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MR POWELL

~~Prime Minister~~ ②
An interim
Report.
CDP 17/5.

EUROPEAN COMMUNITY: CUTTING THE BURDEN OF COMMUNITY LEGISLATION
ON BUSINESS AND ENTERPRISE

The Prime Minister has asked to be kept closely in touch with the action we are taking to follow up the initiative on deregulation which she launched at the European Council. This action is now being pressed forward. First, we have identified the most important targets among regulations and directives already in force or in the pipeline and put these to the Commission. Secondly, we have held extensive discussions with the Commission and we have considerable confidence that they will not only review some existing regulations but also, more importantly, establish a permanent procedure for vetting future proposals for their effect on business. Thirdly, we have stirred up the CBI, Institute of Directors and other bodies, including those at Community level, to follow up the initiative. Fourthly, we have already set out our main proposals to some other member states and the Minister without Portfolio is planning a series of visits to reinforce the message. The following paragraphs set out more fully what has been done since my last report.

2. Identification of burdensome legislation or proposals. The Cabinet Office has coordinated an initial departmental review of Community legislation. This has identified 40 Community measures in force or in the pipeline which in our view are unnecessarily burdensome on business. We have proposed specific action which can be taken to reduce or remove the burden. These measures and our proposals are set out in the annex.

3. Sir Michael Butler has passed the lists to the Commission, with proposals of both substance and procedure on how the Commission should use them and how the exercise as a whole should be taken forward. We shall provide further cases of burdensome measures before the June European Council as a result of contributions



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expected from organisations which the Department of Trade and Industry is consulting: these include the CBI, Institute of Directors, Association of British Chambers of Commerce and bodies representing small firms.

4. In a separate initiative we have obtained the most recent list of proposals made by the Commission which they are considering withdrawing. We shall be taking steps to encourage the swift demise of moribund, plain bad or otherwise burdensome proposals on this list.

5. We also intend to show the Commission some of the working material on domestic deregulation which is being prepared for Lord Young's Committee (MISC 114) so as to demonstrate to the Commission, and indirectly to other member states, a practical approach to tackling the problems.

6. Spurring on the Commission. The Commission is taking its mandate seriously. We have, however, made our own proposals to them for giving practical effect to the conclusions of the European Council and through a longer-term and systematic focus on deregulation in Community affairs thereafter. We understand that in consequence Monsieur Delors' report to the June European Council is likely to:

- include a general commitment to reduce the burden on business of Community regulation
- cite examples of burdensome legislation
- propose methods of action on measures already in force, under negotiation in the Council or yet to be put forward by the Commission, probably with a commitment to set up permanent arrangements for vetting new proposals on the lines we recommend
- invite member states to look also at the burden created by domestic legislation (the United Kingdom is already doing this and our exporters should benefit from action in some other markets).

/Meanwhile



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Meanwhile, they have prepared a more detailed paper for discussion with member states next week at senior official level, which clearly reflects some of our ideas. As a priority it sets the need for action:

- " - to complete the internal market and to introduce more Community-wide competition in the field of services
- to assess the burden on business which originates in Community legislation with a view to diminishing it by
 - systematic assessment of the administrative burden on enterprises produced by new proposals from the Commission
 - review of existing Community legislation."

7. The Commission has engaged the British consultants Touche Ross to identify quickly some specific areas of excessive Community regulation and to discuss their practical disadvantages in depth with two or three companies in the United Kingdom, the Federal Republic of Germany and perhaps the Netherlands. To ensure a worthwhile outcome to this study, Department of Trade and Industry and Enterprise Unit officials have discussed its shape and purpose with the Commission and Touche Ross in Brussels and again with the Commission and Touche Ross, plus the CBI, in London.

