



How do we assess the impacts of law?

Seminar organised by the Icelandic Prime Minister's Office, the Icelandic Ministry of Finance and Economy, and the Ministry of Industries and Innovation, in cooperation with the School of Central Government

(1) Sectoral impacts

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Scrutiny of trade impacts in the UK

Purpose & objectives

- Following the decision to leave the EU, the **UK has started developing its own independent trade policies**
- Need for a process to help ensure the UK continues to **abide by its variety of international trade and investment agreements** *and* demonstrates good regulatory practice
 - Such as the WTO Technical Barriers to Trade agreement
- **Department for International Trade (DIT) and Better Regulation Executive (BRE)** identified a need to instruct and encourage departments to consider the effects regulations may have on:
 - 1. Trade & Investment (T&I)**
 - 2. International relations**

Status quo

- Ideally, **trade and investments (T&I) impacts should be considered early in the policy development process**
- However, prior to the pilot phase, **departments were not explicitly asked** to analyse these impacts
- Hence, a **pilot phase** of a T&I specific question was included within impact assessment templates for departments:

Is this measure likely to impact on international trade and investment?

Yes / No

Design of the Pilot

Institutions and responsibilities

During a **ten-month pilot**, departments responded to the T&I question within the IA template and a **review** was carried out to assess the efficacy of this approach

- A **proportionate approach** was encouraged, consistent with the **Better Regulation Framework**

Institutions involved:

(1) DIT: Responsible for British T&I, provided analytical expertise and supported Other Government Departments (OGDs) during the pilot and early stages.

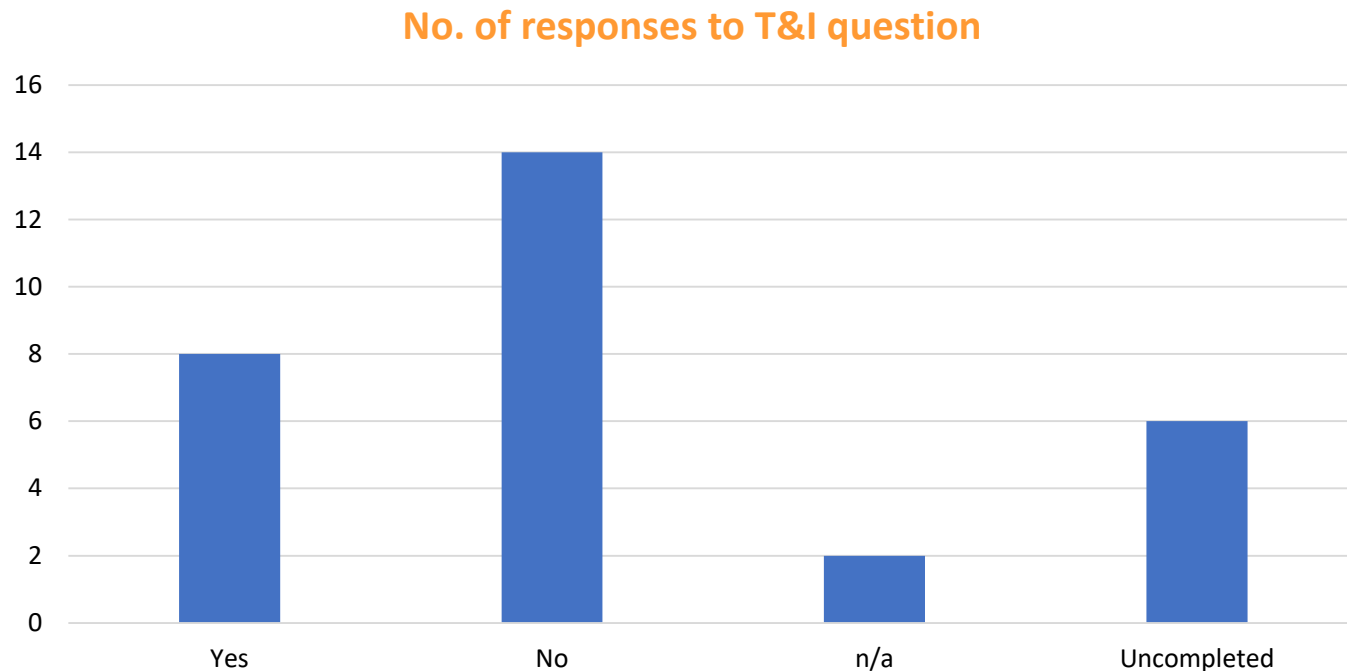
(2) BRE: Leads regulatory reform agenda, supported DIT during development and utilised Better Regulation Unit (BRU) network to raise awareness of the pilot.

