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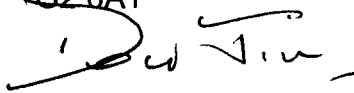
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27 July 2007

Jim Mather MSP,
Minister for Enterprise, Energy and Tourism
Meridian Court
5 Cadogan Street
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Subject: Regulatory Review Group's Future Work

Firstly a sincere thank you for dealing with this so quickly after our meeting which impressed all the industry members of the Group and demonstrates clearly both that you are committed to this as we are plus can make quick decisions which has not always been the case from Holyrood or Ministers!

I was delighted also that the First Minister was able to announce to business leaders at the event in the Carlton Highland Hotel in Edinburgh that he was appreciative of the work of our Regulatory Review Group (RRG) and that he was now tasking us to

“provide a new and independent external critique of what the Executive is doing. The RRG will act as a truly independent and informed monitor, helping to co-ordinate, review and judge the Executive's performance”

To that end we had our first meeting of the re-energised RRG on Wednesday 18 July in Meridian Court and we are all eager and keen to get on with the task in hand.

We had a wide ranging discussion around our purpose, role and how we would achieve our objectives and I set out below a summary of those decisions

The RRG unanimously agreed that our purpose is to ensure better regulation in an effective and cost effective manner for business in Scotland. Therefore we would wish that the term "Better Regulation" be adopted rather than deregulation to describe our work. To that end we will seek to do what is right for Scotland and not merely replicate the approach presently being adopted in Whitehall.

We want to keep our approach appropriate to the nature and scale of the problem here. To that end the Group, while accepting that we and the Executive should have objectives to reach in terms of Better Regulation we are not completely convinced that the Whitehall administrative burdens measurement exercise, (the so called Standard Cost Model) and associated reduction targets are suitable or appropriate here in Scotland.

Similarly we feel that the "one in one out" approach to regulation while excellently expressing a desire not to increase regulatory burdens, is too simplistic. We feel it leaves little room for manoeuvre for either Government or industry in cases where both recognise additional regulation is necessary. Sometimes regulation is the only way to guarantee a level playing field and protect legitimate business. Also taking one small regulation out and replacing it by one large one would not be a like for like, or sensible exercise.

That said the Group were foursquare behind the new administration's ambitions to declutter the regulatory landscape by getting rid of unwanted, outmoded and unnecessary regulations or enforcement practice. Like you we believe that inefficient regulation or enforcement can impose significant and unnecessary burdens on business.

Within the above framework we would then see our role falling into five distinct parts namely

1. To continue with our original role, to try and resolve specific problems and regulations that were causing Scottish businesses concern which they bring to us.
2. To formulate a strategic approach and to develop processes to improve the regulatory landscape such as making recommendations for improving the Regulatory Impact Assessment (RIA) process, and setting in place processes to review specific pieces of legislation 2-3 years into their life. As we discussed legislation is the Government's key product so good and sound pre and post market testing is required to ensure it is fit for purpose.
3. To ensure that enforcement agencies are interpreting and enforcing legislation correctly and consistently.
4. To advise the Scottish Executive on all aspects of its Better Regulation agenda.

5. The RRG in its enhanced role will, as envisaged by the First Minister, act as a truly independent and informed monitor, helping to co-ordinate, review and judge the Executive and its regulatory agencies on Better Regulation performance.

With that final task in mind we believe that in this new role as independent monitor, we envisage that the RRG will report annually on the Better Regulation activities of the Executive and its regulatory agencies directly to you and the Cabinet. We plan to prepare such a report by next Summer at the latest, and hopefully if we can move quickly perhaps even by the end of this financial year if that is practically and sensibly possible. This means we need to start preparations now to gather the required information.

To that end the RRG intend to write to Sir John Elvidge inviting him to ask the 5 Director Generals to complete a first rough template asking how the current arrangements on Better Regulation work in their respective fiefdoms. We do not envisage anything too mechanistic or burdensome. Rather we are looking to them to give answers to some specific questions such as what stakeholder groups with specialist expertise do they look to for advice on Better Regulation or enforcement and how they, as DGs ensure better regulatory good practice is implemented and adhered to within their areas of responsibility. What we do not want to do is to create new advisory bodies just for the sake of it, or new posts preparing data for us, especially in portfolio areas where there are few regulations which impact directly on business.

We expect that each DG, and its associated regulators, will report on regulatory policies on an annual basis. The RRG will act as an independent quality control and critical friend, and our annual report on Better Regulation will show how each portfolio area delivers.

The type of factors we will want to report on include:

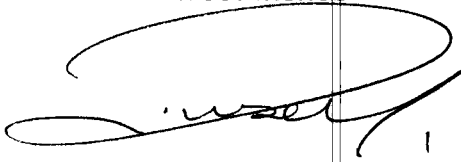
- how risk assessment is deployed;
- business involvement in preparing, implementing, enforcing or revising regulations;
- measures taken to promote joint inspections, data sharing etc by their associated regulators to minimise administrative and other impact on business;
- how compliance costs are addressed or reduced;
- examples within their policy areas where good regulatory practice has taken place and examples where things could have been done better

We will be asking the Directors General, or those Directors in areas with significant business related regulatory activity, to discuss these aspects informally with the RRG in the first instance, prior to preparing more formal input to our annual reviews.

Both of us now have the opportunity to practice what we have preached and discussed for some years so look forward to working with you to make sure we achieve that.

Copies of this letter go to the First Minister, John Swinney and Sir John Elvidge.

Best wishes

A handwritten signature in black ink, appearing to read 'Russel Griggs', written over a large, loopy flourish.

Professor Russel Griggs
Chair-Regulatory Review Group