



WARNING: TOO MUCH INFORMATION CAN HARM

(AND CAN FAIL TO HELP CONSUMERS

TO MAKE CHOICES AND CAN IMPOSE

COSTS ON BUSINESS, DESPITE THE FACT

THAT IT IS OFTEN A POWERFUL TOOL AND MORE

POPULAR WITH POLICY-MAKERS AND BUSINESSES THAN

MANY ALTERNATIVES, SUCH AS REGULATING THE

PRODUCT OR SERVICE ITSELF, OR ITS PRICE.

BLAH, BLAH, BLAH...)

A final report by the
Better Regulation Executive
and National Consumer Council
on maximising the positive impact
of regulated information for
consumers and markets

November 2007



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Executive Summary

This is the final report of a study by the Better Regulation Executive and the National Consumer Council into the effectiveness of regulated consumer information.

Information is often favoured as a policy tool by Government, business and consumers alike. Yet there has been a lack of firm evidence that consumer information is achieving its goals. The recent administrative burdens assessment exercise estimated information requirements in the consumer policy area alone cost business more than £1.5 billion per year.

From January to October 2007, the Better Regulation Executive and National Consumer Council conducted a review of the extent to which information was achieving its goals, based around focus group research with consumers and a series of stakeholder interviews. The research focused on 7 case-studies of regulated information, ranging from recycling symbols to product safety warnings on toasters.



The research found many pieces of information were simply not having the impact on consumer behaviour they set out to achieve. Consumers rejected much of the information because it was not helpful or was presented in a complex or unappealing format. Information requirements were also an irritant for business, due in large part to the complex systems companies have to put in place to ensure compliance.

Our interim report in July set out four possible areas for change to improve the effectiveness of regulated information. It suggested a series of tests for policy-makers to use when considering regulated information and made recommendations around working with business to introduce new regulatory models. It proposed steps to improve the design and use of pictorial elements, and suggested Government should become better at measuring and monitoring regulated information.

Stakeholders who responded to our interim report broadly agreed with these proposed areas for change. On this basis, this report makes a number of recommendations to Government and other organisations as to actions they can take to maximise the benefits, and minimise the burdens, of regulated information. These recommendations complement the guide for policy-makers we publish today on using regulated information effectively.

The report and recommendations which follow relate to regulated consumer information – that is, information which Government requires third parties – such as businesses – to provide to individuals making a purchase, or using a product or service, in a personal capacity.

1. A project to maximise the positive impact of consumer information

Introduction

We are surrounded by information. From the nutritional data on our breakfast milk carton to the terms and conditions box on the Internet purchase we make in our lunch hour and the “no smoking sign” we encounter in the pub on the way home it is an inescapable part of modern life.

Some of this information is provided to us by third parties – such as businesses – as a result of Government requirements. This regulated information, sometimes called disclosure requirements, aims to help individuals who may not otherwise have the full picture or be at a disadvantage when making a purchase or using a product. For example, you or I may need guidance on how to use a food mixer safely, how to recycle an orange juice carton or would want to be sure that there are no surprise clauses when taking out a mortgage.

This report sets out in summary the work carried out by the Better Regulation Executive and National Consumer Council to assess the effectiveness of consumer information, the responses to the interim report and proposes recommendations for change.

A re-assessment of the effectiveness of information is needed

In ensuring that all parties have access to important information, information requirements seek to protect people from harm, help them to make choices, encourage socially responsible behaviour and contribute to the efficient working of markets. They contribute to a society where individuals can take responsibility for their own decisions and thus manage their own risks.

Information is already a core part of the UK and European regulatory landscape with 64% of obligations on UK businesses in consumer policy falling into this category.¹ Within the range of regulatory tools available, information is often the preferred approach for policy-makers, business and consumer groups alike. The marginal cost of additional information requirements is often low compared to other options and traditional economic theory presupposes that additional information can never have a negative impact. According to this argument where information is ineffective or irrelevant it will simply be ignored.

Information's potential value as a solution to many policy problems is not in doubt. Yet evidence suggests it has its own failings and drawbacks – and these may be increasing. In a world of increasing media channels each piece of information may have difficulty even attracting an individual's attention. Given the sheer quantity of messages on even a simple carton or tin of beans consumers can find it difficult to make sense of any of it. Recent empirical research in behavioural economics has shown that the factors that influence the way that individuals interpret and act upon information are more diverse and sophisticated than once thought.

