The Rise of the Regulators

Reversing the Risk Aversion Ratchet

James Vitali and Zachary Marsh

Foreword by Lord Sedwill GCMG FRGS

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Acknowledgements

The authors would like to thank Ben Sweetman and Scarlet Rowe in particular for their valuable work on this report. Thanks are also due to Sir Stephen Laws KCB KC, Nikki da Costa, Douglas Carswell, Lord Johnson of Lainston, Stephen Webb and William Salomon for their helpful comments on earlier drafts, which greatly improved the final paper.

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Published by
Policy Exchange, 1 Old Queen Street, Westminster, London SW1H 9JA

www.policyexchange.org.uk

ISBN: 978-1-917201-33-9

Endorsements

"This paper is a breath of fresh air. It offers a compelling analysis of the shortcomings of the UK's major regulators. I agree with all of its main conclusions and recommendations.

The paper identifies how – far too often – these regulators are not fulfilling their statutory obligations and failing the public they were created to serve. Regulators inevitably develop their own interests and these don't necessarily align with those of their final consumer – us. It is the job of government and parliament to align them.

The paper's proposal of an A-Team in the Cabinet Office is long overdue. Many regulators' boards will need a fundamental shake-up, underpinned by far more rigorous scrutiny and challenge by parliament.

Successive governments have evaded many of the tough decisions required. But the prize on offer for success is enormous. Increased market competition, consumers better protected, higher productivity in both the public and private sector, and a more prosperous United Kingdom - that is the opportunity."

Lord Tyrie – former Chairman of the Competition and Markets Authority, the Treasury Select Committee and the Parliamentary Commission on Banking Standards

"Policy Exchange rightly draw attention not just to the economic implications of regulatory overreach, but the profound constitutional ones too. Increasingly, those elected as lawmakers by the British public have little sense of who is actually making the rules we all live by.

At the same time, the precautionary principle that now dominates public policymaking and is driving regulatory proliferation is having a chilling effect on ministers, preventing them from exercising the powers they have been entrusted with decisively. Something must be done if we are to restore faith in our democracy's ability to deliver for the British people, and ensure accountability and transparency. This paper offers some powerful suggestions for how we get a grip of the regulators."

Simon Hoare MP - Chair of the Public Administration and Constitutional Affairs Select Committee

"As this timely new Policy Exchange paper identifies, regulatory reform will be absolutely essential if we are to transform the UK's economic prospects and improve both private and public sector productivity.

But to achieve that reform, policymakers urgently need to communicate a positive, moral case for lightening the burden of rules and requirements: that doing so can unlock innovation and enterprise which will benefit us all; that 'safetyism' comes with huge costs for society. Consumer protection is important - this is about recognising that it must be targeted and proportionate. Any Government serious about economic growth, should consider the case made in this paper carefully"

Nikki da Costa - Director of Legislative Affairs at Hogan Lovells and formerly at No10 Downing Street

"The authors' concept of a risk aversion ratchet perfectly identifies the practical dynamic that drives the expansion of the regulatory burden in harmful ways. An increasing intolerance of all risk – and not just the risks that it is necessary and practicable for government to mitigate – creates the demand for an ever-expanding, and ever more complex, web of rules and requirements. All of that has a tendency to create unhelpful inhibitions on creativity and innovation and pushes out the exercise of sound judgement in favour of a culture of simple compliance.

This excellent paper rightly calls for this mischief to be addressed by a society wide re-evaluation of our attitudes towards risk, and it proposes sensible ways to begin relaxing the inhibiting grip of the regulatory state on the drivers of growth and prosperity."

Sir Stephen Laws KCB, KC – former First Parliamentary Counsel

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Foreword

Lord Sedwill GCMG FRGS

Former Cabinet Secretary

This latest Policy Exchange paper identifies a trend of which anyone working in or dealing with the UK Government system over the last few decades will be entirely conscious: a cumulative increase in the regulatory burden on both the private sector and public service, undermining innovation, productivity and delivery.

Governments must regulate to protect the citizen, the environment, competitive markets and those who play by the rules. But the hard incentives in our regulatory system create a "risk aversion ratchet" in issuing new regulations or interpreting those in effect. Government adds a safety margin to Parliament's legislation, regulators add a safety margin to Government's, compliance teams in the private sector and public service add a safety margin to the regulators'. Big institutions can bear this burden. Small ones find it stifling.

I was pleased to be asked to chair Policy Exchange's Re-Engineering Regulation project. It asks precisely the right questions – not how to de-regulate, but how to regulate better. We advanced practical ideas for both specific regulatory changes and reform of the UK's rule-making architecture.

This report updates that body of work. It proposes a cohesive, integrated strategy for *how* to deliver regulatory reform by rewiring the incentive structure within which regulators and ministers operate. It is a programme informed not principally by theory, but by experience; the authors consider a number of case studies of governments that have successfully tackled regulatory overreach, and they bring that weight of evidence to bear on their recommendations for the UK Government today.

The proposals contained in this report deserve careful consideration by the new Government, elected on a mandate for change and with higher growth at the heart of their economic and fiscal strategy. The economic case for streamlining regulation is clear from increasing the attractiveness of our capital markets to improving the productivity of the public service.

As Policy Exchange argue, though, technical changes alone will not be enough to deliver the more proportionate, outcomes-orientated, pro-innovation regulatory regime the country needs. We also need a national

conversation about our expectations of risk, and how far the Government should intervene in the relationships between individuals, communities, businesses and the public service to manage it. This paper and the earlier piece, *Re-engineering Regulation*, contribute to that conversation, and I commend both to both the general reader and policy-makers in Whitehall.

Executive Summary

The UK's present regulatory framework is defined by what I propose to call the "risk aversion ratchet" – a dynamic by which the regulatory rulebook has experienced almost unchecked growth for decades, imposing increasing costs on businesses, stultifying innovation and economic activity, and rendering the lives of public servants and professionals increasingly miserable.

There are three components to the regulatory risk aversion ratchet. Firstly, a political culture which is increasingly "safetyist", which privileges risk-mitigation and security over other imperatives, and which expects the government to eliminate risk from people's lives. Secondly, a bureaucracy in which it is remarkably easy and ostensibly "cheap" to generate new regulations. And finally, a complete lack of incentives to remove redundant regulations from the rulebook. It is a core duty of the state to provide citizens with a basic level of security from harm, and from situations in which market forces fail to protect them from an imbalance in power between the providers of good and services and their customers. But the regulatory apparatus has expanded into realms that far exceed this remit. The interaction of these three components is the chief source of regulatory proliferation.

Undoing this risk aversion ratchet will be absolutely essential for any government committed to increasing entrepreneurship, enterprise, and ultimately growth in the UK. For the fundamental truth is that the expansion of the regulatory apparatus has not been costless – in fact, it has been attended by significant costs, both direct and indirect. There are not only the costs of the individual regulations that are hampering UK businesses, or the operating budgets of the regulatory bodies which draw on public monies. There are also the cumulative costs of the accretion of different rules and the need to manage their interactions, the reduced space for risk taking and innovation, and the resulting ceiling placed on productivity growth across the economy as whole.

This is an enormous economic challenge for the UK. But it poses some equally important questions for our democracy and structures of governance. Because the truth is, we actually have very little idea at all about the scale of the cumulative costs imposed by regulatory proliferation. As part of our research, we studied over 1200 new regulations introduced between 2014 and 2024, and related to seven regulatory bodies: Natural England, OfCom, FCA, Food Standards Agency, Competition and Markets

Authority, Financial Reporting Council, and the Care Quality Commission. *Fewer than two in ten new regulations came with a regulatory Impact Assessment*. Frankly, we have a very limited understanding of how much of a burden new regulations are imposing.

The risk aversion ratchet makes it remarkably difficult to redress the regulatory dead hand gripping British society and the economy. But around the world, a number of governments committed to delivering reform have succeeded in doing precisely that. In British Columbia, the regulatory code was cut by 37% in three years through departmental regulatory budgets. In Germany during the 2010s, a comprehensive database of the regulatory rulebook increased transparency and accountability. The UK Coalition Government's use of gateway conditions and the Red Tape Challenge drove a £14.59 billion reduction in the regulatory burden between 2011 and 2017 when adjusted for inflation. In Idaho and Texas, the use of sunsetting for both individual regulations and agencies themselves has had a remarkable disciplining effect on the regulatory state.

This paper offers a theoretical explanation for why the regulatory rulebook has grown so precipitously, as well as empirical evidence of that growth. But at its core, it is less concerned with theory than with *practice*: how in concrete terms do we build a more productive, dynamic and innovative UK by getting a grip on regulatory proliferation and reducing its adverse effects?

This paper sets out a cohesive, integrated strategy for cutting the UK regulatory burden. It provides a policy package for stemming the flow of new regulations, bearing down on the existing stock of rules and requirements, and establishing structures for better regulation in the future. If implemented, this package will radically shift the incentive structures within government away from an ever-increasing regulatory code by raising the "costs" for rule makers of creating new rules.

Regulatory reform is technically challenging, and the rationale for it is remarkably hard to communicate to the general public. But we simply cannot afford to continue pushing it down the list of governing priorities. This paper shows why this issue is so urgent, how political leaders have tackled it effectively elsewhere, and what ought to be done here in the UK. The spillover effects of action in this area are potentially huge, and they will aid the Government in its pursuit of almost every other policy priority.

Recommendations

Stemming the Flow

1. **The government should re-establish a gateway condition for new regulation, and this should apply to non-departmental agencies and regulatory bodies as well as government departments**. The gateway condition should require that, for every £1 in new regulatory costs, £2 in regulatory savings must be found. The purpose of this gateway will be to change the incentives of those introducing new regulations, and specifically to disincentivise the continual expansion of the rulebook.
2. Regulatory Impact Assessments (IAs) need to be reformed. **The Government should radically reduce the category of regulatory changes that are exempt from requiring an impact assessment**. The Better Regulation Framework currently provides for seven categories of exemption. This should be reduced to two: those required to comply with court judgements, and those necessary to update technical standards or listed items in the schedule to an Act of Parliament. The existing Regulatory Policy Committee (RPC) should remain the body that provides scrutiny of the UK's regulators.
3. A new challenge function should be introduced into the IA system. After **implementation, businesses or industry groups should be able to submit an appeal to the RPC if they believe that an impact assessment has significantly underestimated the impacts of a new piece of regulation**. If the RPC adjudges this to have been the case, the regulation should be resubmitted to Parliament for approval.

Dealing With the Stock

4. The **Government must establish a comprehensive register of regulations in the UK.** Germany's OnDEA database should provide the model for a UK register; it should be open and publicly accessible, and each regulation should be accompanied by its impact assessment. "Ownership" of each piece of regulation should be established and ascribed to a particular department or

regulatory agency. Retained EU rules and regulations should be included in the register.

5. **This register should be used to establish a "regulatory baseline" for the United Kingdom**. **The Government could base this on the definition of "regulatory requirements" used by British Columbia** – that is,

   "An action or step that must be taken, or piece of information that must be provided in accordance with government legislation, regulation, policy or forms, in order to access services, carry out business or pursue legislated privileges"

6. Once this baseline is established, **the Government should set a target for the reduction of regulatory restrictions with reference to the baseline**. For example, a 25% reduction could be specified, which would be less than the reduction achieved in other case studies considered in this paper.
7. **The baseline and targets should be established for each individual regulatory agency. Regulators should have to report regularly on their progress towards their target. One particular element of flexibility should be permitted in the system: regulators should be permitted to count a reduction in a burden as progress towards their target**. For example, if the number of documents required to obtain a particular license were cut by 25%, then the existing rule should only count as "0.75 requirements" going forward.
8. **Feedback loops should be established within the regulatory bodies to help assist in identifying regulations appropriate for review**. Portals should be created on the regulators' websites for the regulated to make submissions identifying particularly onerous or defunct rules and requirements. This will ensure that efforts to reduce the regulatory burden are responsive to the demands of sector participants.
9. **To give political direction and impetus to regulatory reform, responsibility for the agenda should move to a Regulatory Reform Unit (RRU) housed in the Cabinet Office and under a dedicated minister**. **The RRU should be responsible for reporting regularly on progress towards the reduction target, and to scrutinise the efforts of departments and agencies. It should also coordinate a strategic communications strategy to explain why reducing the regulatory burden is a government priority**.
10. Once the regulatory reduction target is met, a zero-based cap should be applied to the new regulatory code, and the gateway condition for new regulation converted to a one in, one out requirement.

Smarter regulation for the future

11. **A sunset clause should be attached to the mandates of any new UK regulators and agencies.** These should be for ten years; within which time a review of the regulators should be conducted by the Public Accounts Committee.
12. **The Post Implementation Review (PIRs) system needs to be reformed**. **There could be an automatic sunsetting of measures which have not had a PIR within the statutory period**.
13. To improve the quality of the regulators' work, Government should sponsor a secondment programme for professionals to work at the regulators in their fields for six to twelve months to help share expertise. There should also be a concerted effort to appoint people to the boards of regulators who do not have a vested interest in the regulatory state.

Introduction

The Risk Aversion Ratchet

Governments have a finite number of levers available to pull in order to stimulate growth in the economy. In the case of United Kingdom, these options are even more limited. There is very little space for significant fiscal interventions in the coming years, given the precarious state of the public finances. Monetary policy of course has been the purview of the independent Bank of England since 1998, and regardless, the Government's priority for the past two years has – correctly – been to bear down on inflation, which has necessitated monetary tightening.

A third lever exists, however, and it is the lever best suited to addressing the fundamental drags on British economy growth: that is, supply side, and specifically regulatory, reform.

Regulations constitute the rules of the game in social and economic life. They are the terms upon which individuals, businesses, public bodies and so on interact and transact with each other, and they help to mitigate or offset negative externalities arising from economic activity. In this sense, they are essential. But regulations are not ends in themselves, any more than the rules of a game of chess are ends in themselves. They are, rather, intended to help secure broader societal ends; to give some regularity to human behaviour, but not to define it wholly and completely.

