



Government
of Canada

Gouvernement
du Canada

Recommendations Report

Cutting Red Tape...Freeing Business to Grow

Red Tape Reduction
Commission

Canada

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Message From the Minister of State (Small Business and Tourism)



I am happy to table the report of the Red Tape Reduction Commission,ⁱ over which I have had the honour of presiding.

As required by our mandate, the Commission's first task was to "identify irritants to business that stem from federal regulatory requirements and review how those requirements are administered in order to reduce the compliance burden on businesses, especially small businesses." Helped by our cross-country consultations, we identified 2,300 top-of-mind irritants and, in this report, are recommending 90 specific solutions to eliminate or alleviate them.

I was very impressed, as were my colleagues on the Commission, by the relevance of so many of the ideas that were suggested by the business people who participated in the consultation process. A large number of our recommendations follow from these suggestions.

Our recommendations, including the cooperative work for government departments that they entail, should go some way toward attenuating the red tape irritants as identified by businesses and contained in our "*What Was Heard*" Report.ⁱⁱ However, these short-term solutions, focused on specific irritants, will only go so far.

We have duly taken note of the skepticism and frustration expressed by many in the business community. Governments all over the world have been talking for several decades about reducing red tape (also called the "administrative burden" of regulation). In Canada, there has been one federal report on the issue every 5 or 10 years since the 1970s. The Paperwork Burden Reduction Initiative was created by our predecessors in power. Yet, there is a distinct feeling among small business people that nothing has really happened at the receiving end, except probably a still higher regulatory burden. We understand and sympathize with this frustration.

The problem is not unique to Canada. The Organisation for Economic Co-operation and Development (OECD)ⁱⁱⁱ also notes that, even when governments have reported significant drops in the paper burden, "businesses expressed little enthusiasm."^{1,iv} I think the problem resides with governments, not with businesses.

1. OECD, *Why Is Administrative Simplification So Complicated? Looking Beyond 2010*, 2010, p. 23.

The second part of the Commission's mandate was to "recommend options that...will control and reduce compliance burden on a long-term basis...." Our government understands that efforts at treating the symptoms, which are the irritants, are not sufficient. A deeper, long-term approach is necessary. If the regulatory burden is too heavy, it is because there is too much regulation, and solving the first problem requires addressing the second. Many of the people we consulted pointed that out.

In fact, Prime Minister Stephen Harper has long realized the importance of reining in the regulatory appetite of the federal government. The Conservative platform for the recent election, entitled *Here for Canada: Stephen Harper's Low-Tax Plan for Jobs and Economic Growth*,^v promised to implement a new standard for regulation: "We will legislate a One-for-One Rule—every time the government proposes a new regulation, it must eliminate an existing one."² Our Commission wants to contribute to this objective, which is closely related to the second part of its mandate, and recommends the adoption of this rule.

Of course, some regulations are necessary. But too often, people are treated as children by governments. Governments seem to assume that people do not have private solutions to which they can resort. Governments sometimes try to eliminate all risk, which is an impossible goal, and trying to do so can unnecessarily stifle innovation and growth in the process. Our presumption as politicians should rather be that the people who elect us are responsible individuals and should be left free.

We have a systemic problem: some regulations that may, in isolation, be reasonable, become destabilizing and economically inefficient when added to the existing burden. Reducing irritants requires addressing this systemic problem with a long-term approach.

Before we address the problem, however, we must measure its dimension. How exactly is federal regulation evolving over time? Is it increasing or decreasing, and at what rate? The task of measuring regulation is difficult because there is no single, obvious measure of "regulation," which is made up of a large number of individual regulations relevant in many different fields. Yet, applying the One-for-One Rule, or any other goal for controlling regulation and its burden on business, requires an unambiguous standard.

2. Conservative Party of Canada, *Stephen Harper's Low-Tax Plan for Jobs and Economic Growth*, 2011, p. 13.

This is why we are proposing to give the Office of the Auditor General of Canada the mandate of reviewing and reporting on the government's progress in reducing regulatory administrative burden through its One-for-One Rule aimed at cutting costs to business as well as in implementing its overall red tape reduction action plan. The Auditor General would report to Parliament every year on progress.

Good intentions, of course, are not sufficient. There is an important literature—in the so-called “public choice” strand of economic analysis—showing that government failures are often more important than “market failures.” Many regulations are justified by market failures but prove inefficient because those who make the decisions do not have the proper incentives to regulate efficiently.