(3) RPC: Provided advice on T&I impacts during the pilot, and acted as the independent scrutiny body.

Results from the Pilot Period (1)

A total of **69 applicable impact assessments** were scrutinised by the RPC from 12 different departments

- Of those **69**, only **30** submitted an IA template that included the T&I question. (out of date templates)



Results from the Pilot Period (2)

- The **T&I question covered RIAs from many sectors**, including examples such as:
 - Road maintenance, electric cars and marine conservation

The question has helped to improve IA quality by:

1. Promoting consideration of ways to reduce non-tariff barriers;
2. Eliciting detailed considerations of market structures (both domestic and foreign); and
3. Sparking discussions on whether more T&I mitigation options are available.

Current and future role of the RPC

Regulatory scrutiny of T&I impacts

Current role:

- **A supporting role in the roll out of the T&I assessment**
 - Promoting **consideration of T&I impacts at early stages of policy development** through engagement with departmental Better Regulation Units (BRUs);
 - Contribute towards the **review of the T&I pilot**;

Future role:

- The RPC will **notify departments to contact DIT when significant impacts on T&I have been recognised** should departments fail to do so themselves;
- RPC can now comment on this in **Initial Review Notices (IRNs), consultation meetings and final RIAs** in the “area of improvements” section, to increase the overall quality T&I considerations and their frequency.

Limitations and Challenges

- **Sample size was limited**
 - Only 30 of the 69 IAs scrutinised in the pilot were using the correct template with the T&I question included.
- **Communication challenges**
 - Who was best placed to answer questions about the how the process worked/didn't work: policy teams or their BRUs?
 - It is not proportional to contact individual policy teams due to Whitehall turnover, BRUs aggregated feedback instead.
- **Competing with other recommended considerations**
 - There are a number of other initiatives running in Whitehall e.g. Climate change and innovation questions, these all take resources to complete.



(2) Small & Micro Business Assessments (SaMBA)

How we define small & micro businesses

The UK Companies Act 2006 defines businesses as:

- small, when they meet two out of three criteria, which are:
 - turnover is less than £10.2m / year
 - balance sheet total is less than £5.1m / year
 - fewer than 50 employees
- micro, when they meet two out of three criteria, which are:
 - turnover is less than £632,000 / year
 - balance sheet total is less than £316,000 /year
 - number of employees is less than 10

For Better Regulation purposes we use the number of employees:

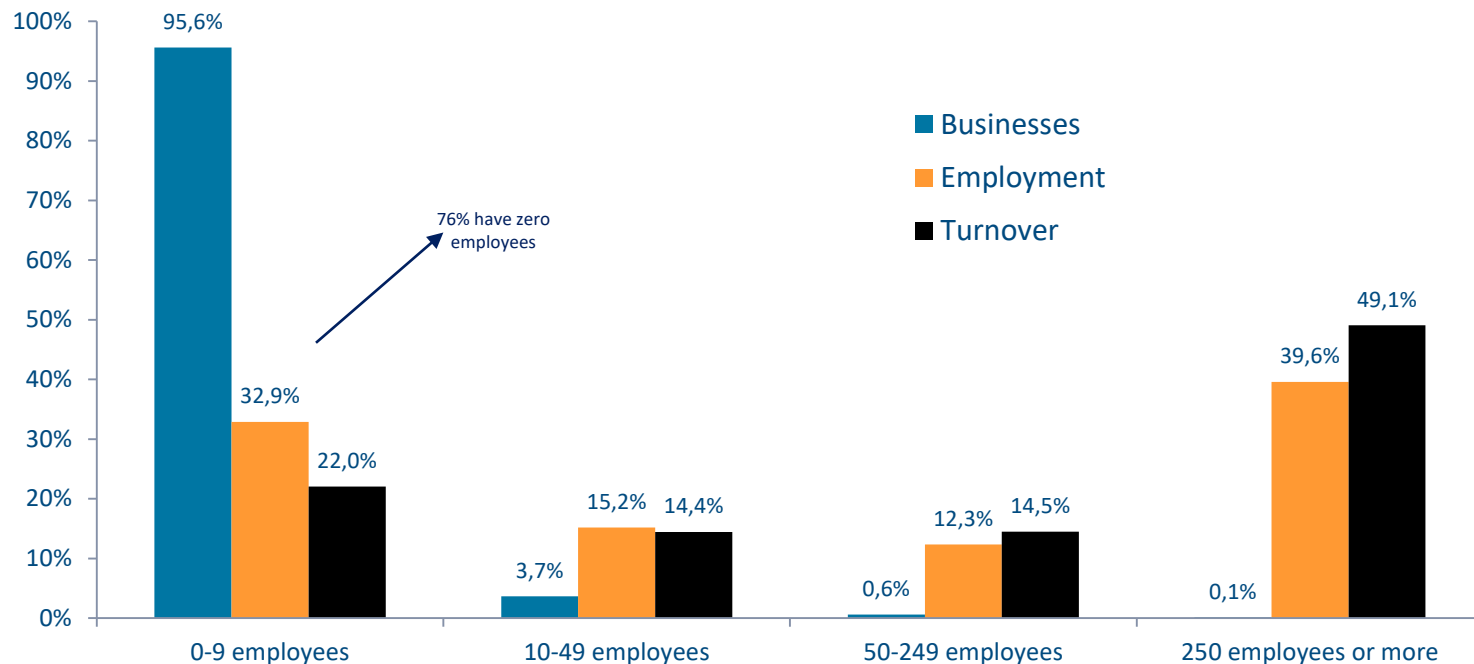
- small businesses have between 10 and 49 employees;
- micro businesses have 9 or fewer employees and include sole traders, partnerships and the self-employed