More profoundly, regulation concerns the way that we mitigate and manage *risk* – economic, social, environmental or health risk, concerning individuals, households or society more generally. The state or its bodies intervene to constrain and limit the activities of those within its jurisdiction to offer vital protections from harms and unacceptable costs.

In the past, the scope for what was deemed a legitimate subject for government regulation was relatively narrow. But over time, it has widened. Increasingly, the government has come to be expected not simply to ensure an acceptable level of risk in society, but to systematically eliminate *all* risk. And as such, given the degree of uncertainty and randomness in human existence, the remit of the regulators has expanded immensely.

To regulate appears ostensibly to be a cost-free way of governing. There is no direct cost, for example, to introducing a new rule or requirement. But regulations have considerable diffuse costs which compound with accumulation. A network of public bodies, for one, is required to administer and ensure compliance with regulation, and each of these regulators will

have operating costs. But more generally, regulation affects the incentive structures and behaviour for individual firms. For a business to comply with a particular rule, a person must be employed to spend some portion of his or her time addressing that particular requirement. And that is time not spent on improving a business or making a product or delivering a service. Regulations, in other words, shift resources away from productive activities and towards unproductive ones associated with "compliance". And the "costs", so to speak, that complying with regulations impose are almost never entirely absorbed by the regulated company. Some proportion of those costs will be passed on to consumers in higher prices, or out of profits or investment in innovation and improvement.

None of this is restricted to the private sector, either. The burden of regulation and red tape makes it harder for public servants to do their jobs, and means they spend more time on bureaucracy than seeing patients or solving crime. This means lower public sector productivity and higher "costs" for the public in the form of higher taxes.

Less directly, risk has an intimate connection with enterprise and entrepreneurship. To be an entrepreneur is to seek to do something new and valuable in a context of uncertainty about the future. It relies on spontaneity, chance and creativity, *and risk taking*. To seek to eliminate risk then is necessarily to shrink the space for entrepreneurship and innovation. And this applies not only to already-existing businesses and their ability to become more productive, but also to those new companies that do not become a reality: regulation can create costs and barriers to entry that leave business ventures in the minds of would-be entrepreneurs, instead of on the register of Companies House. Regulation usually favours market incumbents, whose scale enables them to meet compliance costs more successfully than smaller competitors, and they militate against diversity and competition in the marketplace.

The proliferation of new regulations thus comes with costs. But the total effect of new regulations is not simply "the sum of static costs associated with individual interventions".[1] There is also a cumulative, compounding effect that comes with the accretion of regulatory requirements. In the case of the United States for example, it is estimated that that cumulative cost is a drag of 0.8% on economic growth each year and that the economy would be 25% bigger in 2012 if the regulatory burden had been frozen from 1980 onwards. In a recent white paper, the Government suggested that the administrative costs of regulatory compliance may amount to around £70 billion per annum, or 3-4% of GDP. Some of that will be the cost of funding the regulatory state itself: there are some 130 "bodies that regulate" in the UK (including regulators but also professional bodies), and in 2022-3, the largest 17 regulators had an annual expenditure of £5 billion and a head count of 39,000 full time employees.[2] But much of that annualised cost will be the regulatory tax imposed by red tape and bureaucracy.

So there's a problem to be solved. But we might also view this regulatory burden as a huge *opportunity* – to reduce deadweight loss, to make British

1. Coffey, B., McLaughlin, P., and Peretto, P., 'The Cumulative Cost of Regulations', 2016, Mercatus Working Paper, link
2. Department for Business and Trade, 'Smarter Regulation: Delivering a Regulatory Environment for Innovation, Investment and Growth', 2024, link

firms more productive, to increase investment, and ultimately to improve the growth prospects of the UK economy. Why then, given the strong rationale for addressing this situation, has the size of the regulatory state continued to grow?

Fundamentally, there has been a profound cultural shift in the UK – an increased risk-aversion, a preference for safetyism, and a heightened expectation of the state to eliminate uncertainty. And to this end, not only has this cultural disposition created incentives for government to regulate further, but it has created very powerful disincentives for reforming or reducing the burden of existing regulation: many people have come to think of regulation as the only barrier sitting between people and severe harm. Events such as the Great Financial Crisis and the COVID-19 pandemic, and the tragedy of Grenfell, have only intensified people's sense of insecurity, and the demand for more government regulation.

Getting from A to B

We require a more proportionate approach to our regulatory regime and the various imperatives that it must balance. We need our regime to be less risk-averse, and more supportive of innovation, competition, and so growth. And we need to explain to the public that a reformed regime will not leave them more exposed or vulnerable.

Critically, to deliver meaningful regulatory reform, we must alter the incentives guiding the actions of those that regulate – to increase the costs of issuing new rules, to encourage the use of non-regulatory interventions where appropriate, and to institutionalise greater scrutiny of the existing rulebook. Certainly, there are a myriad of instances where regulation is not only required but is the most appropriate tool for government to employ. The object, however, is to stem the flow of rules where this is not the case, and to clear away those regulations which no longer serve a useful purpose.

Broadly, we know what a better regulatory regime would look like. Over a number of years, Policy Exchange had made the case for a system orientated around a number of core principles:

Proportionality – regulators must strike an appropriate balance between a number of competing imperatives, like safety, risk-mitigation, competition, and growth.

Accountability – regulators must be democratically accountable, and there must be oversight for their work.

Responsiveness – regulators must be able to respond to new challenges and feedback from market participants effectively and flexibly.

Innovation – regulators must support their sectors to improve, adapt, and innovate in order to produce the best products and services for customers.

Outcome-Orientated – the focus of regulation should be on achieving certain outcomes, rather than the prescription of inflexible processes.[3]

An ideal system would offer appropriate levels of protection from harm and a proportionate approach to risk. It would ensure competition, support innovation and growth, and minimise the compliance burden it imposes on wealth creators in the economy. It would be flexible and adaptable, and outcome orientated.

This paper is concerned more specifically with the political nuts and bolts of how we move our existing framework closer to that ideal. It looks to history, and to the international evidence base, for examples of governments and authorities who have managed to fundamentally transform the way they regulate. And it asks what the UK might learn from these case studies.

To be clear: addressing the way we regulate – the way we write the rulebook that sets out how market participants act and interact with one another – is a *necessary* condition for improved prosperity in the UK. If we fail to address the very rules of the game that underpin our economy, we will place a ceiling upon Britain's growth potential. And it is not just about making it easier for businesses to operate. It is about enabling professionals and policeman and nurses to dedicate more of their valuable time to their core duties. It is about reducing costs for consumers. It is about creating the conditions in which a post-Brexit Britain can thrive and attract the jobs of the future to our shores. It is about speeding up the delivery of badly needed infrastructure.

Outline of the Paper

The paper will proceed as follows. Firstly, a brief section will set out why we regulate, and why the regulatory state has grown so much. Generally, three trends have interacted with each other to produce the proliferation of rules and requirements: first, a growing cultural risk aversion in the UK; secondly, the incentives within the existing framework to add to the stock of regulations; and thirdly, the lack of incentives to remove redundant rules and requirements.

Following this, seven of the largest UK regulators will be profiled to provide quantitative evidence for the growth in the regulatory state, and its cumulative impact on business. The regulators studied include Natural England, OfCom, FCA, Food Standards Agency, Competition and Markets Authority, Financial Reporting Council, and the Care Quality Commission.

The paper will then consider a number of case studies of regulatory reform. These will include the successes of the UK Coalition Government 2010-15, programmes undertaken in a range of US States, including Idaho, Texas, and Florida, British Columbia, South Korea and Germany.

Finally, the paper will set out a step-by-step programme for any Government wishing to grip and transform our regulatory system to follow. It will include recommendations for how to stem the flow of new regulations, how to reform, improve, and reduce the existing stock, and

3. Policy Exchange, 'Re-Engineering Regulation: A Blueprint for Reform', 2022, link; Policy Exchange, 'Re-Engineering Regulation: An A-Z of Reform', 2023, link

how to ensure better regulation in the future.

We believe the reform programme advocated here could be taken off the shelf and deployed by any Government of any stripe sufficiently committed to addressing this vital issue. And what's more, we believe it would contribute materially to the UK's growth prospects.

The Political Economy of Regulation: Why Has The Regulatory State Grown?

All coordinated activities require a set of underpinning rules. Rules ensure that the actions and interactions of several people are mutually adjusted to one another, in order that activity is purposeful, rather than chaotic.

Imagine, for example, a game of chess. It would be impossible to play such a game unless the participants agreed upon a set of rules that were mutually observed. There is an order to such an activity, in that the actions that occur as part of it are orderly, and certain expectations can be engendered.

But this does not, of course, mean that rules prescribe minutely all the activities that take place in a game or activity. Sticking with the analogy above, to be good at chess, one must be innovative and creative in achieving outcomes in accordance with the rules. But in prescribing how participants must act in minute detail, a rulebook can eliminate the freedom of manoeuvre that is the lifeblood of innovation and invention.

All of this applies to politics too. We have rules to set the framework of expectations for people. Indeed, the very condition of living in a society – rather than existing in anarchy – is to live in accordance with a mutually observed set of rules. But we do not seek to delineate exactly how people will behave in every instance. The only societies to ever attempt such a degree of control over the individuals that comprise it have been the instigators of the most miserable tyranny and repression.

Regulation constitutes one particular type of rule which people are subject to in society. There is no universal definition of regulations; all rules – primary legislation, secondary legislation, policy statements – seek to regulate in some way. But we might helpfully delineate regulation as those rules which restrict or prohibit specific actions and apply to specific industries or activities, rather than in general to all. Sometimes, these are issued in primary legislation (in the case of the UK, by Act of Parliament), but more often they derive from organs or agencies of the state ("regulators") that have their powers delegated in primary legislation. They are not simply laws, but include guidance, compliancy requirements, reporting standards, and so on.

Why Do We Regulate? And Why Has Regulation Proliferated?

Public and private interest

Generally speaking, it is assumed that regulation is introduced to secure some public policy objective or address a market failure. These might include addressing imperfect competition in a market (where certain producers can acquire a position of power that drives sub-optimal outcomes), correcting for information asymmetries between producers and customers (when a lack of information, for example, leads to customers making decisions that are not fully in their interests), delivering a particular public good (when private provision would lead to an undersupply of the good), or internalising market externalities (where production or consumption of a good leads to costs or benefits on third parties which have not been properly accounted for).[4] We might describe this as the public interest view of regulation: "that regulation is instituted primarily for the protection and benefit of the public at large, or some large subclass of the public".[5]

But the reasons why governments regulate – and equally importantly the reasons why the number of regulations in existence has multiplied significantly – are more complex. An alternative view first advanced by George Stigler in the 1970s suggests that *private*, rather than public interest, is the main driver of regulation. In this view, "regulation is acquired by [an] industry and is designed and operated primarily for its benefit". Regulations are generated in a political context where actors are motivated by and concerned with power. Market or industry participants with enough political power will seek to utilise the state, which is the monopoly provider of coercive force, to control entry and deter competition through the imposition of rules that affect substitutes or complements or price out rivals. And to this end, regulation, as with state support or subsidies more generally, is subject to the dynamics of interest group politics.

Once in place, regulations create constituencies that benefit from their continued existence, perhaps because they shield them from competition, or help protect their market position. And those coalitions of interest are better placed and have stronger incentives to act in their own interest than the wider community is to act in theirs and secure an optimal group outcome. As Mancur Olson put it in his The Rise and Decline of Nations:

> *The larger the number of individuals or firms that would benefit from a collective good, the smaller the share of the gains from action in the group interest that will accrue to the individual or firm that undertakes the action. Thus, in the absence of selective incentives, the incentive for group action diminishes as group size increases, so that large groups are less able to act in their common interest than small ones.*[6]

In other words, regulation very frequently is not designed for the public interest, but is driven by *private* interests, which often leads to sub-optimal outcomes for the public. And even those regulations that are introduced

4. Social Market Foundation, 'Reducing the Burden of Government Regulation', 2023, link
5. Stigler, G., 'The Theory of Economic Regulation', 1971, The Bell Journal of Economics and Management Science, 2(1), p.3
6. Olson, M., 'The Rise and Decline of Nations: Economic Growth, Stagflation and Social Rigidities', 1982, New Haven, p31

for reasons of public interest may remain in the rulebook because it is in the private interest of some actor or group that they do so.

Safetyism

It would be wrong to conclude, though, that it is only the incentives and behaviour of market participants that determine how much we are regulated. Equally important in the acceleration of regulation has been the development amongst the public of a particular attitude towards risk, and the role government has in responding to it. It is these cultural attitudes that create a political environment conducive to the proliferation of regulations, and an antipathy towards rescinding them even after they have long ceased to serve a useful function.

Even if regulations are not designed by and in the interest of the public, it is public sentiments that create a permissive environment for the expansion of the regulatory state. And they have shifted decisively towards an expectation that the state will intervene to a greater degree to eliminate risk from our lives.

In *The Coddling of the American Mind*, Greg Lukianoff and Jonathan Haidt conceptualise an increasingly widespread approach to issues of education and mental health in the United States. They describe such an approach as "Safetyism":

> *Safety is good, of course, and keeping others safe from harm is virtuous, but virtues can become vices when carried to extremes. 'Safetyism' refers to a culture or belief system in which safety has become a sacred value, which means that people become unwilling to make trade-offs demanded by other practical and moral concerns. "Safety" trumps everything else, no matter how unlikely or trivial the potential danger.*[7]

With most public policy challenges, governments have to weigh up and balance a variety of competing imperatives. For Lukianoff and Haidt, the public demand for safety in educational settings has increased appreciably, and this has incentivised an approach by government which privileges risk reduction in what children hear in the classroom and on campus, and which comes at the expense of promoting robustness, resilience and independence in young people.

Precisely the same cultural disposition is driving the expansion of the regulatory state. The object of eliminating risk from our lives frequently trumps considerations of how best to promote innovation, growth and freedom. And as the public's risk tolerance decreases, the incentives for government to try to eliminate as much risk and uncertainty as possible from our lives increases.