8. Action with industry. In addition to trawling the CBI and other organisations for examples of burdensome legislation, we have urged them to press their counterparts in other member states, individually and through the Union of Industries of the European Community (UNICE), to propose specific action on deregulation and to lobby both the Commission and their respective Governments. This is to ensure that as much momentum as possible is generated by those on whom the burdens actually fall. Our Embassies in Community capitals will also contact national organisations to explain our thinking. We already know that the German industry federation is taking a constructive line and is preparing its own list. Lord Young is writing to Sir Terence Beckett to reinforce the importance of the CBI taking the whole exercise seriously.



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9. Action with other member states. Our Embassies are stressing to Community Governments the importance which the United Kingdom attaches to deregulation. We raised this subject at the Anglo/Italian economic talks on 24 April. We shall take other opportunities to do so in the near future, for example during the Secretary of State for Trade and Industry's visit to Brussels in June. In addition, Lord Young intends to visit the Hague and Paris shortly to discuss the Community and domestic aspects of deregulation with Dutch and French Ministers. (He will also meet the responsible Commissioners before the June European Council.)

10. I am sending copies to Colin Budd (FCO), Rachel Lomax (Treasury), John Mogg (DTI), David Normington (Department of Employment), Leigh Lewis (Office of the Minister without Portfolio) and to Sir Robert Armstrong.

D F WILLIAMSON

17 May 1985

EUROPEAN COMMUNITY REGULATIONS WHICH
POSE AN UNNECESSARY BURDEN ON BUSINESSES

A. COMMUNITY MEASURES ALREADY IN FORCE

INDUSTRY, ENVIRONMENT, CONSUMER AFFAIRS

1. 4th company law directive (78/660/EEC)

a. Purpose:

With 7th company law directive, specifies reporting duties of firms including form and content of annual reports.

b. Burden:

Hinders any domestic move further to reduce reporting requirements for small companies.

c. Solution:

Amend to allow more flexible treatment of SMEs.

2. Directive on major accident hazards of certain industrial activities (82/501/EEC)

a. Purpose:

Requires operators of sites handling more than threshold quantities of certain dangerous substances to undertake full hazard surveys, explain danger to neighbouring public, and help public authorities to produce off-site emergency plans. After Bhopal disaster, Commission propose (in draft amending directive) lower threshold for methyl-isocyanate, chlorine and phosgene which in UK alone would bring more than 100 extra sites into the net.

b. Burden:

Scope and rigour of controls do not reflect sufficiently the balance between the degree of hazard involved and compliance costs for industry.

c. Solution:

List of substances and thresholds should be determined on basis of adequate technical evidence with indication of compliance costs. Consideration should be given to relaxation of thresholds for substances not thought to constitute a major accident hazard.

3. ECSC regulation on steel stockholders' price rules (1835/83/ECSC)

a. Purpose:

In conjunction with other ECSC measures, it aims to stabilise steel prices by requiring stockholders to maintain price lists, and to submit them to Government.

b. Burden:

Extra paperwork for stockholders, particularly small ones. A few stockholders are inspected each year under the rules.

c. Solution:

Relaxation or non-renewal when instrument expires at the end of 1985.

4. Administration of state aids rules of EEC Treaty (Articles 92-94)

a. Purpose:

Treaty requires Commission to be notified of, and give approval to, all aids granted by member states to enterprises

b. Burden:

In the case of justified aids, pace of Commission scrutiny not always consistent with commercial needs of enterprises, eg may not fit in with investment lead-times

c. Solution:

Commission to consider scope for streamlining procedures.

5. Administration of Competition rules of EEC Treaty (Articles 85-90)

a. Purpose:

Treaty prohibits restrictive practices etc affecting trade between member states unless specifically exempted by Commission.

b. Burden:

Amount and nature of data required in support of notifications (if notification format changed as proposed by Commission).
Legal uncertainty if Commission's response to notification is delayed.

c. Solution:

Commission efforts to streamline procedures (reorganisation, block exemptions, "opposition procedure") much welcomed. Other block exemptions in the field of innovation (eg licensing of know-how, joint ventures) could usefully be considered. Explanatory guidelines on research and development block exemption would be helpful. Commission might consider again whether volume and complexity of data required in support of notification are essential in all cases.