Small and Micro Businesses

Why they matter

Small and medium enterprises (SMEs) are a major contributor to the UK economy. The key facts:

- 5.7m SME's in the UK ...*99.9% of the Business Population;*
- Employing 16.1 million in the private sector ...*60% of total private sector employment*
- Combined turnover of £1.9 trillion ...*51% of total private sector turnover*
- 400,000 new businesses start every year



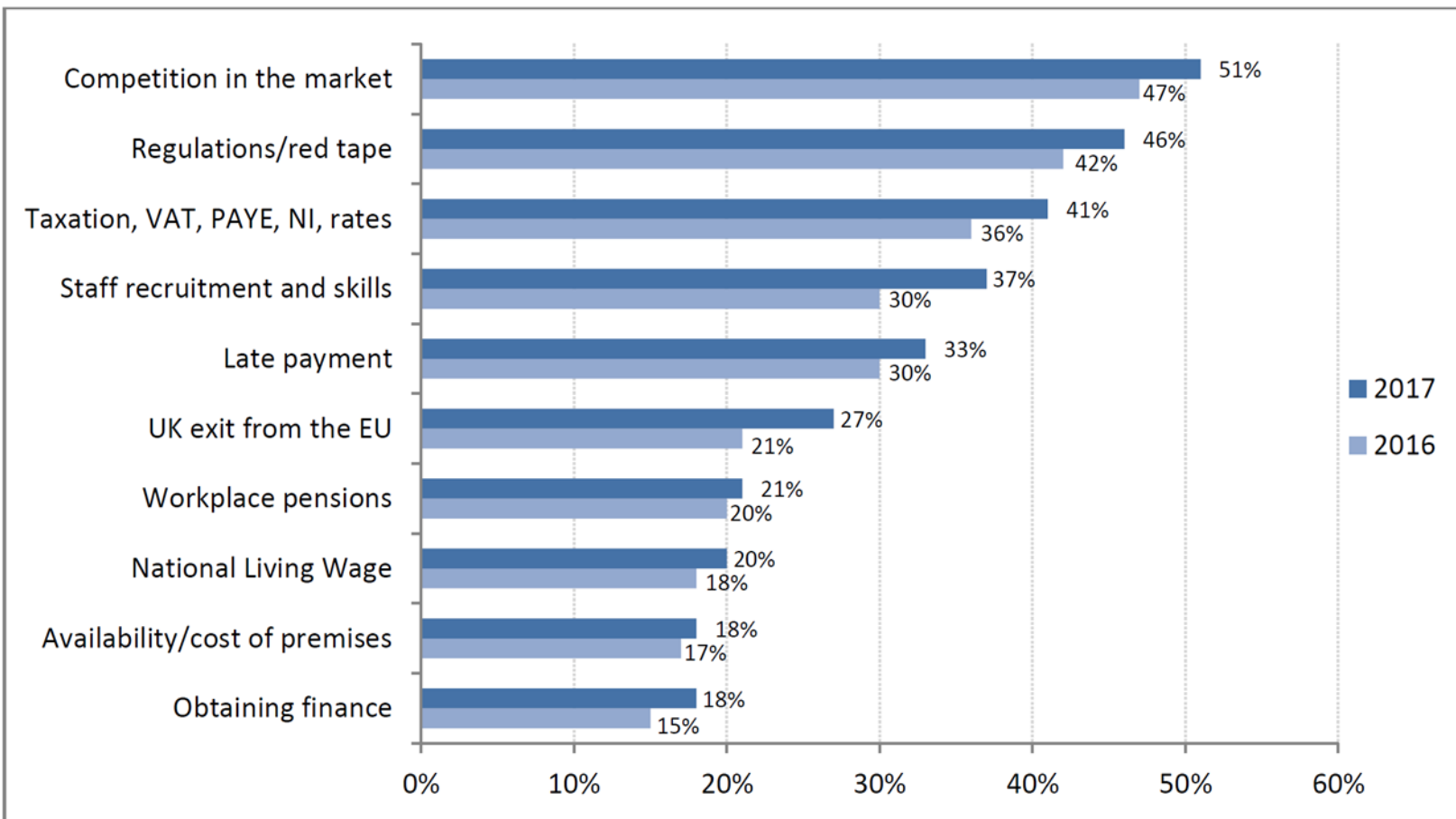
Obstacles, barriers and challenges for small and micro businesses