Take, for example, regulations on so called "nutrient neutrality", which both the previous and new Labour Government have pledged to modify. These concern provisions inherited from the EU Conservation of Habitats and Species Regulation 2017 and incorporated into UK law, which are designed to avert nutrient pollution and eutrophication in waterways. In practice, they require that local authorities *only* give permission for new

7. Lukianoff, G., and Haidt, J., 'The Coddling of the American Mind', 2018, New York

housing development if they are certain "beyond any reasonable scientific doubt" that new homes will not adversely affect nutrient levels.[8] And this has resulted in some 150,000 homes with planning permission being put on pause on the advice of Natural England.

Such an approach represents a zero-risk, safetyist approach to the question of how to ensure that new development does not have a negative impact on water nutrient levels or biodiversity. And it stems from a culture in which the government is expected to eliminate environmental risk entirely, irrespective of other public policy considerations.

Cost-free governance

Finally, the use of regulation as a tool of government has proliferated because it is broadly considered to be cost-free. Most government interventions cost money, and they must be financed either by raising taxes or through public borrowing. Public spending itself is highly scrutinised and spending on any one priority must be weighed against others, while there is a limit to how much tax revenue can be raised without encountering strong resistance from the public or hitting the downward slope of the Laffer Curve. But regulation - the creation of new rules - seems at least ostensibly to be a fairly costless way to govern. Why invest in expensive upgrades to water management systems, to return to the example used above, when you can just ban new homes from being built? And moreover, the institutional mechanisms for scrutinising new rule making are much weaker than those on public expenditure. As such, because of its apparent *convenience*, regulation has become the default means of governing.[9]

The proliferation of regulation then is the result of an interaction between a number of factors: an increasing risk aversion amongst the public; a growing expectation that the government will intervene to eliminate risk and uncertainty; the fact that incumbents in particular markets derive advantage from the existence of regulation that reduces their exposure to competition; and the comparative ease and apparent costlessness of regulation as a lever of government.

The Costs of Regulation

Of course, the problem is that regulating is not a costless exercise at all. In fact, it has a significant and growing impact on the economy.

There are firstly the costs that each single piece of regulation imposes, and these are both static and dynamic. For example, a particular compliance or paperwork requirement represents an opportunity cost to a business – each working hour spent on compliance is an hour not spent on some other more productive activity. There are also the bureaucratic costs of administering regulation itself – the regulatory agencies and their staff have grown in tandem with the size of the rulebook, and sometimes at a faster rate than the sectors of the economy they are charged with regulating. This is a subject to be considered more fully in the next section.

But regulation can also have a less direct cost too; for example, should

8. Policy Exchange, 'Re-Engineering Regulation: An A-Z of Reform', 2023, link; House of Commons Library, 'Nutrient Neutrality and Housing Development', 13 October 2023, link
9. Centre for Policy Studies, 'The Future of Regulation', 23 April 2024, link

the compliance costs for a particular sector reach a certain threshold, they may deter new entrants into the market, thus reducing competition and productivity within that sector.

In a similar vein, regulations may have a cumulative cost which is greater than the sum of the costs of individual regulations. And likewise, regulations that may not have a significant impact on their own may have adverse economic effects as part of a cumulative burden. As Bentley Coffey, Patrick McLaughlin and Pietro Peretto put it:

> *Throwing a single rock, found at the side of a stream, may seem like a good idea because now no one will trip on it. But as more and more rocks are thrown into the stream and accumulate, eventually the stream's flow is diverted or dammed to a halt. Similarly, a single regulation may appear net beneficial when examined on its own—indeed, government agencies typically claim that all, or nearly all, their regulations create positive net benefits—but may still have a net negative effect on economic growth by virtue of being piled on top of (and interacting with) other regulations.*[10]

As pointed out above, some companies – especially larger incumbents - may in fact benefit from the regulatory burden and the barriers it creates to potential competitors entering the market. But in the aggregate, such effects will be deleterious to the productivity of particular sectors and the dynamism of the economy as a whole. The Federation of Small Businesses estimated the cost of regulation to the SME community in Britain to be £55 billion per year, or £10,080 per business; 88% of its member companies identified some aspect of the regulatory apparatus as a barrier to their operations.[11]

It is not simply the everyday operations of existing businesses that are hampered either. Red tape also has unseen impacts on our ability to invent and innovate. In 2010, a group of economists found that the negative effect of the regulatory burden on multifactor productivity growth is strongest in countries closest to the productivity frontier (ie, those often developing countries with significant catch up growth potential).[12] As other economists have argued, this means that "market regulation is preventing true innovation on the frontiers of economic growth, not just causing temporary jolts to growth among the OECD countries with weaker economies".[13]

There are non-pecuniary costs to regulation too. In a myriad of ways, individuals, businesses, communities and so on make adjustments to their behaviours and interactions as part of their mutual existence. Sometimes, an imbalance of power or an insoluble divergence in interests requires the state to manage the relationship between individuals or groups of individuals by regulating behaviour. But the expanding regulatory bureaucracy is the policy instantiation of a more omnicompetent state – one which plays a larger role in the lives of citizens, and which therefore reduces the scope for freedom and personal initiative.

The growth of the regulatory state also has a negative bearing on our democracy. Voters have a relatively direct relationship with their elected

10. Coffey, B., McLaughlin, P., and Peretto, P., 'The Cumulative Cost of Regulations', 2020, Review of Economic Dynamics, 38(1), pp1-21.
11. Federation of Small Businesses, 'Response to BEIS Consultation on the Reforming Regulation Initiative', 12 June 2020, link
12. Bourlès, R., Cette, G., Lopez, J., Mairesse, J., and Nicoletti, G., 'Do Product Market Regulations in Upstream Sectors Curb Productivity Growth? Panel Data Evidence for OECD Countries', 2013, The Review of Economics and Statistics, 95(5), pp.1750-1768.
13. Murphy, R., and O'Reilly, C., 'Anti-growth Safetyism', Works in Progress, 12 October 2022, link

representatives and those they elect to govern them; should they dislike what they are doing on their behalf, they can remove them at the ballot box. But government through regulation places considerable power in the hands of the unelected directors and executives of agencies who are far less accountable. Ostensibly, there are many devices by which regulators can be scrutinised by Parliament; MPs can "pray" against the introduction of certain delegated pieces of regulation, and the Regulatory Policy Committee reports to Parliament on the performance of regulatory bodies, as well on all Impact Assessments for new regulations. But these accountability devices are often either ill-understood, underutilised, or unreliable. And more generally, Parliament is increasingly less capable of scrutinising due to sheer legislative overwhelm.

Surely, if we were aware of these substantial costs that come both from individual rules and their cumulative effects, the political incentives for seeking to address the proliferation of regulation would be strong? Surely policymakers would prioritise this issue as one of major importance to the prospects of the UK economy?

In fact, the myth about the costlessness of regulation subsists *precisely* because it is difficult to estimate and appraise the cost of regulation to the wider economy, and the auditing functions within government which are designed to keep a tab on regulatory costs are extremely weak. And the result is that despite the fact that the red tape burden on the economy is estimated to be some £70 billion per annum – more than the annual defence budget - regulation continues to proliferate as a seemingly easy and relatively cheap way of governing.[14]

Evidence for these trends can be found in the expansion of the bodies responsible for administering these regulations themselves – the regulators.

14. Department for Business and Trade, 'Smarter Regulation: Delivering a Regulatory Environment for Innovation, Investment and Growth', link

The Rise of the Regulators

There has been some important research into the economic impact of regulation in the UK in recent years, particularly through analysis of government Impact Assessments.[15] This paper contributes to that literature but focuses on certain key regulators in the UK, and how they have grown over the last decade. Our findings support the thesis that the regulators themselves have grown in tandem with the size of the rulebook.

Our findings suggest something else too though, which is that we really do not have much of a grip at all over how much the economic costs of regulation in the UK have changed over time. The overwhelming majority of new pieces of regulation we studied were not equipped with an impact assessment, and at times it was unclear as to who was responsible for reviewing and assessing the impact of certain rules or requirements.

We studied seven regulators: the Financial Conduct Authority; the Competition and Markets Authority; the Financial Reporting Council; the Food Standards Agency; Natural England; the Office of Communications; and the Care Quality Commission. We assessed their headcount (generally the average number of full-time employees for the financial year) and (inflation-adjusted) expenditure growth over a roughly ten-year period, generally between 2013-14 and 2023-24, but sometimes 2012-13 to 2022-23.

In addition, we sought to take stock of the regulations made within that period which applied to the regulators' specific sectors and industries. We limited our analysis to secondary legislation. As noted earlier in this paper, "regulation" can denote a far wider range of legislative instruments, but we focused on secondary legislation specifically because it is the type of rulemaking which is most removed from the direction of elected ministers. We looked at the Impact Assessment produced for each of these new regulations and calculated an annual estimated net cost to business for the new regulations related to each regulator.

Methodologically, this approach presented considerable challenges. Firstly, and as others have pointed out, only a small proportion of new pieces of secondary legislation were accompanied by an Impact Assessment. Secondly, establishing administrative "ownership" for particular regulations was at times fraught with difficulty – regulations may affect the work of a particular agency, without the body being listed on the Impact Assessment as the "lead department or agency". Additionally, Impact Assessments are usually completed by government departments or occasionally their executive agencies, but many regulators are non-department public bodies and do not therefore prepare Impact Assessments.

15. Centre for Policy Studies, *The Future of Regulation*, 2024.

More generally, the regulators themselves do not maintain or publish a list of rules and regulations that affect their work. Our apportioning of rules to particular bodies is thus to some extent an approximation.

Nevertheless, all of this lends weight to the argument that the way we currently account for and monitor the regulatory burden in the UK is patchy, inconsistent, and highly defective, making proper scrutiny of our regulatory agencies impracticable. And this will inevitably be part of the explanation for why the regulators themselves have grown conspicuously too.

We can make a number of clear observations from our research. For one, all the studied regulators grew considerably over the last decade or so. The mean growth in staff across the seven bodies was a remarkable 84.4%. Certainly this average is skewed by the Financial Conduct Authority, whose staff headcount grew from 2511 in 2013-14 to 5438 in 2023-24 (a 117% increase) and the Financial Reporting Council, which grew from 134 members of staff to 477 in the same period (a 256% increase). Nevertheless, only a single regulator – the Food Standard Agency – grew by less than 20% (14.1%) from 1647 employees in 2013-14 to 1879 ten year later. Generally speaking, this was mirrored in the regulators' declared expenditure in their annual accounts, but to a much lesser degree. In four of the seven bodies, expenditure increased, but in the other three, it fell.

The growth of regulatory bodies in many cases has also exceeded the expansion of the sectors they regulate. Take financial services. The staff numbers for the FCA grew by 10.7% in the period 2017-2022. Yet in the same period, the headcount for those employed in financial services or related professional services only grew by 6.5%.[16]

On the basis of the Impact Assessments, the regulators added some £467 million additional net annual cost to business each year, a sizeable amount but not a transformative burden for the economy. But there is considerable reason to be highly sceptical about these estimates. First and foremost, very few new regulations introduced in the period of study were accompanied by an Impact Assessment. In fact, on average across the studied regulators, less than *two* in ten (14.6%) new regulations had one carried out. Most of the new regulations introduced in the last ten years have not been properly scrutinised for their impact on the sectors in which they apply.

Partly, this is because there are many types of regulatory provision that are exempt from independent scrutiny. These include: provisions that are necessary to implement international commitments and obligations; provisions that are necessary to comply with court judgments; provisions that are necessary to introduce or update technical standards or listed items in a schedule to an act; provisions that are necessary to make any other technical or drafting amendments to existing legislation; provisions for operational, day-to-day conduct of regulators; provisions imposing fines or penalties; and provisions for the safety of tenants, residents and occupants in buildings.[17]

But even then, the way Impact Assessment are currently conducted is

16. The Financial Conduct Authority's headcount grew from 3635 to 4027 between 2017 and 2022. There were 2,229,600 people working in financial services and related professions in 2017, and 2,446,000 in 2022.

17. Department for Business and Trade, *Better Regulation Framework*, 2023.

deeply flawed in itself. They do not account well for the cumulative impact and cost of regulations when added to the existing stock, and the figures they produce are often unreliable – partly because they are sometimes drafted by junior departmental officials who lack the expertise in the field to which the new rules are applied.

Additionally, Impact Assessments were not made for the vast swathes of regulations that derive from European law and which have since been imported into UK domestic law following the UK's exit from the European Union. While an EU *directive* had to be given effect in member states via domestic legislation (and would typically have come with a Government Impact Assessment in the UK's case), other forms of EU regulation did not, and so were not assessed.[18]

One illustrative example of these lacunas in the Impact Assessment process are the aforementioned nutrient neutrality rules, the regulatory basis of which is the Conservation of Habitats and Species Regulation 2017. Natural England is a statutory consultee in the planning system, and in accordance with this regulation has been advising Local Authorities to deny planning applications in catchment areas across the country. This has halted the development of hundreds of thousands of new homes. Yet for the period and regulations we studied here, Natural England's estimated impact on business is considered negligible.[19]

Ultimately, the pictured conveyed from our analysis of seven significant UK regulators is that the remit and scope of these bodies is growing, but our understanding of how much of a burden the expanding regulatory state is imposing on the economy and society more widely is extremely limited.

18. Centre for Policy Studies, 'The Future of Regulation', 23 April 2024, link
19. Policy Exchange, 'Re-Engineering Regulation: An A-Z of Reform', 2023, link

How Have Governments Attempted to Deliver Regulatory Reform In The Past? Lessons from Five Case Studies

How, then, have different governments in the past sought to tackle this issue? This is the subject of the next section. All too often policymakers in this country look at a particular challenge, theorise it, and then propose a programme of interventions that derive directly from that theoretical analysis. In many cases, the policies that follow fail upon contact with reality.

To that end, in this paper we take a different approach. We start instead with concrete experiences of success in regulatory reform in this country's recent past and from around the world and ask what lessons can be learned from them.

Of course, international comparisons can only ever be taken so far. But there is a wealth of experience from governments and policymakers who have sought to address the challenge of an overbearing regulatory burden to draw upon, and those serious about moving the dial in the UK context would be well advised to do so.

