regulators must be able to justify decisions, and be subject to public scrutiny.

Consistent: Government rules and standards must be joined up and implemented fairly.

Transparent: Regulators should be open, and keep regulations simple and user friendly.

Targeted: Regulation should be focused on the problem, and minimise side effects.

On a more practical level, the Task Force works by carrying out studies of particular regulatory issues.

All their reports are sent to the relevant Government Minister. They have to respond to the Task Force reports, and within 60 days of publication.

The Better Regulation Task Force also has the power to refer regulatory impact assessments directly to the National Audit Office if it believes that they are inadequate or below the standard that they should be.

So, yes the Better Regulation Task Force does have ‘teeth’ and from the top level downwards is taken seriously.

And let me give you a practical example of where it has made a difference.

Common commencement dates

It published a report in 2002, ‘*Employment Regulation: Striking a Balance*’, which recommended that commencement dates for domestic employment legislation should be grouped together where possible.

It argued that employers would be better prepared if they knew that there was a common date, or dates, when all employment changes took effect in the coming year. For the rest of the year, they would not have to worry that some changes had been made that they did not know about.

The Government accepted the recommendation in part, but highlighted that there would be difficulties with the implementation dates for European legislation -I'll come back to that later.

The CBI supported the Task Force recommendation and now domestic employment legislation is being implemented in the UK on 6 April and 1 October each year.

Notification is also being published annually of what new regulations are being implemented. The first annual statement of changes to domestic employment law was published in January.

Whilst these changes only apply to employment regulation, the UK government is now carrying out a consultation on the feasibility of introducing common commencement dates to other areas of UK law.

It argues that harmonisation of commencement dates would ensure that changes to the regulatory environment are made in a co-ordinated fashion and to provide business with greater clarity and awareness about when changes will be made.

This system is supported by entrepreneurs- it is good for business- and the UK government is taking it forward.

Europe

But there is a problem- European legislation- which accounts for nearly half of legislation introduced in the UK.

Because European directives have a negotiated transposition, it is difficult to introduce them on the dates set out for domestic legislation.

So, the UK Government has suggested that if business supports moves to extend common commencement dates to other areas of UK law it would seek support at a European level to introduce these changes across Europe.

Well, let me say- business does support the move! So today, I would like to call on you to support the UK in trying to introduce Common Commencement Dates to legislation coming from Europe.

They would help make EU legislation more transparent to business and better co-ordinated with domestic legislative changes.

I know that the Irish, Luxembourg, Dutch and UK presidencies are taking forward a number of initiatives to tackle regulation- and these are encouraging. I hope that common commencement dates are part of that package.

The UK's Chancellor, Gordon Brown, has committed the UK Government to help ensure that Europe sets a clear timetable to eliminate wasteful regulation. In his speech to the CBI National Conference a few months ago he said that European regulations should be put:

- to the 'costs' test,
- then the 'jobs' test
- and then the 'is it really necessary' test

I think that this pretty much sums up what we believe.

But I'm sure that we can all recall many stories about new initiatives and new ideas to combat bad regulation- what we really need to do is to ensure that this rhetoric is followed through with proper, strong action.

Let me give you an example of something that I believe needs urgent action- impact assessments.

Regulatory Impact Assessments

The UK has had Regulatory Impact Assessments (RIAs) for a few years now. They have proved to be a positive feature of the legislative system in the United Kingdom.

Each assessment looks at the need for regulation and compares various possible options for dealing with that issue.

The costs and benefits of each option are identified, and quantified wherever possible. This has helped to inform public debate.

The UK regulatory impact assessments are not perfect, but they are a good start and they continue to improve.

The European Commission has begun to adopt the regulatory impact assessments approach used in the UK, but there is genuine concern about their thoroughness and application.

Assessments must be rigorous! They must be used to make decisions over proposed regulations, rather than merely 'rubber stamp'.

Bad practice

I have outlined a couple of examples of good UK practice, but let me give you an example of bad practice in the UK.

The UK Government tends to have a habit of ‘goldplating’ EU legislation. It:

- adds in additional rules
- places more extensive requirements on UK firms
- implements an EU requirement which other European countries have ignored- or which they have transposed into their laws but not implemented
- and enforces EU legislation with a much more extensive penalty regime

We need to ensure that all EU countries implement legislation in a similar fashion. Yes, there are ‘different ways’ of doing things in different EU countries- but we really must have a level playing field if small businesses are going to take advantage of the opportunities of an expanded Europe. That, surely is the point of removing our borders, and being part of a common market!

Conclusion

To sum up- I think that the UK has put in place a number of mechanisms to ensure better regulation- and this should be applauded. There are many lessons to learn from this, and examples of best practice that can be applied across Europe. However, better regulation is only part of the solution to the much wider problem of the regulatory burden on business.

I would like to suggest that over the coming years we work closer together to ensure that our policymakers develop a regulatory environment that is conducive

to business - to enable our businesses to succeed and our societies to prosper.
That should be our common goal.

Thank you.

[Ends]