EMPLOYMENT AND SOCIAL AFFAIRS

6. Directive on collective redundancies (75/129/EEC)

a. Purpose

Requires both advance notification (to SOS for Employment) of redundancies of 10 or more employees and advance consultation with recognised trade unions.

b. Burden:

Compliance cost and reduction of flexibility in labour market.

c. Solution:

Increase threshold level to 100 employees.

7. Equal treatment directive (76/207/EEC)

a. Purpose:

Requires equal treatment of men and women in access to employment, vocational training and promotion and working conditions.

- b. Burden:
Potentially onerous for SMEs. UK implementing legislation (Sex Discrimination Act 1975 and parallel N Ireland legislation) currently provides exemption for SMEs employing five or less people. ECJ in November 1983 upheld Commission's case that this (and other features) did not meet requirements of directive.

- c. Solution:
Amend directive to allow exemption for small firms.

8. Directive on acquired rights (77/187/EEC)

- a. Purpose:
Safeguards employees' rights when business or part of it in which they work is transferred to new employer. Those employed automatically become employees of new owner on same terms and conditions. Trade unions in undertakings transferred have information and consultation rights.

- b. Burden:
Obligations on employers reduce likelihood of business being transferred as going concern, so reducing employment. Consultation procedures and disproportionate amount of litigation also impose costs and administrative burdens.

- c. Solution:
Repeal totally, or remove SMEs from scope by introducing threshold of (say) 100 employees.

9. Regulations on labour costs surveys (3149/83/EEC and earlier regulations)

- a. Purpose:
Collection from firms of information about labour costs. Up to now, three-yearly (1975, 1978, 1981 and 1984). Henceforth to be four-yearly.

- b. Burden:
Administrative and cost burden of form-filling.

- c. Solution:
Abandon system. Or cut frequency to (say) six years and reduce or remove requirement on SMEs to participate.

10. Management of European Social Fund (Commission Decision 83/673/EEC)

- a. Purpose:
Rules require submission of applications to cover one calendar year only. Decisions on funding not made until at least March/April in that year.
- b. Burden:
Uncertainty together with cash flow problems are severe disincentives to firms seeking support for training. This amounts to discrimination against such applicants in administering Community funds.
- c. Solution:
Amend rules to allow applications to cover any 12-month period, not just calendar year.

VALUE-ADDED TAX

11. 6th VAT directive (77/388/EEC - Article 24(2))

- a. Purpose:
Allows member states to set an exemption limit for registration for VAT by small businesses and, if the limit was above the minimum at the time the directive was implemented, to maintain the value in real terms.
- b. Burden:
Member states unable to be sufficiently flexible in determining the limits.
- c. Solution:
Directive should be amended to recognise the differences in the control of small traders in each of the member states and to allow a harmonised upper threshold not less than that of the highest already permitted, ie Ireland's at £(Irish) 25,000.

ENERGY

12. Regulation on notifying crude oil imports (1055/72) and crude oil exports (588/75)

a. Purpose:

To provide the Commission with company-disaggregated details of imports and exports of crude oil by companies trading at above a cut-off level of 100,000 tonnes per annum.

b. Burden:

Administrative burden on 25 UK oil companies who provide annual details.

c. Solution:

Review whether regulations are necessary.

13. Regulation on notifying investment projects in petroleum, gas and electricity sectors (1056/72)

a. Purpose:

To provide the Commission with details of installed and planned capacities:

- (i) Refining: distillation plant, reforming and cracking plants.
- (ii) Transport: crude oil pipelines, and product pipelines.
- (iii) Supply/distribution: tanks for storing crude oil and products.

b. Burden:

Administrative burden on 25 UK companies who provide annual details.

c. Solution:

Re-examine the use to which data on pipelines and storage are put with a view to reducing the frequency of reporting or to discontinuing these aspects of the survey.