The UK Coalition Government 2010-2015: Gateway Conditions and the Red Tape Challenge

Shortly after becoming Prime Minister, David Cameron wrote a letter to all his government ministers in which he announced the launch of a new regulatory reform initiative. "I want us to be the first government in modern history to leave office having reduced the overall burden of regulation", he wrote, "rather than increasing it… This is a bold ambition - and I am convinced we will only meet it if we try a new approach".[20]

The Coalition Government's approach to regulatory reform was a highly coordinated one. It was why the Prime Minister decided to write to ministers himself from the very centre of government, despite the fact that the Better Regulation Executive (BRE) - which was ostensibly responsible for the reform portfolio - was housed in the Department for Business, Innovation and Skills. The regulatory agenda was mainly driven from the Cabinet Office, and by one minister in particular; Oliver Letwin, who served first as Minister for Government Policy and then as Chancellor

20. Prime Minister's Office, 'Letter from the Prime Minister on Cutting Red Tape', 7 April 2011, link

of the Duchy of Lancaster. This gave a cross-government dimension to policymaking.

As Cameron set out in his 2011 letter, the Government aimed to target both the "flow" and the "stock" of regulation. In the case of the former, the UK was the first country in the OECD to introduce a gateway condition or "offsetting rule". Initially, this came in the form of a "one-in, one-out" rule, whereby new regulations had to be offset by the scrapping of regulations of the same estimated annual net direct cost to business. This was later extended to a "one-in, two-out" condition in 2012, and a "one-in, three-out" condition in 2016.

With regards to the latter, the Government also launched its 'Red Tape Challenge' in order to bear down on the estimated 21,000 pieces of regulation in operation as of 2011. Firstly, it created a government website which listed around 6500 existing rules and requirements, before inviting members of the public to comment on which particular regulations ought to be scrapped, reformed, simplified, or retained. The contributions were grouped into themes and then assessed by civil servants. A 'star chamber' then made recommendations to relevant departments for particular reforms. Some 30,000 comments were crowdsourced through the government website. The Government estimated that at least 3000 regulations were scrapped or reduced as a result of the Red Tape Challenge.

From 2015 the Government began to replace the offsetting rule with the Business Impact Target scheme, which set a goal for the reduction in the regulatory burden on business for the life of a Parliament.

The Coalition Government's reforms were largely successful. By some estimates, the net regulatory burden on business fell by some £14.59 billion between 2011 and 2017 when adjusted for inflation. This might be ascribed to the interaction of the offsetting requirement and Red Tape Challenge. Indeed, the UK's performance on regulatory reform deteriorated rapidly after 2017, when the "one-in, three-out" rule was scrapped and replaced with the Business Impact Target, and Net Zero legislation entered the statute book. Some £30 billion was added to the UK regulatory burden between 2018 and 2022, and this fails to account for a number of temporary measures introduced as a result of the pandemic.[21]

The Business Impact Target in particular lacked concrete penalties for failure to achieve the set goal. It also lacked the political urgency of those initiatives launched during the Coalition years; between 2010 and 2015, Number 10 and the Cabinet Office created strong political incentives for ministers to deliver regulatory reform results and the agenda was communicated clearly as a government priority. These shortcomings however highlight the effectiveness of the strategy adopted by the Government in the previous Parliament.

Key Lessons:

- Regulatory reform received high level support from the Prime Minister and was centrally coordinated by a senior minister

21. Social Market Foundation, 'Reducing the Burden of Government Regulation', 2023, link

working across government.

- The process began by identifying the existing stock of regulations and clear gateway targets were imposed to address regulatory creep.
- Significant efforts were made to engage the public and business in the reform process, creating a feedback loop with government.

The United States: State-Led Innovation

Following the expansion of the US state efforts were made from the 1970s onwards, particularly by Republican presidents, to reduce America's regulatory burden. The 1980 Paperwork Reduction Act required federal agencies to seek approval from the Office of Management and Budget (OMB) for any new information collection requirement, forcing agencies to justify new rules and creating a 60 day public comment period for regulations.[22] The act was particularly notable as it created the Office of Information and Regulatory Affairs (OIRA) to manage these requirements.

Ronald Reagan's 1980 campaign for the presidency focused heavily on the economy and reducing the size of government. Early in 1981 he issued Executive Order 12291. The order required any agency proposing new regulations or reviewing existing rules to assess whether "the potential benefits to society for the regulation outweigh the potential costs to society" and to report these on a biannual basis, with oversight from the Director of OMB.[23] The order further required that any "major rule" – defined as one with an annual economic impact of over $100 million that could adversely impact the economy, or which created costs for consumers, the government and business – undergo a "Regulatory Impact Analysis". As a result of these changes the number of rules issued fell from a 1980 peak of 7745 to 4589 in 1989. These numbers continued to fall under the presidency of his successor, George H. W. Bush, In his 1992 State of the Union address Bush implemented a 90 day regulatory moratorium on all federal agency rulemaking, which was followed by a further moratorium of 120 days.

In his first year in office Bush's successor, Bill Clinton, replaced Reagan's Executive Order with his own; Executive Order 12866.[24] Clinton's order only required government agencies to routinely report on "significant actions", the successor to "major rules'" This reduced the number of rules covered by the order from roughly 2000 to 500 to 600 each year.[25] Reagan's requirement that regulations had to outweigh costs was replaced by a vaguer expectation that benefits "justify" costs. Under George W. Bush OIRA adopted a case-by-case "smart regulation" approach, without a specific goal of reducing the regulatory burden.[26] Under Bush OIRA pioneered the "prompt letter", whereby it could suggest regulations to agencies, affording the organisation a more proactive role in the regulatory process.

President Donald Trump implemented two major regulatory reforms through Executive Order 13771. In line with some US states, Trump

22. US Congress, 'Paperwork Reduction Act of 1980', link
23. National Archives: Office of the Federal Register, 'Executive Order 12291--Federal regulation', link
24. Federal Register, 'Executive Order 12866', link
25. John D. Graham, Paul R. Noe, & Elizabeth L. Branch, (2006), 'Managing the Regulatory State: The Experience of the Bush Administration' Fordham Urban Law Journal, link
26. Ibid.

imposed a "one-in, two-out rule", requiring any new regulations sought by agencies to be offset by the eradication of two existing rules.[27] The second reform was the creation of a regulatory budget, whereby agencies faced annual fiscal caps on the economic costs their regulations could impose.[28] Several agencies were set negative regulatory budgets, effectively requiring them to cut their overall regulatory burden. Trump also required federal agencies to create regulatory reform task forces to review existing regulations and make recommendations within 90 days, specifically targeting regulations for repeal that were seen to be ineffective, outdated, inconsistent or impeding job creation.[29] On average the Trump administration imposed annual regulatory costs of $10 billion, compared to $111 billion for Obama and $43 billion for George W. Bush.

But of far greater interest is the innovation and experimentation that has taken place within the decentralised American federal system at the state level. In particular, the experiences of Idaho, Florida, Texas and Utah are worthy of consideration.

Idaho: The Red Tape Reduction Act

Idaho, a predominantly rural state of less than two million citizens in America's mountain west, has long been associated with business-friendly policies. From 2019 under Governor Brad Little the state embarked on an ambitious programme of regulatory reform.

Like many US states Idaho's regulatory catalogue was over-burdened with arcane rules. A chapter of the state's administrative code was devoted to a snail species that did not exist in Idaho. Several pages set out how a state lottery TV game show ought to be governed – despite the game never having existed. Less outwardly ridiculous rules were also creating an undesirable regulatory burden. Like many states, Idaho had extensive and burdensome professional licensing rules. For example, an Idaho cosmetology license requires 1600 hours of training, with an average programme cost of $16,243 – in contrast to an average annual salary of less than $26,000.[30]

Brad Little triumphed easily in the 2018 gubernatorial election. On taking office in January 2019 Little embarked on an ambitious deregulation programme. In his first few weeks he announced two executive orders – The Red Tape Reduction Act and Licensing Freedom Act – designed to cut regulations.[31] The Red Tape Reduction Act required each state agency to designate an employee to review all of that organisation's existing regulations. It further set out that, prior to any new regulatory measures, the relevant agency would be required to carry out an impact assessment and identify two regulations to cut in response, as part of a new "one-in, two-out" policy. The Licensing Freedom Act required the Idaho Division of Financial Management to identify on an annual basis five professions regulated by the state and review the appropriateness of the existing regulations on these occupations. It further established a 'Sunrise clause' for professional regulation, shifting the presumption against the creation of new state professional restrictions.

27. The Hill, 'Trump signs '2-for-1' order to reduce regulations', 30 January 2017, link
28. Federal Register, 'Executive Order 13771 - Reducing Regulation and Controlling Regulatory Costs', link
29. Columbia Law School, 'Trump Signs Executive Order on Enforcing the Regulatory Reform Agenda', 24 February 2017, link
30. Institute for Justice, 'Occupational Licensing in Idaho', link
31. Office of the Governor, 'Cutting Red Tape', link

The opportunity for further major regulatory reform came almost by accident. Since 1990, Idaho state law has required the legislation to annually reauthorise its administrative code. In 2019, amidst acrimony between the (both heavily Republican) state House and Senate chambers, a reauthorisation bill failed to pass before the end of the state legislative session. In theory, this had the effect of revoking Idaho's entire legislative code by default.[32] In practice, the Governor's office was then able to preserve the regulations it wanted temporarily until they could be formally renewed in the next legislative session.

In light of the crisis, Little sought to reassure Idaho residents that he would not abuse the leeway this situation afforded. "I'm not looking at this as an opportunity to do mischief", Little said during a public appearance.[33] Yet the opportunity allowed the Little administration to approach regulatory reform from the perspective of what rules to retain rather than cut. The Governor appointed Alex Adams, the administrator of the Idaho Division of Financial Management, to review Idaho's 8200-page legislative code.[34]

Over the summer recess state agencies held consultations and open meetings with the public to identify regulations to scrap or revise. Little announced plans to scrap 139 rule chapters entirely, remove parts of 79, and rewrite 31, meaning that altogether 34% of the state's regulations would have been revised through his temporary code laws[35]. By the end of 2019 the Office of the Governor boasted that Idaho's regulatory burden had been reduced by 75%, surpassing South Dakota to make the state the least regulated in the US.[36] 40% of regulations had been removed altogether.

Idaho went on to introduce further regulatory reform in the following years. In 2020 Governor Little introduced an Executive Order on Transparency in Agency Guidance, requiring agencies to justify all non-legislative guidance documents and make them clearly visible on the agency's website. At the same time he introduced Executive Order 2020-01 on Zero-Based Regulation.[37] The order introduced a one-year moratorium on new regulations following on from the 2019 review. It further required all Idaho agencies to review their relevant rule chapters on a rolling basis every eight years, requiring them to carry out an impact assessment and justify their reissue in future.

Little also directly sought to tackle the burden of professional licensing regulation. His 2020 Executive Order on Enhancing Licensing Freedom consolidated seventeen previously independent licensing boards into the Division of Professional and Occupational Licenses. A final wave of notable regulatory reform followed the Covid-19 pandemic. Little's Executive Order on Regulatory Relief to Support Economic Recovery prevented the automatic restoration of regulations suspended during the pandemic. Instead, agencies were required to justify why restoring the regulations was either a statutory requirement or highlight "the substantiated consumer health and safety issues that arose from suspending the rule".[38]

As a result of these reforms Governor Little claims to have reduced

32. Associated Press, 'Idaho governor has unfettered chance to cut state rules', 17 April 2019, link
33. Wall Street Journal, 'Idaho Quits Worrying About Snails', 28 June 2019, link
34. Spectrum News, 'Idaho governor has unfettered chance to cut state rules', 9 May 2019, link
35. Idaho Education News, 'Little plans to cut or simplify one third of administrative rules', 21 May 2019, link
36. Office of the Governor, 'Idaho cuts and simplifies 75 percent of rules in one year, becomes least-regulated state in country', 4 December 2019, link
37. Office of the Governor, 'Cutting Red Tape', link
38. Ibid.

Idaho regulations by 95% since taking office. According to the Mercatus Centre, in 2023 Idaho continued to be the least regulated US state, with just 31,497 regulations on its books.[39] Notably, the legislature chose for three straight years not to approve a new regulatory code, preserving the temporary framework Little put in place in response to the 2019 crisis.

The success of de-regulation in Idaho has attracted significant national attention. Little comfortably won re-election in 2022. Idaho's efforts won praise from then-President Donald Trump.[40] The Reducing Regulatory Burdens Act was introduced to Congress by Idaho Senator Jim Risch in April 2022, specifically citing Idaho's "one-in, two-out" rule as inspiration. However, the extent of Idaho's deregulation success has been called into question. Some have criticised the merging of rules, growing ambiguity in regulatory requirements and a focus on reforming rule codes as opposed to primary legislation.[41]

Key lessons:

- The administration capitalised on moments of maximal opportunity to reverse the presumptions around regulation.
- The regulatory burden was thoughtfully defined and then consistently tracked, with sustained efforts to preserve a reduced regulatory burden.

Florida: The Office of Fiscal Accountability and Regulatory Reform

Florida, located in the southeast of the USA, has one of the largest and fastest growing populations in the country, with over 22 million residents. In recent years the state has outperformed average growth across the nation, with an approximate GDP of $1.3 trillion and a GDP CAGR of 2.7%, 0.6% above the national average.