The concerns lie not only on the side of benefits but also with regards to costs. The recent administrative burdens measurement exercise estimated that information requirements in the consumer policy area alone now cost UK business £1.5bn.²

Therefore a re-assessment of regulated information is needed to assess:

- whether these requirements are helping consumers, achieving desired outcomes and whether the impact on businesses is proportionate; and
- if there are approaches to the use of information requirements that could be adapted by Government and other stakeholders to improve their value added.

Our research found that the information status quo is not working

From January to October 2007 the Better Regulation Executive and National Consumer Council carried out a review of the effectiveness of regulated information for consumers and markets. This work is in part a response to the Better Regulation Commission's recommendation that "the Government sets out the circumstances in which requiring the provision of information to consumers genuinely helps the effective working of markets"³.

The work has been primarily based around seven case studies that cover a broad range of policy areas and types of information provision:

- statutory information and consumer credit agreements;
- Child Trust Fund decision tree;
- telephone message "this call may be monitored for quality control and training purposes";
- recycling symbols on consumer goods;
- product safety warnings on toasters;
- information provided with the sale of extended warranties on domestic electrical appliances; and
- the Scores on the Doors food hygiene information scheme for restaurants

¹ Better Regulation Executive / PWC administrative burdens measurement exercise (2005)

² Ibid.

³ Better Regulation Commission (2006) "Risk, Responsibility and Regulation – Whose Risk Is It Anyway?"

The research for this project has included a series of 12 qualitative focus groups with consumers discussing real examples of regulated information and their reactions to them.⁴ It was complemented by over 60 stakeholder interviews and several workshops with business, Government and consumer stakeholders. The detailed results of the analytical research can be found in the interim report and the research report for the focus groups.⁵

In summary, our work found that although information can be a powerful tool it is neither failsafe nor costless. When presented to consumers, many of the pieces of information from our case studies were not having the desired outcomes. Consumers rejected much of the information because there was too much of it and because it was presented in a complex and unappealing format. Whether the 52 safety warnings on a toaster or the consumer credit agreement that required 55 minutes to read, consumers did not find the information being

provided helpful. Some of the more vulnerable groups we spoke to found overly complex information not only difficult but also humiliating. Across society our research found a desire for simple, succinct information. Decision-trees and other tools that helped people navigate through the process of making choices were preferred to text which was often written by lawyers.

For business, the provision of information was an irritant, and often more than that. The volume of requirements means some businesses have to put in place monitoring systems to ensure compliance. For example one consumer credit provider ensures that all agreements are verified by eight different people before approval. It is to be expected that some of these costs are passed on to consumers, although there is no hard evidence of this. Information requirements are also an irritant to business where they cut across their other communications with consumers or constrain the extent to which they can tailor their messages.

⁴ Vanilla Research (2007), "Consumer information and Regulation"

⁵ Better Regulation Executive and National Consumer Council (2007) "Warning : too much information can harm: an interim report on maximising the positive impact of regulated information for consumers and markets"



2. A new approach to the use of regulated information is needed

A broadly positive response from stakeholders to the proposals in the interim report

The interim report set out four areas for possible improvements from Government, business and other stakeholders in order to raise the effectiveness of these information requirements. On each of these areas the interim report asked for comments to inform debate and discussion.

We received approximately 20 written or e-mail responses to the interim report from individuals, businesses, Third Sector organisations, Government and international contacts. The responses received were overwhelmingly positive about the thrust of the report's findings – namely that regulated information could be used more effectively to maximise the positive impact for society. Some were keen that we should not forget that information can be a powerful tool for good and that particular groups can benefit from pieces of information that others may find burdensome.

One point raised by several stakeholders was that the use of “regulated information” as a concept in itself may be problematic because it suggests that regulated information is a static good rather than a communication channel. They argued that the fact that “regulated information” was found in most policy-makers’ toolkit led to policy-makers thinking that making information available alone was enough. As a result, insufficient thought was given to how to communicate with consumers and how to help them make informed choices and have an impact on behavioural outcomes.

Many stakeholders expressed the view that to make a real difference in this area it would be essential to influence the European agenda in consumer protection. Increasing international trade and European harmonisation on product standards means that EU legislation is of increasing importance in this domain. For example, there were a number of responses to the report from the financial services sector who were interested in the findings from the case study on consumer credit and concerned about the potential impacts of the current proposal for a full harmonisation directive of consumer credit.