14. Directive on information and consultation on oil and petroleum prices (76/491)

a. Purpose:

To provide the Commission with data on the prices of crude oil and petroleum products in pursuit of the principle of price transparency and the objective of establishing a common energy policy for the Community.

b. Burden:

Cost to UK oil companies of completing the necessary monthly and quarterly returns and cost to Government of administering and processing data from these returns.

c. Solution:

Consider reducing the amount of information collected.

TRANSPORT

15. Regulation on drivers' hours (543/69) and Commission proposal for amendment (5937/1/84)

a. Purpose:

To limit the hours of driving and provide sufficient rest for lorry and coach drivers.

b. Burden:

The wide scope of the regulations which catch operators who are not directly connected with the transport industry but who need heavy goods vehicles to carry on their business.

c. Solution:

Exempt such operators from regulations and set more flexible rules for operators who remain covered.

16. Regulation on tachographs (1463/70) and Commission proposal for amendment (5937/1/84)

a. Purpose:

To aid application and enforcement of Drivers' Hours Regulation (543/69).

b. Burden:

As 15 above. Additionally, the Commission propose time-consuming and complex rules on tachograph chart issue, serial numbering and registration by vehicle operators.

c. Solution:

Exempt "de minimis" driving and revise or abandon proposals on charts.

17. Regulation for authorisation of regular and special regular coach services (517/72)

- a. Purpose:
Rules for authorising such services.
- b. Burden:
Prevents authorisation of new competing services so preserving monopoly of existing land passenger transport undertakings.
- c. Solution:
Modify regulation (especially article 8) to allow competition on international regular routes.

18. Authorisation procedures for bus and coach operators (516/72 and 517/72)

- a. Purpose:
Regulations 516/72 and 517/72 prescribe authorisation procedures for, respectively, shuttle services and regular services.
- b. Burden:
Procedures are too bureaucratic and lengthy.
- c. Solution:
Simplify authorisation procedures or, ideally, abolish them.

AGRICULTURE

19. Regulations on Community aid for peas, beans and lupins (1431/82/EEC etc)

- a. Purpose:
Regulations controlling the payment of aid for peas, field beans and lupins. This aid is intended to encourage the production of protein crops in the Community mainly for animal feed.
- b. Burden:
Time-limits and record-keeping requirements excessively precise.

c. Solution:

Keep the regulations but simplify to eliminate/moderate the burdens identified above. (NOTE: Details of regulations may change in the light of the 1985/86 price-fixing.)

20. Regulations on beef and veal (805/68/EEC etc)

a. Purpose:

Detailed regulations subordinate to that specified above to discourage abuse of schemes for private storage aid and for sales of intervention beef for processing.

b. Burden:

Arduous rules on release of securities lodged with IBAP and on processing sales.

c. Solution:

Modify provisions of regulations to moderate burdens. (NOTE: Details of regulations may change in the light of the 1985/86 price-fixing.)

21. Regulations on the sheep annual premium scheme (3007/84/EEC)

a. Purpose:

To harmonise member states' administration of the Community's sheep annual premium scheme.

b. Burden:

One hundred day retention period for ewes can conflict with sound commercial and husbandry practice. Requirement that tugged ewe-lambs should be visibly in-lamb is unenforceable and confuses the farming community.

c. Solution:

Keep the regulations but modify to eliminate the burdens identified above. (NOTE: Details of regulations may change in the light of the 1985/86 price-fixing.)

22. Regulation on the suckler cow premium scheme (1357/80/EEC)

a. Purpose:

Income support for quality beef producers.

b. Burden:

Over-rigid rule on number of cows to be maintained to avoid forfeiture of whole of premium on all cows. Rule relating to main occupation test difficult for some small farmers to comply with.

c. Solution:

Keep the regulation but modify to eliminate the burdens identified above. (NOTE: Details of regulations may change in the light of the 1985/86 price-fixing.)