Florida has one of the higher regulatory burdens in the US, with a 2019 report by the Mercatus Centre ranking it the 7th most regulated state.[42] The state was badly impacted by the 2007 Great Recession, with unemployment reaching a peak of 11%.[43] In 2011, Governor Rick Scott took office following a campaign focused on promises to revive the state economy.[44] Scott argued that "regulation is killing jobs, the paperwork, the delay, the uncertainty".[45] One of Scott's first acts as governor was to issue Executive Order 11-01. The order prohibited any state agencies under the direction of the governor from introducing any new rules and requested agencies outside the governor's purview do the same. The order also created a new body, the Office of Fiscal Accountability and Regulatory Reform (OFARR) to oversee deregulation efforts.[46]

The OFARR was mandated to 'review proposed and existing rules and regulations' to consider their cost-effectiveness and any adverse effects they could have on employment or business.[47] The organisation had oversight over all state agencies whose heads reported to the governor. The executive order required all such agencies to conduct an annual review of their regulations and identify any that were outdated, duplicative or

39. Mercatus Center, 'Snapshots of State Regulations | 2024 Edition', 6 August 2024, link
40. Trump Whitehouse Archives, 'Remarks by President Trump on Rolling Back Regulations to Help All Americans', 16 July 2020, link
41. Least Regulated State, 'The Least Regulated State Claim', link
42. Mercatus Center, 'Quantifying Regulation in US States', 13 November 2019, link
43. Foundation for Government Accountability, 'Freedom to Prosper: How Florida Promoted Job Growth by Cutting Red Tape', 6 February 2017, link
44. Florida Times-Union, 'Rick Scott takes Florida governorship with list of promises', link
45. Politifact, 'Cabinet members push back on Scott Regulation freeze', 14 January 2011, link
46. Foundation for Government Accountability, 'Freedom to Prosper: How Florida Promoted Job Growth by Cutting Red Tape', 6 February 2017, link
47. Ibid.

unnecessarily onerous on businesses. The order required any agencies wishing to propose new regulations to produce a cost-benefit analysis of their proposals and submit this to the OFARR as part of the approval process. Each agency was required to appoint an Accountability and Regulatory Affairs Officer to serve as a contact for these processes.

As part of these reforms each agency was required to annually submit a list of their respective regulations to OFARR for scrutiny, with recommendations for rules to amend or eradicate. OFARR also scrutinises rules to assess any new professional or industry costs imposed and whether proposed changes are the most efficient means of achieving reform.[48]

In 2019 Scott's successor as governor, Ron DeSantis, sought to build on Scott's deregulatory efforts and expand the authority of the OFARR. In a directive to state agency heads, DeSantis stated that his objectives were to ensure that "Florida's regulatory landscape is efficient, cost effective and not overly burdensome".[49]

The biggest change made by DeSantis' directive was the implementation of a requirement for all new rules to incorporate a sunset clause. The requirement applies to all state agencies overseen by the governor. Under the directive the sunset provision could be set for a maximum of five years, after which the rule would again need to be reviewed and submitted to OFARR.[50] These changes have significantly raised the threshold for executive agencies seeking to expand regulation.

The directive also expanded OFARR's mandate in a number of ways. It directed OFARR to specifically focus on new licensing regulations to determine whether such rules were necessary, effective, or unnecessarily burdensome. The directive also empowered OFARR to impose case-by-case or single-agency bans on new rulemaking if it felt proposed licensing regulations violated these criteria.[51] In addition the directive clarified OFARR oversight over emergency regulations imposed by state agencies, who were expected to notify OFARR and justify the use of emergency regulations in each instance.

The changes made by governors Scott and DeSantis have had a notable impact on the burden of regulation in Florida. An analysis by the Foundation for Government Accountability estimated that Scott's reforms had removed over 4700 regulations, equivalent to a 20% reduction.[52] The reforms have also had a significant effect on the number of regulations being proposed each year in Florida. From an average baseline of 2553 regulatory proposals each year between 1999 and 2010, by 2022 under DeSantis just 1259 rules were proposed, a fall of over 50%. These regulatory reform efforts have coincided with a recovery in Florida's unemployment rate which now stands at just 2.9%.[53]

Key lessons:

- A dedicated institution (OFARR) was empowered to police regulation across Florida government, recording and overseeing both the stock and flow of regulations

48. State of Florida, 'Regulation & Rulemaking', link
49. Governor Ron DeSantis, Directive to Agency Heads, link
50. Ibid.
51. Ibid.
52. Ibid.
53. Statista, 'Unemployment rate in Florida in the United States from 1992 to 2023', link

- Specific efforts were made to control the growth and quality of future regulations

Texas: The Sunset Advisory Commission

Texas, America's second largest state, has a rapidly growing population, increasing by almost 50% over the last twenty years to over 30 million. Between 2010 and 2022 Texas's real GDP CAGR was 3%, with a GDP in 2023 of just over $2 trillion, about 70% that of the UK's. However, Texas has suffered from a heavy regulatory burden, with research by the Mercatus Centre ranking it fifth amongst US states on regulation levels.[54] Despite winning CNBC's Top State for Business in America in 2018, it ranked twenty-first on business friendliness, citing it's 'sometimes difficult legal climate'.[55]

The Texas model whereby regulatory reform is overseen by the legislature is unusual, with most state efforts being led through the executive branch. In 1977, following a failed attempt two years previously to have a sunset amendment to the state constitution approved by referendum, the Texas state legislature established through legislation a Sunset Advisory Commission.[56] Originally comprised of eight members with responsibility for 177 agencies, today it has twelve members overseeing over 130 agencies of the Texas government.[57] Members may serve for up to eight years on the Commission, comprised of four-year terms.

The Sunset Advisory Commission (SAC) reviews all Texas agencies within its mandate every twelve years, amounting to between 20 and 30 each cycle. As part of the sunsetting process, these reviews must advise the legislature whether to renew the agency or abolish it.[58] During the agency's review, SAC considers the effectiveness of the agency, the transparency of its work and whether the agency duplicates the work of other government organisations. SAC seeks comments and suggestions from regulated entities and individuals, stakeholders and the public.

The sunset process has a high success rate in terms of the Sunset Commission's thoroughly vetted recommendations becoming law. Since 2001, 80% of the Sunset Commission's statutory recommendations to the Legislature have become state law. The Sunset Commission claims it has led major advances by abolishing unnecessary state agencies and programs, reducing state regulations of businesses and occupations and eliminating duplication among state agencies and programs.

The Sunset process removed unnecessary regulatory obstacles to doing business in Texas at 10 state agencies, such as notarization of application forms, subjective qualifications to get a license or permit and arbitrary rules on how criminal convictions affect eligibility for certification. Its 2007 review of the Texas Department of Criminal Justice, which recommended shifting $241 million from prison-building to rehabilitation, was credited with saving the state over £200 million in its first year and allowing the state to close a prison for the first time in its history[59].

Additionally efforts have been made to address replication of regulation at both state and local level in Texas. These sometimes also

54. Mercatus Center, 'Quantifying Regulation in US States', 13 November 2019, link
55. CNBC, 'Texas is CNBC's Top State for Business in America this year', 10 July 2018, link
56. Texas Sunset Advisory Commission, 'History of Sunset in Texas', link
57. Sunset Advisory Commission, 'Sunset in Texas: 2015-2017', link
58. Ibid.
59. Sunset Advisory Commission, 'Sunset in Texas: 2015-2017', link

have the objective of increasing competitiveness by limiting the ability of local authorities to set regulatory standards higher than those that apply statewide. Governor Greg Abbott has described such local regulations as "a patchwork quilt of bans and rules and regulations that are eroding the Texas model'"[60]. Although the Texas State Constitution prohibits local governments from passing regulations that directly contradict state law, legal precedent in Texas requires the state to demonstrate that it has already explicitly legislated in that area.

HB 2127, the Texas Regulatory Consistency Act was signed by Governor Abbott in June 2023 and came into force that September. The act seeks to pre-empt the courts previous position by prohibiting city and county local governments from making or enforcing an "ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision" of a state code.[61] The act specifically attempts to limit any local variation in employment law.

Texas has also implemented a one-in, one-out PAYGO system to curtail new regulations. The policy, passed in 2017, prevents new regulatory efforts unless the relevant state agency first:

> *repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the proposed rule.*[62]

Texas is unusual in that its PAYGO system is established in legislation, rather than an Executive Order, and is also based on the concept of cost offsetting rather than raw numbers of regulations.

Key lessons:

- As a dedicated institution with a purview over all regulatory efforts, the SAC has been able to work across the span of government regulatory policy
- The use of sunsetting and gateway requirements have curtailed subsequent regulatory creep and increased regulatory thresholds

Utah: Regulatory Sandboxes

Utah, in America's mountain west, has a population of 3.4 million. Its reputation as a business-friendly state has led to impressive annual growth rates, with Utah's real GDP CAGR averaging 3.7% between 2010 and 2022.

Utah has undergone two major regulatory innovations in recent years, partly in response to growing concern that the state was losing ground in light of its neighbour's innovative deregulatory efforts. In 2022 Utah overhauled its approach to professional licensing. Utah's Department of Commerce has estimated that 25% of the state's workforce are subject to some form of licensing restriction.[63] Utah has had a "sunrise law"

60. Texas Legislature, 'HB 2127', link
61. Texas Legislature, 'HB 1290', link
62. Utah Commerce, 'New Office of Professional Licensure Review Aims to Reduce Barriers for Obtaining Professional License in Utah', 19 April 2022, link

since 1999 which exists to restrict the expansion in licensing regulations. Under the law, a joint legislative committee was tasked with reviewing applications from legislators or industry for new rules and making recommendations to the legislature. However the Institute for Justice's 2022 "Too Many Lenses" report on nation-wide licensing rules found that between 1999 and 2017 just two sunrise reviews had been completed by the committee and both were superficial.[64] Of the requests for new rules made in this period 67% were actioned by the legislature, despite the committee's inaction.

Utah revised its licensing sunrise systems later that year. Bill S.B.16 created a new Office of Professional Licensure Review (OPLR) within the state's Department of Commerce. Under the bill, the OPLR must "for each application submitted in accordance with Section 13-1b-301, conduct a sunrise review", thereby transferring responsibility from the legislative committee to the executive.[65] As part of the review the OPLR is expected to consider the need for the regulation, the burden it would place on the licensed profession, the costs to the state of enforcing the regulation and whether better alternatives exist. In addition to conducting sunrise reviews, the bill empowered the new OPLR to "conduct a review of each regulated occupation at least once every 10 years".[66]

The second and more notable regulatory innovation Utah has introduced is its regulatory sandbox programme. Inspired by an Arizona programme authorised in 2018, in 2019 lawmakers in Utah supported the creation of three sector-specific sandboxes, covering fintech, insurance and legal services.[67] Companies wishing to participate were required to submit an application which set out their business model, which regulations were impeding their work, and how the state would benefit if they were able to participate in a sandbox program. If their application was approved the companies would be given exemptions from the specific regulations identified for a two-year period, with a possible six-month extension[68]. There was widespread interest in Utah's sandbox programme, particularly its legal services scheme, with 16 companies participating in the project.[69]

In response to this success, in 2021 the Governor's Office of Economic Development (OED) went further in advocating a full, "all inclusive" sandbox programme in Utah.[70] The new scheme was no longer limited to specific economic sectors but could cover any company that applied. The proposed scheme received unanimous support in the state legislature. A new organisation, the Office of Regulatory Relief (ORR), was established within the OED to administer the new sandbox.[71] The same application process remained in place as had been used for the prior sector-specific sandboxes. Under the scheme, applications are sent to the ORR, who then forwards them for review by the relevant state agency. On average this review process takes between 3 and 4 months. The agency then decides whether to approve the applicant's plan, although under the new system the ORR can overrule the agency to either allow or refuse participation in the sandbox. Under the new scheme successful companies receive a 12-month exemption from the regulations cited, which can then be

63. Institute for Justice, 'Too many licenses? Government 'Sunrise' Reviews Cast Doubt on Barriers to Work', link
64. Utah State Legislature, 'S.B. 16 Licensing Amendments', link
65. Ibid.
66. State Policy Network, 'Utah helps thousands of entrepreneurs and businesses by adopting a regulatory sandbox', 1 April 2021, link
67. Consumer Finance Monitor, 'Utah's new regulatory sandbox', 11 July 2019, link
68. Harvard Law School Center on the Legal Profession, 'Enter the Sandbox', January/February 2021, link
69. State Policy Network, 'Utah helps thousands of entrepreneurs and businesses by adopting a regulatory sandbox', 1 April 2021, link
70. The James Madison Institute, 'Reason: Utah Eases Up on the Bureaucracy with Nation's First General Regulatory Sandbox', 3 March 2021, link

extended in periods of 12 months.

The 2021 general sandbox legislation also incorporated wider deregulation initiatives. The law required the state to create a suggestions website, where businesses and members of the public could identify burdensome regulations in need of review. The new ORR was also tasked with identifying two industries to review each year. Under this process the ORR must consider all relevant regulations to these sectors and "identify any law or regulation that the regulatory relief office determines inhibits the creation or success of new and existing companies or industries" and recommend changes to reduce the burden on business.[72]

In spite of these developments and the widespread praise they have received, the impact of the general sandbox has so far been small. According to the ORR's website there are no presently active sandbox schemes and only two companies have previously taken part.[73]

Key lessons:

- Dedicated institutions such as the OPLR and ORR were able to coordinate regulatory reform across a range of government and economic sectors
- Corporate stakeholders are integrated into and can shape government reform efforts through sandboxes and requesting sunrise reviews

Germany: Regulatory Accountability and "OnDEA"

Germany's attempts at regulatory reform began in earnest in 2006 under the Merkel Chancellorship with the adoption of the federal government's Programme for Bureaucracy Reduction and Better Regulation.[74] The programme had two main goals – to both measure and reduce the administrative costs imposed on citizens, businesses and public administration. To this end, the programme set the target of a 25% reduction in compliance costs for businesses by 2011.[75]

As part of this process several new structures were adopted. Within the government the Better Regulation Unit in the Federal Chancellery was created to spearhead the programme and has overseen subsequent better regulation initiatives.[76] The National Regulatory Control Council (NRCC), initially comprised of 8 members, was tasked with assessing the bureaucracy costs of legislation as part of the pre-existing regulatory impact assessment structure.[77] To do so Germany adopted the international Standard Cost Model to establish the costs imposed by "information, certification and documentation obligations".[78] As part of the Act creating the NRCC the German government were also required to report annually to the Bundestag with progress made towards the 25% target, the current bureaucracy costs and any regulatory improvements made.[79] In spite of these changes, by 2011 the government estimated that bureaucracy costs had only been reduced by 10%.[80]

In response from 2011 a new wave of regulatory reform was initiated.