We set out below the proposed ideas from the interim report, the detailed comments from stakeholders and the recommendations that have emerged. These recommendations complement the guide for policy-makers and business that we publish today on using regulation to ensure consumers are appropriately informed about the choices they make.

Government should commit to five tests as a guide for policy-makers on when to use information

One key question for this work was in what circumstances information, amongst other approaches, was likely to be most effective. The interim report suggested a series of six tests for policy-makers to apply before deciding to use information as a solution to particular policy problems. These tests aim to ensure that information is given sufficient thought before being introduced.

Tests as proposed in the interim report

- a) *Have you defined the behavioural outcomes that you wish to achieve?*
- b) *Have you understood and assessed the level of incentives and potential risk/harm for the target audience?*
- c) *Have you considered and understood the impact of making this information available on businesses’ incentives to achieve desired outcomes?*
- d) *To what extent can the information being provided simplify a choice for a consumer (and hence achieve desired outcomes)?*
- e) *Have you considered the fit with existing regulated information requirements?*
- f) *Have you considered alternative ways of communicating this information?*

The tests were often the main area for discussion with stakeholders who saw this as central to making progress in this area. There was broad agreement from stakeholders that the tests would be useful for policy-makers in considering policy options. It was also stressed by several groups that these should be good practice tests or pertinent questions to consider rather than absolute rules. The breadth of different situations in which information could be used meant that it would not always be appropriate to consider them as prerequisites.

We set out below the main points raised with regards to individual tests.

Test a: Behavioural outcomes

Comments on this test were broadly split into two groups. Some thought that this was of paramount importance for good policy-making in the vast majority of situations. Others felt that it might be difficult in certain situations to define behavioural outcomes as information provision may only address particular social groups and therefore outcomes across the board may be difficult to achieve. In taking forward this test we would like to stress that behavioural outcomes may be defined only for certain consumer segments or groups. Our analysis continues to suggest that

regulated information without desired behavioural outcomes is unlikely to succeed and is impossible to monitor.

Tests b and c: Incentives for consumers and businesses

Many comments underlined these two tests as lying at the heart of attempts to assess when information is likely to be successful. For consumers information requirements that activate or highlight existing incentives to certain behaviours are likely to be successful. For businesses a strong alignment between their incentives and the objectives to achieve the desired outcomes of the regulated information requirements will lead to them communicating the key messages effectively. One comment on the issue of post-purchase information was that if it was provided post-contract there was little incentive for businesses to provide it in a format that would offer them a competitive advantage.

Test d: Simplification

This test on simplifying choices has proved to be the most controversial in discussions. Some are opposed to the idea because they believe that simplifying choices can only be achieved by providing consumers with incomplete information. Others believe that consumers are comfortable with complex choices and the related pieces of information when they are presented clearly and in a form that they can understand. There was agreement, though, that information provision that made choices more complicated was unlikely to be successful. Also stakeholders welcomed the idea that information needs to fit with the other parts of the policy architecture so that it fits with an action on the behalf of the person reading it. Therefore in presenting this test in the guide for policy-makers we have taken care to ensure that it is not an encouragement to provide limited, incomplete or imprecise information but rather a check for policy-makers that they have not made decision-making unduly complex.

Test e: Fit with existing requirements

No substantive comments.

Test f: Alternative information approaches

No substantive comments. In refining the tests and producing the guide for policy-makers we have decided to remove this as a test. Although it is something to consider when deciding on the use of regulated information it is not in itself a criteria to know whether information requirements are likely to be successful.

Recommendation 1

Government (departments and regulators) to commit to applying the five tests in policy design, when considering information requirements:

- I. Have you defined the behavioural outcomes that you wish to achieve? (What do you want to achieve?)
- II. Will information provide a sufficient incentive for consumers to change their behaviour? (Is the information likely to be of value to consumers?)
- III. To what extent does the information fit with the wider system and simplify choices for consumers? (Will the information help consumers make choices?)
- IV. Is the information aligned with business incentives, where this is possible? (Will businesses support or oppose what you are trying to achieve?)
- V. Have you considered the fit with existing regulated information requirements? (What information is already there?)

Working with business and introducing new regulatory models

Ultimately the success of many businesses depends upon their ability to communicate with their consumers and influence behaviours. In contrast effective design and presentation of information for consumers is not necessarily a core competency of policy-makers. Therefore the interim report suggested considering regulatory models which would offer business the opportunity to innovate in communicating with consumers whilst aligning their incentives with desired policy outcomes.