B. PROPOSED COMMUNITY MEASURES

INDUSTRY, ENVIRONMENT, CONSUMER AFFAIRS

1. Proposal to amend or re-interpret directive amending for the sixth time directive 67/548/EEC on classification, packaging and labelling of dangerous substances (79/831/EEC)

a. Purpose:

Directive requires inter alia notification to the Commission of technical information about new chemical substances placed on the market, but allows partial exemption where less than one tonne is marketed in the EC in a year.

b. Burden:

Exemption avoids administrative burden on firms dealing in small quantities, but Commission propose to remove it.

c. Solution:

Existing arrangements should be maintained.

2. Draft directive on pollution in titanium dioxide industry (189/83 and 303/84)

a. Purpose:

To set uniform emission standards to control TiO₂ pollution and to remove distortions of competition arising from different pollution control measures.

b. Burden:

Unnecessary and substantial cost increase in producing what is often only a marginally profitable product.

c. Solution:

Achieve the objective by less burdensome means.

3. Draft directive on limit values for discharges of certain dangerous substances (772/84)

a. Purpose:

To control, by means of limit values and quality standards, discharges into water of four chemicals, with the possibility of further Commission proposals to extend control over up to 125 further substances.

b. Burden:

Unnecessary cost increase if standards too stringent, and no rational justification for inclusion of carbon tetrachloride and chloroform.

c. Solution:

Directive to cover only those substances that meet established criteria and warrant strict control at Community level. Standards set should protect the environment but not be unnecessarily stringent.

4. Draft 9th directive on company law (no proposal yet)

a. Purpose:

To provide a harmonised legal structure for unified management of a PLC which is controlled by another undertaking and of the other undertaking itself.

b. Burden:

Directive would make no contribution to the more effective operation of the internal market and would set an undesirable precedent for small companies.

c. Solution:

Drop proposal.

5. Draft directive on commercial agents (670/76 and 773/78)

a. Purpose:

To harmonise member states' laws on relations between self-employed commercial agents and their principals.

b. Burden:

Directive would impose additional administrative burdens (eg mandatory written contracts) and costs (eg indemnity provisions) on principals making use of commercial agents.

c. Solution:

Drop proposal or recognise validity of contracts freely negotiated in the marketplace.

6. Draft directives on unit pricing for foodstuffs (4687/84) and non-foodstuffs (4083/84)

a. Purpose:

To extend unit pricing to food pre-packed in pre-determined quantities and to non-food products.

b. Burden:

Cost increases for manufacturers and retailers with only marginal improvement in information for consumers.

c. Solution:

Directives should instead provide for standardisation of package sizes into ranges based on a simple arithmetical relationship.

7. Draft directive on consumer credit (342/84)

a. Purpose:

To harmonise member states' laws on the protection of consumers involved in credit transactions.

b. Burden:

Joint and several liability provisions will apply to all debtor-creditor-supplier agreements so exposing banks, credit card companies and others to the risk of having to defend a host of small claims which could be disproportionately expensive to investigate.

c. Solution:

There should be a separate financial limit specified in the directive below which the concept of joint and several liability should not apply.

8. Draft directive on package holidays (no proposal yet)

a. Purpose:

To harmonise consumer protection afforded to people taking package holidays. Commission have yet to table a formal proposal.

b. Burden:

Proposal would establish bureaucratic administrative procedures which would add to the cost of package tour operators without providing any protection for consumers additional to those available under the existing and effective voluntary arrangements.

c. Solution:

Do not pursue proposal.

EMPLOYMENT AND SOCIAL AFFAIRS

9. Draft directive on parental leave and leave for family reasons (11118/83 and 10681/84)

a. Purpose:

To entitle both men and women to parental leave and leave for family reasons.

b. Burden:

Increased burdens and costs for employers so damaging business competitiveness.

c. Solution:

Drop proposal.