71. Utah State Legislature, '63N-16-301', link
72. Utah Governor's Office of Economic Opportunity, 'Utah Office of Regulatory Relief', link
73. German Federal Government, 'A foundation for better law: five years of bureaucracy reduction and better regulation', April 2012, link
74. Ibid.
75. German Federal Government, 'The programme in brief', link
76. Federal Ministry of Justice, 'Act Establishing a National Regulatory Control Council', link
77. German Federal Government, 'Administrative Costs: The Effort to Identify, Measure and Reduce Them', 2007, link
78. Federal Ministry of Justice, 'Act Establishing a National Regulatory Control Council', link
79. German Federal Government, 'A foundation for better law: five years of bureaucracy reduction and better regulation', April 2012, link

The NRCC was significantly revised, with its membership expanded to 10. References to bureaucracy costs were replaced with compliance costs, still focused on the impacts of the three groups identified in the original programme.[81] Two years later the government unveiled an additional ex post evaluation process, which now required existing legislation to be evaluated when it imposed compliance costs of over €1 million a year.[82] Reviews were required to be conducted within three to five years of legislation coming into effect.

The most notable initiative to address regulatory creep was unveiled in 2015, when the government announced a new "regulatory break".[83] This was to be achieved through the implementation of a "one-in, one-out" scheme, which required government ministries proposing new regulations to offset these elsewhere, so that within a calendar year the burden imposed on businesses would be the same. It was estimated that the initiative would reduce bureaucratic costs by €744 million each year.[84]

All ex-ante bureaucracy cost estimations produced for draft legislation are made available in a public database, OnDEA.[85] OnDEA and its predecessor have existed since 2008 and now encompass more than 26,000 analysis reports. In 2012, in line with the 2011 reforms, reports were revised and extended to cover compliance costs. As a result OnDEA is the world's most comprehensive public online data base on bureaucracy costs. It is available to anyone who wishes to obtain information about burdens imposed by information obligations and their legal basis.

Germany's regulatory reform efforts have included a particular focus on alleviating costs on Small and Medium Enterprises (SMEs). The German government has noted that "that the time and cost associated with the implementation of legal provisions are often particularly high for small and medium-sized enterprises".[86] From January 2016 the government instituted an SME-test for new regulations. Any law that would effect SMEs and inflict a compliance cost of more than €100 per business, or €1 million on the economy as a whole, is subject to the test. Where SMEs may have to manually adjust their practices to the regulation, invest in order to comply, lack the relevant expertise, or where the regulation is likely to negatively impact an SME, regulations must justify imposing this burden. Alternative regulations must also be considered along with specific exemptions or mitigations for SMEs, such as extended deadlines for implementation or grants to support SME compliance.[87]

Since 2012, the successes in reducing the costs of bureaucracy in the economy have been presented in a clear and transparent manner in the Bureaucracy Cost Index (BKI). The BKI operates from a January 2012 baseline calculation of the cost burden of documentation and reporting duties placed on German businesses, set at 100 on the scale. In 2015, the BKI fell for the first time to a value below its starting point of 100 and stood at 94.85 points at the end of August 2024, indicating a reduction in the administrative burden from 2012.[88] However, research undertaken by ESMT Berlin critiques this picture of falling regulation in the Germany economy.[89] Their new Bureaucracy Index found an annual regulatory

80. Zeitz, D., 'Better regulation in Germany as quality assurance system: Recent development and current challenges', 2016, NALL, link
81. National Regulatory Control Council, 'Expert report on the implementation of ex-post evaluations', 6 December 2013, link
82. Federal Ministry for Economic Affairs and Climate Action, 'Making our everyday life easier and reducing the burden on business', link
83. Euractiv, 'Berlin pledges to cut red tape with 'bureaucracy brake', 26 March 2015, link
84. German Federal Statistical Office, 'OnDEA', link
85. German Federal Government, 'Guidelines on accounting for the needs of SMEs in regulatory impact assessment (SME test)', 30 December 2015, link
86. German Federal Government, 'Guidelines on accounting for the needs of SMEs in regulatory impact assessment (SME test)', 30 December 2015, link
87. German Federal Statistical Office, 'Bureaucracy costs', link
88. ESMT Berlin, 'New index shows increasing bureaucracy in Germany, 9 April 2024, link

growth rate of 4% a year since 2010. ESMT Berlin's analysis proposed that simply counting separate regulations was an inadequate measure of the overall regulatory burden.

Key lessons:

- Substantial efforts were made to transparently audit and track the stock of regulations through the use of the OnDEA database and BKI metric
- Gateway mechanisms and regulation reduction targets have been employed by dedicated regulatory reform institutions to curtail regulatory creep

British Columbia: Effective Regulatory Budgeting

British Columbia (BC) is Canada's westernmost province, with a population of roughly 5 million and a GDP of approximately C$395 billion. In the 1990s British Columbia lagged behind the rest of Canada in its economic performance as a result of a high tax and regulatory burden. Examples of regulations in place at the time included rules on television sizes in restaurants and the number of par-4 holes golf courses had to include. The previous NDP administration acknowledged that British Columbia's constrained financial situation had seen them turn to expanding regulation as the key tool of their 'activist' government.[90]

In 2001 the British Columbia Liberal Party (a centre-right political force in contrast to the national party of the same name) won a historic majority, taking 77 of 79 seats in the Legislative Assembly. The Liberal's leader, former Vancouver Mayor Gordon Campbell, had promised as part of his party's campaign to boost economic growth. As part of this platform the Liberals had promised to reduce regulation levels in the province by one-third within the Liberal's first three years in office. Once in office Campbell made deregulation a central theme of his government. Campbell created a new Minister of Deregulation, appointing Kevin Falcon, an ambitious new MLA, to the role. Deregulation was made a priority topic at cabinet meetings and for legislation being introduced to the house.[91]

The first step in the deregulation process was to identify the scale of British Columbia's regulatory burden. The new Minister for Deregulation charged each ministry with identifying the number of 'regulatory requirements' in their areas. A regulatory requirement was defined as:

> *any action or step that must be taken, or piece of information that must be provided in accordance with government legislation, regulation, policy or forms, in order to access services, carry out business or pursue legislated privileges.*[92]

This was a deliberate attempt to more comprehensively gauge the extent of the regulatory burden in comparison to traditional techniques, such as counting regulation pages or the number of articles, and BC's definition was applauded for its expansiveness.[93] A comprehensive search found 330,812 such requirements in British Columbia regulations, with records of the rules compiled by the new deregulation ministry.

89. Mercatus Center, 'Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?', 11 November 2015, link
90. OECD, 'Successful Practices and Policies to Promote Regulatory Reform and Entrepreneurship at the Sub-national Level', 1 April 2010, link
91. Mercatus Center, 'Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?', 11 November 2015, link
92. R Street, 'Regulatory Budgeting: Lessons from Canada', March 2016, link

Whilst this search process was ongoing, the new government took action to implement measures to reduce regulation from this benchmark. Within three months, the Regulatory Reform Policy 2001 was announced. The seven page policy had two main components. Firstly it introduced a Regulatory Requirement Checklist that all ministers had to complete prior to proposing new regulation. As part of the checklist, ministers were required to consider BC's five Regulatory Reform Principles for good regulation, requiring any new rule to be "needed and efficient, outcome based and regularly reviewed, transparently developed and communicated, cost effective and evidence based, and supportive of BC's economy and small business".[94] Ministries were also required to estimate the amount of additional regulation changes would add and to suggest where regulation savings could be made. Crucially ministers were required to sign the Checklist and the document was published online, creating high transparency and accountability around new regulation.

The second major feature of the Regulatory Reform Policy was the creation of a "regulatory budget".[95] This was essentially an attempt to control the levels of regulation in British Columbia by requiring any new rules to be offset by regulatory savings. The initial policy required two regulations to be scrapped for each new rule introduced, although at times between 2001-2004 a five-to-one ratio was in place. Despite the radical nature of this policy, the structures put in place to support it enabled it to succeed. Ministries were allowed to identify their own cuts towards the one third reduction target, increasing internal support for the initiative, with the Ministry for Deregulation and the Leader of the House playing supportive rather than leading roles that could have produced bureaucratic tension.[96] Instead both roles helped to coordinate the deregulation across government and ensure sufficient legislative time was available for changes to be made. Business was also brought into the deregulation process through the Red Tape Task Force, which specifically reviewed 600 proposals from the private sector to reduce the regulatory burden. Between 2001-2004 the BC government also publicly released quarterly update reports showing how regulation was being reduced, with data given at a ministry level.[97] These reports served as a basis for effective cabinet scrutiny, ensuring all ministers were making progress towards the one third reduction target.

By 2004 British Columbia has actually exceeded this target, with regulation reduced across government by 37%.[98] Initially the Liberal Government appeared to view its work as complete. The Ministry of Deregulation was merged into the Ministry of Small Business and the government's initial intention was not to replace the deregulation target. However, following a campaign by the Canadian Federation of Independent Business to continue with deregulation efforts the BC government reviewed the Regulatory Reform Policy, changing the one-in, two-out policy to a one-in, one-out policy which effectively retained a balanced regulatory budget.[99] Regulation monitoring was also ultimately maintained.

93. Mercatus Center, 'Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?', 11 November 2015, link

94. R Street, 'Regulatory Budgeting: Lessons from Canada', March 2016, link

95. Mercatus Center, 'Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?', 11 November 2015, link

96. Mercatus Center, 'Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?', 11 November 2015, link

97. Ibid.

98. Ibid.

This sustained effort was successful, with a further fall to a 43% reduction against the 2001 benchmark in the following years. Notably, British Columbia preserved this reduction over the next decade, resulting in a consistently lower regulatory burden.[100] In the same period, British Columbia's sluggish economic growth rate was reversed, becoming one of the fastest growing provinces in Canada. Having been 1.9 points below average Canadian economic growth between 1994 and 2001, BC was 1.1 points ahead from 2002 to 2006.[101] Research by the Mercatus Centre has argued that the initial 3-year 37% reduction in regulation directly resulted in GDP growth in British Columbia equivalent to 1 percentage point.[102] The Federation of Small Business has explicitly endorsed British Columbia's approach.[103]

Key lessons:

- Existing regulations were carefully defined and audited whilst a clear regulation reduction target was established, spearheaded by a dedicated minister working across government
- Business stakeholders were incorporated into the deregulation process to identify and review regulations and provide feedback and advise to government

South Korea: The 1997 Basic Act on Administrative Regulations

Since the 1980s South Korea's burdensome regulatory environment had been noted and debated as a drag on the country's broader economic vitality. Long periods of authoritarian rule had culturally embedded a series of regulations, ranging from policies on price stabilisation to anti-competitive protections for South Korean farmers and small businesses, which directly contributed to a restrictive regulatory climate.[104] Various presidents throughout the 1980s and 1990s had initiated attempts at regulatory reform. Yet their efforts met with mixed success as reform bodies were under-resourced and lacked expertise, whilst responsibility for reductions continued to lie with the regulatory bodies themselves.[105]

The 1997 Asian financial crisis proved to be a catalyst for more concerted regulatory reform. A perception emerged that South Korea had suffered particularly badly as a result of its rigid and over-regulated economy, whilst poor quality regulations of the financial sector had exacerbated the crisis.[106] In response the outgoing President Kim Young-Sam passed the 1997 Basic Act on Administrative Regulations.[107]

The Act was a bold departure from previous reform attempts. Rather than being led by the executive, regulatory reform would now be statutory as a result of the Act. The main feature of the Act was the creation of the Regulatory Reform Committee (RRC). Comprised of "no less than fifteen and no more than twenty members", with one of the two chairs being the Prime Minister, the act gave the RRC oversight of the entire

99. Real Clear Policy, 'Regulatory Reform: Lessons From Canada', 20 December 2015, link
100. Mercatus Center, 'Lessons from the British Columbia Model of Regulatory Reform', 27 September 2018, link
101. Coffey, B., and McLaughlin, P. A., 'Regulation and Economic Growth: Evidence from British Columbia's Experiment in Regulatory Budgeting', May 2021, Mercatus Working Paper Series, link
102. Federation of Small Businesses, "Response to BEIS Consultation on the Reforming Regulation Initiative", 2020.
103. World Bank, 'Regulatory Transformation in the Republic of Korea', 2008, link
104. Ibid.
105. Ibid.
106. regulatoryreform.com, 'Basic Act on Administrative Regulations', link

regulatory system, setting out that "the head of a central administrative agency shall not draft or reinforce a regulation without the review of the Committee"[108] The RRC was charged with "setting the basic direction of regulation policy" in South Korea by registering and reviewing all new or existing regulations and ensuring that government agencies followed the new regulatory processes established by the act.[109] Another significant change made by the Act was the creation of a blanket sunset policy. Under the act all regulations were expected to last for no longer than five years, after which they would need to be reviewed by the RCC in order to be reissued.