Proposed area for discussion in interim report

How far, and in what ways, can Government and business work together to make information more useful to consumers?

- a. *What is the potential for use of regulatory models that focus on the effectiveness of the information, not the process of its communication:*
 - i. *inherent in the regulatory design which sets out the outcomes to be achieved not the particular information requirements?*
 - ii. *as a way of business asking regulators' permission to comply through another means which is shown to be equally effective with consumers?*
- b. *How far, and in what areas, is there scope for Government to publish more regulatory information as an incentive to drive behaviour through reputation?*

There was widespread support for regulation that would give business flexibility to innovate to achieve societal outcomes and a desire for a culture change from compliance to making a real difference. Some potential concerns were raised about the implementation of approaches that focussed on effectiveness rather than compliance. For example businesses would require some certainty about what would and would not be acceptable as an alternative information approach. Similarly regulators would need to have the resources to verify and enforce different approaches. There was a sense that for certain product performance or pricing information it was essential to have a single presentation of the information to ensure comparison of products.

Recommendation 2

Government to pilot the use of outcome-based approaches to information requirements, which are enforced on the basis of consumer understanding of messages rather than provision of information.

In the domain of the publication of regulated information many regulators are currently considering the benefits from publishing data that they hold. The Government has previously accepted the recommendation of the Power of Information Review that it should promote publication of regulatory information. There are some initial signs of encouraging progress. For example the Financial Ombudsman Service is currently assessing the potential to publish data about upheld complaints against firms. The Legal Complaints Service has been consulting on whether to publish complaints data on lawyers. Ofcom is working with telecommunications providers through the Topcomm scheme to provide consumers with useful service quality information. The Food Standards Agency has set up a Task Force to develop criteria for the publication of information, including that on compliance of regulated entities. One potential barrier to wider publication of compliance and other business data held by regulators is legal uncertainty around disclosure.

Recommendation 3

Government and regulators should consider the legislation under which they gather compliance data with a view to determining where restrictions exist on publication of this information, even for the benefit of consumers. Where areas of uncertainty are found, the Government and regulators should seek appropriate advice. Where compliance data includes information about specific individuals, they should seek advice from the Information Commissioner on whether the publication of such data would be in breach of data protection legislation.

Steps are needed to improve the design and use of pictorial elements

Our focus group research gave clear evidence that much regulated information is ineffective because of its format, often complex black and white text, and the way it is framed. In terms of good practice on accessibility we suggested a "design

for all approach” to information. In designing information for the most vulnerable consumers all society will benefit from simple, concise messages. Our interim report also set out the evidence that images and decision-making tools can be more effective in changing behaviours and identified the Internet and other new digital media as a key opportunity for communicating with consumers.

Proposed area for discussion in interim report

How can policy-makers and communication experts use creative new approaches to maximise impact on consumers?

- a. *Would designing information with the most vulnerable in mind help benefit all consumers? How might this be achieved?*
- b. *How and where could images and pictorial information be better used in regulated information?*

There were few comments on the use of more pictorial information in the provision of regulated information to consumers but support for a mix of text and image-based messaging and an increase in the use of visual cues to influence consumer behaviour. Designing information for the most vulnerable in society was welcomed in so far as it did not mean providing additional information that may be unnecessary for many consumers and crowd out the overall measures.

There was considerable interest in online approaches to regulated information with recognition that different techniques needed to be exploited than on a pure paper format.

Recommendation 4

Government to commission some research to develop concrete proposals of how information requirements might be presented over the Internet.

In trying to encourage policy-makers and business to use new more creative approaches to providing information it seems important to give greater profile to the design and framing of information itself.

Recommendation 5

Government and consumer groups to work in partnership to develop a scheme to incentivise policy-makers and business to provide innovative approaches to communicating with consumers.

Better monitoring and measuring is needed

Many of the information requirements in the case studies explored in this project had undergone some consumer testing before implementation. The level, format and quality of this testing was, however, very mixed. Our research suggests that focus group discussions around the idea of providing information were much less effective than research methods that put consumers into real-life situations and tested actual examples of information. In many circumstances the investment of time and resources into making sure information worked was very low compared to the cost of these requirements on the economy. Even with effective testing before implementation it can be difficult to predict consumer reactions to information and therefore post-implementation reviews are essential to prevent the volume of information requirements growing.