Small and Micro businesses tend to:

- be poor in time;
- have no HR / legal / admin departments to help
 - (1) understanding government policy and regulations;
 - (2) implementing regulatory changes;
 - (3) tackling and reducing administrative burden as well as compliance costs;
- put all of their focus and resources on making the business a success

Obstacles, barriers and challenges for small and micro businesses

Proportion of SME employers citing **each major obstacle** to the success of the business
– by employment size and year



Small and Micro Business Assessments (SaMBA)

The rationale

- **Small businesses** (up to 49 employees) – including micro-businesses (up to 9 employees) – **suffer disproportionately from the burden of regulation;**
- Estimates are that the **cost of complying with regulation is about 10x larger for small & micro businesses** compared to large firms;

Better regulation policy for small and micro businesses (SMBs)

- The **default position** is that **small and micro businesses should be exempt from new regulatory measures**, if the policy objective, or the majority of it, can be achieved without them.
- Regulatory measures should only extend to small and micro-businesses where **any disproportionate burden is fully mitigated**;
- However, **if that is not possible** (e.g. when a policy addresses SMBs specifically or largely), then the **policy teams must consider alternative options** that would be reduce any disproportionate impact for small or micro businesses;
 - Impact assessments should present an analysis of **one or several mitigating options**;
- To demonstrate that the needs of SMBs have been considered, **all regulatory impact assessments must include a small and micro business assessment (SaMBA)**. A SaMBA is mandatory for all new domestic regulatory proposals.

Exemption of SMBs as default for new regulatory proposals

The **UK better regulation framework guidance (BRFG)** states:

“The default option is to exempt small and micro-businesses from the requirements of new regulatory measures.”

If an SMB exemption is not applied, mitigation options must be considered. Departments should consider whether exemption or mitigation should be applied for SMBs early in the policy-making process.

Mitigations from regulatory burden for small and micro businesses

Full exemption (default)	A significant proportion of the intended benefits of the measure can be achieved without including small and micro businesses in the scope of the regulation
Partial exemption	Exempt small and micro businesses from specific requirements of the regulation (e.g. warnings to businesses rather than applying sanctions where non compliance is identified)
Extended transition period	Businesses of a defined size are given a longer period of time to comply compared to larger businesses
Temporary exemption	Exempt small businesses for a period of time where immediate compliance would harm their business (e.g. where a product needs to be redesigned)
Different requirements by firms size	Could have less onerous or less frequent inspection regimes for small businesses; require small businesses to only have to register rather than be fully licensed
Information	Provide tailored information, advice and training to small businesses
Financial aid	Smaller businesses can obtain re-imbusement of compliance costs
Opt-in and voluntary solutions	Businesses below a certain threshold can voluntarily opt-in to the regulatory regime or participate in industry-led voluntary schemes

Best practice for collaboration with UK Government departments on SaMBA

It is **essential to ensure close engagement with UK Government departments to improve expertise/capacity & high-quality submissions** (ex-post/ex-ante IAs). What we offer:

- **(1)** SaMBA checklist (when and how to exempt & mitigate);
- **(2)** SaMBA case histories guidance;
- **(3)** Catch-ups (dial-ins) with departmental Better Regulation Units (BRUs);
- **(4)** Pre-submission meetings with BRUs / case leads;
- **(5)** Post-IRN meetings;
- **(6)** Capacity building: customised trainings on SaMBA for analysts & policy experts

More about Better Regulation and independent regulatory scrutiny in the UK:

The better regulation framework:

www.gov.uk/government/publications/better-regulation-framework

The RPC:

www.gov.uk/government/organisations/regulatory-policy-committee

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