10. Draft directive on voluntary part-time work (4053/82 and 4138/83)

a. Purpose:

To increase the opportunities for part-time work; improve its status; improve conditions for part-time workers; and put their pay and benefits on the same basis as for full-time workers.

b. Burden:

Increase in employers' costs. Reduction in flexibility which is major attraction of part-time work for both employers and employees. Net effect likely to be reduction rather than increase in opportunities for such work.

c. Solution:

Drop proposal.

11. Draft directive on temporary work (6886/82 and 6365/84)

a. Purpose:

To control misuse of temporary labour and to give certain temporaries much the same social protection and employment rights as permanent employees. Also provision for control of employment agencies.

b. Burden:

No evidence that proposed controls are needed or wanted.
Would increase administrative costs, impair competitiveness
and so reduce creation of new jobs.

c. Solution:

Drop proposal.

12. Draft directive on equal treatment in occupational social security schemes (6871/83)

a. Purpose:

To extend equal treatment for men and women to occupational social security schemes.

b. Burden:

Equalisation of provision for women and men may increase employers' costs.

c. Solution:

Reasonable timetable for implementation, and specific amendments to proposal (eg exemption for schemes with small number of members).

13. Draft directive on equal treatment in self-employed occupations (5825/1/84)

a. Purpose:

To ensure equal treatment for men and women in self-employed occupations and for their spouses who participate in the business but do not have formal status either as a partner or as an employee.

b. Burden:

Could lead to claims in the courts against businesses to secure the general entitlements which are proposed. Extra administrative activity would be imposed on small businesses if the draft were to be properly enforced and in order for general entitlements to be given.

c. Solution:

Drop the proposal.

14. Draft directive on procedures for informing and consulting workers
(the "Vredeling" directive) (8256/83)

a. Purpose:

To require head offices of large companies (including multinationals) regularly to inform employees in all branches of the organisation, including subsidiaries, about the group's affairs and to consult affected employees about major decisions (eg closures, transfers of business, changed organisation and production methods).

b. Burden:

Impairment of efficiency and competitiveness through introducing delays and extra costs into decision-making and disrupting existing industrial relations systems.

c. Solution:

Drop proposed directive.

15. Draft 5th directive on company law (8949/83)

a. Purpose:

To distinguish between directors of a Public Limited Company responsible for "management" and those responsible for their supervision; to provide for worker participation at board level; and to harmonise some other aspects of company law.

b. Burden:

As with the Vredeling directive (14 above).

c. Solution:

Drop proposal.

16. Draft directive on the protection of workers and the public from
microwave radiation (8308/80)

a. Purpose:

The draft purports to harmonise member states' provisions on protection from microwaves. In fact no member state currently has statutory provisions though some apply standards for guidance.

- b. Burden:
Evidence of risk from microwaves is not sufficient to justify the directive. Commission is nevertheless preparing a revised proposal on electro-magnetic fields.
- c. Solution:
Proposal should not be pursued unless and until scientific evidence becomes available to demonstrate need for protective legislation.

17. Draft directive on the protection of workers from noise at the workplace (8818/82)

- a. Purpose:
To harmonise member states' provisions on the protection of workers from noise through setting common exposure limits and associated protective measures.
- b. Burden:
Proposal to require regular hearing tests for workers exposed to relatively low levels of noise would impose considerable costs on firms, especially SMEs.
- c. Solution:
Directive should require regular hearing tests, if at all, only for workers exposed to very high noise levels.

VALUE-ADDED TAX

18. Draft 12th VAT Directive (4582/83)

- a. Purpose:
To harmonise expenditure on which input tax may not be deducted. For the UK this would involve a considerable increase in the items of expenditure involved.
- b. Burden:
Would lead directly to increase in costs of production. The blocking of input tax deductions of all expenditure on business travel including that on food, drink and hotels would be detrimental, for example to organisers of trade fairs.
- c. Solution:
Reconsider advisability of proposal.