Interim area for discussion

How and where can Government get better at monitoring, measuring and – if necessary – modifying regulated information?

- a. *Should Government ensure that regulated information is tested in a semi-final format and realistic situations where possible before implementation?*
- b. *Should Government evaluate the effectiveness of information provision in a systematic way after implementation and make changes where needed?*

Stakeholders across society recognised that improvements could be made in the quality of testing of regulated information requirements before implementation. There was agreement that it was essential to test information in a semi-final format with consumers in a realistic scenario before implementation to know whether the requirements were likely to achieve their objectives. The main concern in this area was that the testing should be proportionate to the cost and impacts of the regulated information and incorporate enough flexibility to reflect different situations. We set out in the recommendations and the guide for policy-makers what we consider to be good practice in testing before implementation.

Recommendation 6

All significant future regulated information provision requirements should be tested in a semi-final format with consumers before implementation.

Greater monitoring and modification of information requirements, where appropriate, was seen to be beneficial in so far as they did not impose unreasonable change costs to businesses. Discussions with businesses have suggested that marketing and communication materials are reviewed on a regular basis and changes on a two- or three-year basis should be manageable. The speed of review and potential change should also take account of the particular circumstances in the market and other areas of regulatory change, in order to group elements of regulatory change together.

Recommendation 7

Government should commit to reviewing all significant information requirements after an appropriate period (e.g. 2-3 years) with a presumption that a requirement be redesigned or removed unless it can be shown to be effective in improving outcomes.

In the area of monitoring, evaluation and consumer expertise our project has highlighted the complexities of the issues that policy-makers face and the level of current interest in this area. As a result we believe that greater sharing of consumer research and lessons learnt between regulators and departments could improve the capacity in this area. As a result the National Consumer Council will explore with regulators and Government departments how this need can best be met.

3. There are opportunities to improve existing information regimes

In studying individual case studies as part of this project it has become clear that certain requirements for regulated information are not working effectively. As a result we have a certain number of specific recommendations.

Improvements are needed in the statutory information provided on financial issues

Our focus group research found that consumer credit agreements seemed to be failing to impart information clearly and effectively, and may be alienating consumers from all backgrounds. Some of this was due to the length of agreements and the complexity of the information communicated by providers but other pieces of statutory information were not considered helpful by consumers. The implementation of the Consumer Credit directive at the EU level in the next few years will regulate the design of requirements but is also an opportunity to revise and improve the statutory information.

Recommendation 8

Within the context of the implementation of the consumer credit directive, the Government should work with industry to ensure the statutory information provided with consumer credit products provides clear, effective guidance for consumers.

More broadly in financial services consumers responded positively to the decision tree guidance on the Child Trust Fund despite the low levels of financial capability. A structured approach to presenting different types of financial products offers high potential to guide consumers through the complexities of financial markets.

Recommendation 9

The Financial Services Authority should continue its work with the industry to provide consumers with the information they need about financial products in a form they can use.

Industry and Government bodies should develop schemes to link recycling symbols to recycling on the ground

In the area of recycling symbols we found considerable confusion amongst consumers because of the number and variety of symbols used and the lack of relationship with different local authority recycling schemes. Few consumers used the symbols to sort their waste because messages such as “recyclable where facilities exist” are not truly effective.

Recommendation 10

Defra, Waste and Resources Action Plan (WRAP) and industry to develop proposals for recycling symbols which derive the material recyclability from the recycling practices of local authorities.

Working with stakeholders to prioritise product safety warnings

Our research into the effectiveness of product safety warnings found that the volume of warnings was partly driven by some individual businesses concerns around liability. Other businesses recognised the need to educate consumers on issues but felt that freak accidents or incidents resulting from irresponsible behaviour could be resolved reasonably with the support of Trading Standards Officers. For consumers the provision of more than fifty warnings verged on the ridiculous and messages of this kind were unlikely to be effective. In terms of reducing the number of safety warnings whilst increasing their effectiveness it is necessary to focus in on the warnings that should be a priority for consumers and presenting them in a way that is clear for them. This should be achievable through discussion and collaboration between business and consumer groups backed up by technical expertise and consumer research.

Recommendation 11

UK retailers, manufacturers and consumer groups to work together at a European level in a particular product area to develop good practice on providing product safety warnings which are effective for consumers and design a model for reducing the number of warnings.





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http://bre.berr.gov.uk/regulation/reform/next_steps/too_much/

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