

regulation in an age of responsibility december 2009

The need to reduce the regulatory burden is a perennial goal of politicians and businesses alike but will the Conservative's 'post-bureaucratic' approach achieve success where others have failed?

hanover brought together the Chief Executive of Which?, the Shadow Business Minister, the Evening Standard's Consumer Affairs Editor and Diageo GB to discuss how regulation can protect consumers without stifling businesses.

Below is an outline of the key points made by each speaker.



Peter Vicary-Smith - Chief Executive, Which?

Peter Vicary-Smith agrees 'with much' of the analysis contained in Shadow Business Minister John Penrose MP's paper, *Regulation in the Post-Bureaucratic Age*. Peter said that, contrary to popular belief, Which? is no great fan of formal regulation. He argued that all too often, despite being introduced with the best intentions, it delivers little real benefit and the costs are inevitably passed to consumer.

The most effective form of regulation contains, **"elements of self regulation, inherent flexibility and responsiveness with a statutory backstop."**

Peter Vicary-Smith
Which?

Peter suggested that truly effective regulation must work “with the grain” of the market by promoting fair competition and rewarding responsible businesses. He also said businesses are usually the best arbiters of what works.

He noted that consumer-facing regulation creates only a small proportion of the bureaucratic burden when compared to the implementation of European and employment laws.

Peter concluded by commending the panel for approaching the issue of regulation in a balanced and progressive manner.



Jonathan Prynn – Consumer Affairs Editor, Evening Standard

Jonathan Prynn admitted that regulation has been ‘a rich seam of copy’ for him throughout his career as a journalist. He referred to what he called the ‘classic regulation cycle’ he had seen repeated over the years, whereby attempts to compensate for regulatory failures following a scandal often result in heavy handed regulation with unintended consequences. To illustrate his point, he alluded to Robert Maxwell’s failed attempt to acquire Spurs football club. Yet Prynn felt that the post-Maxwell regime was in part responsible for the ‘catastrophic decline in company pension schemes’ that followed.

Jonathan expressed sympathy for the difficult position legislators and regulators are in. He warned that getting rid of certain regulations, obscure and superfluous as they might seem, can have far-reaching and dangerous consequences. Anecdotally, he said many in the food industry blame the Thatcher Government’s relaxation of restrictions on cattle feed for the entry of mad cow disease into the food chain. There are political dangers lurking in the regulatory cutting agenda.

“Politicians have to stand back and be less responsive to the day to day media agenda, if any of John [Penrose’s] laudable aims are to become a reality.”

Jonathan Prynn
Evening Standard

Vicki Nobles – Corporate Affairs Director, Diageo GB

Vicki Nobles was keen to highlight the merits of the Conservative's emphasis on using social norms to change consumer behaviour. Diageo is not ideologically opposed to regulation, but believes it should be outcome driven and follow the principles of good policy making i.e. evidence-based, fair, proportionate, effective, consistent, and avoiding unintended consequences. Vicki questioned whether Conservative policy on taxation of alcopops would pass this test.

Diageo believes co-regulation, as practiced by the Portman Group, is a good model. Set up by nine major producers, the Portman Group's code of practice covers the naming, packaging and marketing of alcohol products. It is backed by tough standards, and "has teeth" because the code is underpinned by statutory guidance, so there are real sanctions for producers and retailers who do not comply. Diageo suggested this approach could be extended to alcohol labelling.

Vicki concluded that Diageo's vision for regulation in the future is 'one that leverages the power of social norms as a force for good; and one that recognises and rewards responsible companies with smart, fair and evidence based regulation.'

"A social marketing approach has a critical role to play in changing the drinking culture in this country."

Vicki Nobles
Diageo GB

John Penrose MP - Shadow Business Minister



John agreed with the rest of the panel's views that it is over-simplistic to demand a 'bonfire of red-tape'. Referring to the regulatory failures of the last 10 years he reiterated the need to acknowledge that well intentioned regulatory interventions can have negative consequences if poorly executed. He commented that 'we have seen under-regulation of the banking industry, but over-regulation of just about everywhere else'.

So why should a prospective Conservative government be any more effective? John argued that the Conservative approach differs in that it emphasises changing the regulation-generating machinery.

By making essential changes, the Conservatives aim to effect a culture change across Westminster and Whitehall. First he described a new regulatory policy of 'one-in-one-out', whereby any proposed legislation would need to be fully costed, and commensurate or larger cost-savings identified, before it could be passed into law. This would place the problem of identifying regulatory savings back into the hands of the government departments, making them responsible for identifying and disposing of 'dead-wood' regulation.

A Conservative government would also require that Quangos justify their existence periodically (a seven year cycle is proposed) and that non-statutory mechanisms and professional co-regulation would be preferred to Parliamentary interference. The Conservatives intend to make Quangos 'far more responsible to Parliament as well as [implement] regular reviews of their role'.

The Party also believe that there should be a presumption that EU legislation is not transposed into UK law until it has been implemented by at least 50 percent of member states.

"We will start a bomb ticking underneath the chosen legislation and will give the Government 12 months in which to either save it or lose it."

John Penrose MP

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