The Basic Act imposed a number of requirements on government agencies. Each agency was required to provide the RRC with an updated register of all regulations they presently enforced. If an agency wished to introduce a new regulation the act required it to submit this to the RCC for review, alongside a regulation impact statement setting out the objective, necessity, feasibility and cost effectiveness of the proposed regulation. Depending on how controversial or impactful the regulation was the RCC could require the regulation to undergo a full review, whereby the RCC would interrogate the agency's impact statement and consider whether regulatory action was warranted. Each agency was also required to annually review and improve its regulation and to produce a plan for the RCC setting out how it intended to do so.[110]

In 1998 President Kim Dae-Jung came to power promising widespread economic reform. Building on the Basic Act and frustrated with the lack of ambition amongst government agencies to curb regulation, Dae-Jung imposed a blanket 50% regulatory reduction target by 2002.[111] At the same time he announced a new requirement for all regulations to be established in legislation by 1999, or otherwise be discontinued. This placed an onus on the government to determine which non-statutory rules and guidance ought to be preserved as opposed to removed. The RRC scrutinised reform plans put forward by government departments and agencies to ensure these were in line with achieving the 50% target. In 1998 for example the Welfare ministry eliminated 857 regulations from a starting count of 1703.[112]

In 1998, the first year of Dae-Jung's initiative, 11,125 regulations were identified.[113] Over the next four years the RRC considered 4,518 rules, of which 1,544 were repealed or amended. This, alongside unilateral repeals by departments meant that by 2002 48.8% of the original 11,125 regulations had been eliminated, although overall regulatory growth over the period meant the net reduction was 33%.[114] It has been estimated that as a result of the changes the number of industries facing entry barriers in South Korea fell from 45.3% to 35.7%.[115]

Key lessons:

- A dedicated institution was created in the RRC which was empowered to oversee regulation across government and control

107. Ibid.

108. Ibid.

109. Ibid.

110. World Bank, 'Regulatory Transformation in the Republic of Korea', 2008, link

111. Ibid.

112. Economic Research Institute for AEAN and East Asia, 'The Development of Regulatory Management Systems in East Asia', 2016, link

113. World Bank, 'Regulatory Transformation in the Republic of Korea', 2008, link

114. Ibid.

both the stock and flow of regulations

- A baseline audit of regulations was conducted, with a clear and ambitious target for reduction set that was accompanied by appropriate political accountability

A Programme For Regulatory Reform In The UK

A regulatory reform agenda *must* be at the core of any programme to improve the performance of the UK economy. Regulations constitute the basic rulebook for economic activity; our businesses will not become more innovative, productive or entrepreneurial unless we address the underlying framework within which they operate.

As set out above, there is a general consensus on what an ideal system of regulation would look like. The principles set out by Policy Exchange's Reengineering Regulation project were endorsed by a range of individuals with considerable experience of the regulators themselves and the mechanics of government reform: they include a commitment to proportionality, accountability, responsiveness, innovation, and a focus on outcomes over processes.[116]

But far less time has been dedicated to the levers that ought to be pulled by a government that wished to shift the existing system closer to that ideal. It is this more practical consideration that the recommendations below are chiefly addressed to, and they are informed less by theoretical models, and more by the lessons provided by the various case studies that have been considered as part of this paper.

At the most basic level, achieving a meaningful improvement in the way we regulate will require the incentives of our framework to be rewired, so that policymakers are disincentivised from consistently increasing the regulatory burden. A significant part of this will be about achieving greater accountability within the system for the burdens imposed by new rules and requirements.

Any government serious about delivering reform in this area must do three broad things: it must stem the flow of new regulations; it must deal with the existing stock of rules; and it must create structures for smarter regulation in the future. These three broad themes will now be taken in turn.

Stemming the Flow

The government should re-establish a gateway condition for new regulation, and this should apply to non-departmental agencies and regulatory bodies as well as government departments. The gateway condition should require that, for every £1 in new regulatory costs, £2 in regulatory savings must be found. The purpose of this gateway will be to change the incentives of those introducing new regulations, and

115.Policy Exchange, *Re-Engineering Regulation: A Blueprint for Reform.*

specifically to disincentivise the continual expansion of the rulebook. The measure may appear crude, but it has been perhaps the most effective tool the British Government has used thus far to reduce the regulatory burden, and it would send a signal to the public about the Government's intentions.

Of course, for such a gateway condition to work effectively, you require reliable impact assessment studies. As this and other papers have clearly highlighted, there is no reason to believe that the current system produces reliable evaluation.

As such, Regulatory Impact Assessments need to be reformed. Two interventions should be made. Firstly, **the Government should radically reduce the category of regulatory changes that are exempt from requiring an impact assessment**. Our research shows just how many new bits of regulation are not accompanied by an Impact Assessment, and this makes it challenging for the costs of new regulation to be properly scrutinised. The Better Regulation Framework currently provides for seven categories of exemption. This should be reduced to two: those required to comply with court judgements, and those necessary to update technical standards or listed items in the schedule to an Act of Parliament. In particular, regulations related to buildings, the imposition of fines or penalties, the operations of a regulator, minor amendments to legislation, and compliance with international obligations or commitments should no longer be exempt from rigorous scrutiny. The existing Regulatory Policy Committee (RPC) should remain the body that provides scrutiny of the UK's regulators.

Secondly, a new challenge function should be introduced into the Impact Assessment system. After **implementation, businesses or industry groups should be able to submit an appeal to the RPC if they believe that an impact assessment has significantly underestimated the impacts of a new piece of regulation**. If the RPC adjudges this to have been the case, the regulation should be resubmitted to Parliament for approval. This will have a disciplining effect on officials writing the impact assessments.

Dealing With the Stock

Stemming the flow of new regulations will provide the government with breathing space to consider how best to bear down on the existing stock of regulations.

First and foremost, **the Government must establish a comprehensive register of regulations in the UK.** It is unacceptable that we currently do not have a grip of how many rules and requirements are currently in effect in this country and what their assessed impact is. Germany's OnDEA database should provide the model for a UK register; it should be open and publicly accessible, and each regulation should be accompanied by its Impact Assessment. "Ownership" of each piece of regulation should be established and ascribed to a particular department or regulatory agency. Retained EU rules and regulations should be included in the register.

This register should be used to establish a "regulatory baseline" for

the United Kingdom. There are some important methodological choices to be made at this stage. The Government could either adopt a quantitative approach which simply tracks the total number of individual regulations or individual regulatory requirements, or a qualitative approach, which looks at the actual costs imposed by existing regulations. The latter is a truer metric – certain regulations are more costly than others and this would give a better sense of proportion – but would be more complicated to calculate. The former is more reductive but would be administratively easier to get a grip on. To this end, we recommend the Government opts for the former. Most importantly, regulations have a cumulative cost that comes from the sheer volume of rules, and this is something that a reform agenda should seek to target**. The Government could base this on the definition of "regulatory requirements" used by British Columbia** – that is,

> *An action or step that must be taken, or piece of information that must be provided in accordance with government legislation, regulation, policy or forms, in order to access services, carry out business or pursue legislated privileges.*[117]

Machine learning and text analysis technology should be used to help expedite this task.

Once this baseline is established, **the Government should set a target for the reduction of regulatory restrictions with reference to the baseline**. For example, a 25% reduction could be specified, which was less than that achieved in other case studies analysed in this paper. Should a more targeted intervention be desired, the Government could specify that the reduction applied to regulations applied by regulatory bodies, rather than those mandated in primary legislation; this would ensure that the programme focused on the least accountable parts of the regulatory regime. This approach would also directly target the cumulative impact of the regulatory burden in a way that a gateway condition would not.

The baseline and targets should be established for each individual regulatory agency. Regulators should have to report regularly on their progress towards their target. One particular element of flexibility should be permitted in the system: regulators should be permitted to count a reduction in a burden as progress towards their target. The State of Virginia's Office of Regulatory Management offers a potential model; if an agency reduces the paperwork or compliance requirement by a particular percentage, this should be discounted from the regulation burden. For example, if the number of documents required to obtain a particular license were cut by 25%, then the existing rule should only count as "0.75 requirements" going forward.

Feedback loops should be established within the regulatory bodies to help assist in identifying regulations appropriate for review. Between 2011 and 2014, the Government's Red Tape Challenge crowdsourced views from businesses and individuals through a website. Similarly, portals should be created on the regulators' websites for the regulated to make submissions identifying particularly onerous or defunct rules and

116. James Broughel, "Constructing a Red Tape Reduction Executive Order", *Mercatus Center Policy Brief*, 2021.

requirements. This will ensure that efforts to reduce the regulatory burden are responsive to the demands of sector participants.

Ultimately, whether regulatory reform efforts are delivered by a government is a *political* question. Within the existing government structures, however, the political incentives are not aligned in a way that would be supportive of a government committed to addressing the regulatory burden. Ownership for the regulation portfolio is currently fragmented – some of it is with the Department for Business and Trade, but the Treasury has a carve out for financial services – and the Business Secretary, who is presently the responsible minister, has limited levers to compel other departments to deliver on this agenda. They also have other competing departmental priorities.

As such, **responsibility for the regulatory reform agenda should move to a Regulatory Reform Unit (RRU) housed in the Cabinet Office and under a dedicated minister**. This will mean that regulatory reform is driven from the heart of government and is not siloed in a single department with inevitably less political capital in the system**. The RRU should be responsible for reporting regularly on progress towards the reduction target, and to scrutinise the efforts of departments and agencies. But it should also coordinate a strategic communications strategy to explain why reducing the regulatory burden is a government priority**. This should be based not simply on the costs to business, but about the wider set of considerations discussed earlier in the paper, especially our attitudes towards risk and innovation, proportionality, and the trade-offs that need to be made between security, liberty, competition and so on.[118]

Once the regulatory reduction target is met, a zero-based cap should be applied to the new regulatory code, and the gateway condition for new regulation converted to a one in, one out requirement.

Smarter regulation for the future

After the Government has a grip on the rulebook, it should turn its mind to putting in place structures that will make for better regulation in the future.

The first should be that far more extensive use is made of sunsetting provisions. The Government has employed sunsetting tools since 2010, and they were applied to the body of European Union regulations and directives that were incorporated into UK law after 2016.

We recommend that, similar to some US states studied in this paper, **the mandates of any new regulators and agencies themselves should have a sunset clause.** These should be for ten years; within which time a review of the regulators should be conducted by the Public Accounts Committee. A review should consider the accountability of the body, its effectiveness, and whether it is duplicating the work of other bodies. A regulatory apparatus that has a statutory duty to regularly justify its existence will create strong incentives in favour of improvement and against stasis.

Additionally, **the existing Post Implementation Reviews (PIRs)**

117. James Vitali, oral evidence to the European Scrutiny Committee on "Retained EU Law: the progress and mechanics of reform", 15th May 2024.

system needs to be reformed. PIRs are an important scrutiny function and give a good sense of how a new regulation has affected the relevant sector or industry. They are currently a statutory requirement and should be completed within five years of a new regulation being introduced, but most PIRs are not completed on time**. There should be an automatic sunsetting of measures which have not had a PIR within the statutory period**.[119]

Finally, we must increase the quality of those staffing the regulatory bodies. As proposed in the 2024 *Smarter Regulation* White Paper, **the Government should sponsor a secondment programme for professionals to work at the regulators in their fields for six to twelve months to help share expertise. There should also be a concerted effort to appoint people to executive committees who are at the ends of their professional careers, and do not have a vested interest in the regulatory state.**

118.Social Market Foundation, *Reducing the Burden of Government Regulation.*

Conclusion: Regulation, Risk and Politics

This paper has set out a wide-ranging, integrated policy programme which would address the stock, flow, and future of regulations in the UK. It is one informed by a theoretical explanation for the expansion of the regulatory state but supported by the actual experiences of governments in different countries who have been successful in delivering regulatory reform.

Nevertheless, alone, the most sophisticated and well-designed structures in the world will have little effect on the UK regulatory burden. For the size of the regulatory state, as argued above, is first and foremost a *cultural* artefact; it stems from a particular set of societal attitudes towards risk and entrepreneurship, and our expectations of the government. Without addressing these societal attitudes, the *demand* for regulation will continue to grow, and the *supply* will increase accordingly.

The rationale – moral, economic and political – for regulatory reform needs to be explained. If it is not, the public will (wrongly) interpret any reduction in the quantum of regulations in the UK as the actions of a malignant government intent on leaving the public more exposed to the vicissitudes of market actors.

Policymakers and political leaders need to articulate clearly and consistently that the object of regulatory reform is to create the conditions for enterprise and entrepreneurship. That regulation is not the only tool we have at our disposal to mitigate risk. That the quest to eliminate risk entirely is deeply flawed and likely to lead to intolerable reductions in freedom. That as a decision-making imperative, risk must be balanced against other considerations.

They also need to challenge the false dichotomy that has developed in the minds of many between "compassionate" regulation and "callous" deregulation. The safetyism that is at the heart of regulatory proliferation might feel good in the short term. But it is a cancerous doctrine which will make our society poorer, less free, and less innovative. The desire to reduce regulation is not ignoble or uncaring. The removal of regulations prohibiting a certain behaviour is *not* the same as inducing people to behave in that way. And to seek to cut regulation in general is not to be ignorant of risk, but to believe that some scope for risk taking is permissible and indeed necessary to the healthy functioning of any society.

The urgency of the need for growth should suffice to convince the Government to take the task of reducing the regulatory burden in this

country seriously. Easing it could have a transformative impact on the UK's economic prospects. But delivering such reform will not be achieved simply by discussing the subject through the lens of economic growth. A more profound conversation needs to be initiated about the political economy of risk and regulation in the UK, and that must be led by the Government. Such a conversation is the prerequisite for a post-Brexit future of higher investment, greater enterprise, and increasing productivity.

Appendix A: Profiles of Regulators[120]

The Financial Conduct Authority (FCA)

Background:

The Financial Conduct Authority (FCA) was founded on the 1st of April 2013 and took responsibility for conduct and relevant prudential regulation of the financial services sector from the Financial Services Authority (FSA).[121]

The FCA regulates the conduct of 45,000 businesses in the UK to "support the effective functioning of financial markets."

Regulatory Objectives:

The *Financial Services Act* 2012 transferred the majority of the powers and functions of the FSA to the FCA and the PRA (Prudential Regulation Authority).

As set out in the *Financial Services Act* 2012, the FCA's strategic objective is to ensure that "the relevant markets function well."

The FCA has three operational objectives (as set out in section 1(B) 3 of the Act:

- To promote effective competition in the interests of consumers
- To secure an appropriate degree of protection for consumers; and
- To protect and enhance the integrity of the UK financial system.'[122]

Headcount:

- 2013-14: 2511 staff[123]
- 2023-24: 5438 staff[124]

116.6% increase in headcount between 2013-14 and 2023-24

Expenditure:

- Total operating costs 2013-14: £635,277,000[125]
- Total operating costs 2023-24: £766,281,000[126]

119. All figures are inflation adjusted to July 2024 prices.

120. Financial Conduct Authority, 'About the FCA', 26th April 2024, link

121. HM Treasury, 'Recommendations for the Financial Conduct Authority', 8th December 2022, link

122. Financial Conduct Authority, 'Annual Report 2013/14', 10th July 2014, link

123. Financial Conduct Authority, 'Annual Report and Accounts 2023-24', 5 September 2024, link. Includes staff of the Professional Standards Authority.

124. Financial Conduct Authority, 'Annual Report 2013/14', 10 July 2014, link . Operating costs are taken from 2013/14 annual accounts and calculated as 'administrative costs' plus 'other net finance costs' in order to be comparable to total operating costs in 2023/24.

125. Financial Conduct Authority, 'Annual Report and Accounts 2023-24' 5 September 2024, link

20.6% increase in real operating costs between 2013-14 and 2023-24.
Estimated Additional Annual Net Cost to Business since 2014 (£m): 363.6
Percentage of Regulations Accompanied by an Impact Assessment since 2014: 26%

The Competition and Markets Authority

Background:

The Competition and Markets Authority (CMA) was founded on 1st October 2013 through a merger of the Office of Fair Trading and the Competition Commission.

The CMA seeks to 'help people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour.'[127]

Since the *UK Internal Market Act* 2020, the CMA has also been responsible for overseeing the operation of the UK internal market, and houses the Office for the Internal Market.

Regulatory Objectives:

As set out in The *Enterprise and Regulatory Reform Act* 2013, the CMA's principal statutory objective is to 'promote competition, both within and outside the UK, for the benefit of consumers.[128]

Its statutory functions are:

a. 'to investigate mergers that could potentially give rise to a substantial lessening of competition, and require the merging parties to take steps to protect competition while the investigation takes place.
b. 'to conduct studies and investigations into particular markets where there are suspected competition and consumer problems, and to require market participants to take steps to address these problems.
c. 'to investigate individual businesses to determine whether they have breached UK or EU prohibitions against anti-competitive agreements and abuse of a dominant position under the *Competition Act* 1998.

126. Gov.uk, 'About us. CMA', link

127. Legislation.gov.uk, 'Enterprise and Regulatory Reform Act 2013', link; Competition and Markets Authority, 'CMA Prioritisation Principles', 30 October 2023 link

d. to bring criminal proceedings against individuals who commit cartel offences under the *Enterprise Act* 2002. e. to enforce a range of consumer protection legislation and bring criminal proceedings under the *Consumer Protection from Unfair Trading Regulations* 2008. f. to conduct regulatory appeals and references in relation to price controls, terms of licences or other regulatory arrangements under sector specific legislation (gas, electricity, water, post, communications, aviation, rail and health).[129]
Headcount: • 2014-15: 594 staff[130] • 2023-24: 1008.5 staff [131] **69.8% increase in total headcount between 2014-15 and 2023-24**
Expenditure: • 2014/15 total expenditure: £86,463,000[132] • 2023/24 total expenditure: £148,120,000[133] **71.3% increase in real expenditure between 2014/15 and 2023/24**
Estimated Additional Annual Net Cost to Business since 2014 (£m): 1.33
Percentage of Regulations Accompanied by an Impact Assessment since 2014: 12%

The Financial Reporting Council (FRC)

Background:

The Financial Reporting Council (FRC) was established in 1990 to promote best practice in financial reporting. 'It regulates auditors, accountants and actuaries, and sets the UK's Corporate Governance and Stewardship Codes'.[134]

The FRC has certain direct statutory powers with regards to audit regulation, as well as others delegated to it by the Secretary of State for Business and Trade.[135] However, some of its other functions – like issuing certain reporting standards - are not on a statutory footing.

128. Competition and Markets Authority, 'Visions, values and strategy for the CMA', 1 October 2013, link
129. Competition and Markets Authority, 'Annual Report and Accounts 2014-15', link
130. Competition and Markets Authority, 'Annual Reports and Accounts 2023 to 2024', link
131. Competition and Markets Authority, 'Annual Report and Accounts 2014-15', link
132. Competition and Markets Authority, 'Annual Report and Accounts 2023/2024', link
133. Financial Reporting Council, 11 June 2024, link
134. In 2019, the Government decided to replace the FRC with a new Audit, Reporting and Governance Authority, yet the necessary legislation has still not been passed Nathaniel Amos, 'Financial Reporting Council', *Institute for Government*, 12 June 2023, link ; Osborne Clarke, 'Delay in new statutory powers for UK Financial Reporting Council...', 28 March 2024, link

Regulatory Objectives:

Many of the FRC's objectives are not set down in statute but are described in remit letters from the Secretary of State and in its "Approach to Regulation" document. They include:

- Set high standards in corporate governance and stewardship, corporate reporting, auditing and actuarial work, and assess the effectiveness of the application of those standards, enforcing them proportionately where it is in the public interest.
- Promote improvements and innovation in the areas for which we are responsible, exploring good practice with a wide range of stakeholders.
- Influence international standards and share best practice through membership of a range of global and regional bodies, and incorporate appropriate standards into the UK regulatory framework.
- Create a more resilient audit market through greater competition and choice.
- Develop our organisation as a respected, independent, and high-performing regulator; trusted to deliver best-in-class public interest.[136]

Headcount:

- 2013-14: 134 staff[137]
- 2023-24: 477 staff[138]

256.0% increase in headcount between 2013-14 and 2023-24

Expenditure:

- 2013-14 total operating expenditure: £34,791,000[139]
- 2023-24 total operating expenditure: £59,958,000[140]

72.3% increase in real operating expenditure between 2013-14 and 2023-24

Estimated Additional Annual Net Cost to Business since 2014 (£m):

N/A

Percentage of Regulations Accompanied by an Impact Assessment since 2014:

17%

135. Financial Reporting Council, 'Annual Report and Accounts, 2023-24', link
136. Financial Reporting Council, 'Annual Report and Accounts 2013/14', link
137. Financial Reporting Council, 'Annual Report and Accounts, 2023-24', link
138. Financial Reporting Council, 'Annual Report and Accounts 2013/14', link
139. Financial Reporting Council, 'Annual Report and Accounts, 2023-24', link

The Food Standards Agency (FSA)

Background: The Food Standards Agency (FSA) was founded on the 1st of April 2000 following several 'high-profile outbreaks and deaths from foodborne illness'.[141] It is an independent, non-ministerial department which seeks to 'protect public health from risks arising from the consumption of food and generally to protect the interests of consumers in relation to food'[142]. The FSA is governed by an Executive Board, whose chair and other members are appointed by the Secretary of State for Health and Social Care, and the Welsh and Northern Ireland governments.[143]
Regulatory Objectives: As set out in the *Food Standards Act 1999*, the FSA's primary statutory objective is to protect public health and the interests of consumers in relation to food.[144] More specifically, the FSA is responsible for: • developing policies (or assisting in the development by any public authority of policies) relating to matters connected with food safety or other interests of consumers in relation to food. • providing advice, information or assistance in respect of such matters to any public authority. • providing advice and information to the general public (or any section of the public) in respect of matters connected with food safety or other interests of consumers in relation to food. • monitoring developments in science, technology and other fields of knowledge.
Headcount: • 2013-14: 1647 staff [145] • 2022-23: 1879 staff [146] **14.1% increase in headcount between 2013-14 and 2022-23.**
Expenditure: • 2013/14 operating expenditure: £175,628,000[147] • 2022/23 operating expenditure: £161,993,000[148] **A 7.8% decrease in real operating expenditure between 2013/14 and 2022/23.**
Estimated Additional Annual Net Cost to Business since 2014 (£m): 47.2
Percentage of Regulations Accompanied by an Impact Assessment since 2014: 14%

140. The Health Foundation, 'Food Standards Agency', 1 April 2000, link; Food Standards Agency, 'Our history: protecting your plate since 2000', link
141. Food Standards Agency, 'The FSA Brochure. Who we are', link
142. Ibid.
143. Food.gov.uk, 'Regulatory approach', link
144. Gov.uk, 'Food Standards Agency. Annual Report and Consolidated Accounts 2013/14', link
145. Food Standards Agency, 'Westminster Annual Report and Accounts 2022-2023', 31 January 2024, link
146. Gov.uk, 'Food Standards Agency. Annual Report and Consolidated Accounts 2013/14', link
147. Food Standards Agency, 'Westminster Annual Report and Accounts 2022-2023', 31 January 2024, link

Natural England

Background:

Natural England was founded on the 1st October 2006[149] and replaced English Nature, the environment activities section of the Rural Development Service, and the landscape, access and recreation division of the Countryside Agency[150]

Natural England seeks to 'help conserve, enhance and manage the natural environment for the benefit of present and future generations'[151].

Regulatory objectives:

As set out in the *Natural Environment and Rural Communities Act* 2006:

'Natural England's general purpose includes:

- Promoting nature conservation and protecting biodiversity.
- Conserving and enhancing the landscape.
- Securing the provision and improvement of facilities for the study, understanding and enjoyment of the natural environment.
- Promoting access to the countryside and open spaces and encouraging open-air recreation.
- Contributing in other ways to social and economic well-being through management of the natural environment.'[152]

Headcount:

- 2013-14: 2311 employees 'excluding inward secondees and apprentices'[153]
- 2022-23: 2795 full-time equivalent employees[154]

20.9% increase in headcount between 2013-14 and 2022-23.

Expenditure:

- 2013/14 expenditure: £265,083,000[155]
- 2022/23 operating costs: £248,429,000[156]

6.3% decrease in real expenditure 2013/14 to 2022/23.

Estimated Additional Annual Net Cost to Business since 2014 (£m)

N/A

Percentage of Regulations Accompanied by an Impact Assessment since 2014

10%

148. Food Standards Agency, 'Westminster Annual Report and Accounts 2022-2023', 31 January 2024, link
149. Naturenet, 'Natural England', link
150. Gov.uk, 'About us… Who we are', link
151. Legislation.gov.uk, 'Natural Environment and Rural Communities Act 2006', link
152. Natural England, 'Natural England, Workforce Monitoring 2016-17', link
153. Natural England, 'Natural England Annual Report and Accounts, 1 April 2022 to 31 March 2023', 6 December 2023, link
154. Natural England, 'Natural England Annual Report and Accounts, 1 April 2013 to 31 March 2014', 30 June 2014, link
155. Natural England, 'Natural England Annual Report and Accounts, 1 April 2022 to 31 March 2023', 6 December 2023, link

Office of Communications (Ofcom)

Background:

Ofcom is the independent regulator and competition authority for the UK communications industries.[157] It was founded on the 29th December 2003 and 'replaced the UK's five former communications regulators – the Broadcasting Standards Commission, the Independent Television Commission, Oftel, the Radio Authority, and the Radiocommunications Agency.

Regulatory objectives:

As set out in the *Communications Act* 2003, Ofcom's principal objective is 'to further the interests of citizens and consumers, where appropriate by promoting competition'[158]

The Act stipulates six further requirements for Ofcom to fulfil its statutory duty:

- 'Ensure the optimal use for the electro-magnetic spectrum.
- Ensure that a wide range of electronic communications services – including high speed data services – is available throughout the UK.
- Ensure a wide range of TV and radio services of high quality and wide appeal, throughout the UK.
- Maintain plurality in the provision of broadcasting.
- Provide audiences with adequate protection against offensive and harmful material.
- Provide audiences with adequate protection against unfairness or unwarranted infringements of privacy'.[159]

Headcount:

- 2013-14: 790 employees[160]
- 2023-24: 1483 employees[161]

87.7% increase in headcount between 2013/14 and 2023/24.

Expenditure:

- 2013/14 operating expenditure: £155,831,000[162]
- 2023/24 operating expenditure: £192,121,000[163]

23.2% increase in real operating expenditure between 2013/14 and 2023/24.

Estimated Additional Annual Net Cost to Business since 2014 (£m)

N/A

Percentage of Regulations Accompanied by an Impact Assessment since 2014

13%

156. Gov.uk, 'About us. Ofcom', link
157. Ofcom, 'Section 2. Our approach to regulation. Ofcom's Annual plan 2005/6', link
158. Ofcom, 'Section 2. Our approach to regulation. Ofcom's Annual plan 2005/6', link
159. Ofcom, 'The Office of Communications Annual Report and Accounts, for the period 1 April 2013 to 31 March 2014', link
160. Ofcom, 'Ofcom Annual Report and Accounts April 2023 to 31 March 2024', link
161. Ofcom, 'The Office of Communications Annual Report and Accounts, for the period 1 April 2013 to 31 March 2014', link
162. Ofcom, 'Ofcom Annual Report and Accounts April 2023 to 31 March 2024', link

The Care Quality Commission (CQC)

Background:

The Care Quality Commission (CQC) was founded on the 1st April 2009 to replace and subsume the role of three organisations: the Healthcare Commission, the Commission for Social Care Inspection, and the Mental Health Act Commission[164]

CQC regulates all health and social care services in England, monitors, inspects and regulates services, and publish their findings.

Regulatory objectives:

As set out in Section 3 of the *Health and Social Care Act* 2008, the main objective of the Commission in performing its functions is to protect and promote the health, safety and welfare of people who use health and social care services.

The Act further states that the commission is to perform its functions for the general purpose of encouraging:

- The improvement of health and social care services.
- The provision of health and social care services in a way that focuses on the needs and experiences of people who use those services.
- The efficient and effective use of resources in the provision of health and social care services.

Headcount:

- 2013-14: 2314 staff[165]
- 2022-23: 2906 staff[166]

25.6% increase in headcount between 2013-14 and 2022-23.

Expenditure:

- 2013/14 expenditure: £260,520,000[167]
- 2022/23 total operating expenditure: £251,765,000[168]

3.4% decrease in real expenditure 2013/14 to 2022/23.

Estimated Additional Annual Net Cost to Business since 2014 (£m):

54.5

Percentage of Regulations Accompanied by an Impact Assessment since 2014:

10%

163. Wikipedia, 'Care Quality Commission', link
164. Care Quality Commission, 'Care Quality Commission Annual report and accounts 2013/14', link
165. Care Quality Commission, 'Annual report and accounts 2022/23', 30 July 2024, link
166. Care Quality Commission, 'Care Quality Commission Annual report and accounts 2013/14', link
167. Care Quality Commission, 'Annual report and accounts 2022/23', 30 July 2024, link

£10.00
ISBN: 978-1-917201-33-9

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1 Old Queen Street
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London SW1H 9JA

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