Consequently, and again to deal with the long-term aspect of regulatory growth, we are recommending that a substantial part of the bonuses of senior public servants who have responsibility for regulatory programs be directly related to their success in implementing the decisions that ministers make on the One-for-One Rule. If a department or an agency does not at least respect the One-for-One Rule, its senior public servants will lose part of their bonus. If a department or agency does even better and succeeds in reducing the stock of its regulations, the higher the bonuses paid to its public servants should be. This will bring the public servants' incentives more in line with the long-term goal of controlling regulation and its burden on business.

Combined with our recommended short-term solutions to irritants, our long-term recommendations would contribute much to the process of controlling federal regulation and its irritants, and make our government a leader in this field.

The Honourable Maxime Bernier
Minister of State (Small Business and Tourism)

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1. Executive Summary

The Government of Canada has created and is responsible for roughly 2,600 regulations. These regulations affect the everyday lives of Canadians—the products we buy, the services we receive, the quality of our air and water, and much more. In general, they are designed to manage risks, set a level playing field, and protect society and the environment. At the same time, however, they have a critical impact on Canadian businesses, which are often required, as part of their daily operations, to meet standards, provide information or obtain approvals stemming from regulations.

For years, many businesses, especially small businesses, have criticized the “red tape” they have to deal with—the unnecessary burden, frustration and cost caused by having to comply with regulatory programs and activities or the requirements of other mandatory programs, such as filing taxes or completing mandatory business surveys. These arise from having to meet government expectations, determine what the government actually wants, and provide the volumes of information that the government demands. The federal government has taken steps to cut red tape in recent years in response to these concerns, but Prime Minister Stephen Harper was certain that much more could be achieved.

Although past initiatives have made some short-term gains, no long-term checks to control the growth of red tape have been put in place—a failure that has been called typical of previous regulatory reform initiatives. The fact that the time frames of these initiatives have tended to be relatively short has made it difficult to accomplish any lasting reductions in red tape. The Prime Minister, therefore, created our Red Tape Reduction Commission in January 2011 and gave it two tasks. First, he asked us to identify irritants to business that have clear detrimental effects on growth, competitiveness and innovation. Second, he wanted recommendations to address those irritants and reduce the compliance burden on a lasting basis without harming the environment or the health and safety of Canadians.

We were pleased to take up this challenge. Our first step was to carry out an extensive set of consultations with businesses and business groups across Canada. We heard from well over a thousand contributors online, in person and through written submissions. They told us their stories, which we captured in our *“What Was Heard” Report*,^{vi} issued in September 2011. They identified approximately 2,300 specific irritants about how regulations work, in part because of how they were designed in the past and in part because of how they are managed in the present. Most important, they gave us a clear picture of where contributors feel that reform is urgently required and how they feel that this reform can be accomplished.

After our consultations, we discussed what we heard with government departments and officials. We were able to learn much more about the realities and challenges faced by regulators, the work they have done to cut red tape, and the urgent work remaining to achieve deep, lasting and sustained results. We heard from public policy experts who helped us appreciate the complexities of some issues. They also brought forward many examples of success achieved in other jurisdictions—examples that we can follow where appropriate.

The range and depth of views that we heard present us with a challenge. We want to be clear on how it is that we can develop recommendations that address the 2,300 specific irritants brought to our attention and, at the same time, address the more profound root causes of the systemic problems that need to be corrected to avoid red tape from creeping back.

We took action in two ways. First, all the specific irritants were examined to identify who was best placed to look into them further and devise solutions. In some cases, the irritants presented for our consideration are outside the mandate we have from the Prime Minister. Even in these cases, however, we have identified who is in a position to act and have recommended that the Lead Minister, the Honourable Tony Clement, present these concerns to the ministers of the responsible departments, agencies, provincial ministries or other bodies.

Working with the interested parties, we identified the root causes of red tape. These are the situations and issues that came to the fore time and again when we looked at the irritants and at the general comments we heard from Canadian businesses. We then went beyond our initial identification to determine the best way to write recommendations that would result in lasting improvements. In each case, we have tried to ensure that our recommendations are practical, effective, sustainable and affordable to implement.

We focused our analysis on what we believed to be the most important underlying issues, producing 90 specific recommendations involving 18 departments and agencies. These recommendations deal with the root causes that we feel account for the bulk of the pressing issues making up the 2,300 irritants we heard. We paid particular attention to the concerns of small business as we developed these recommendations. Consistent with our mandate, we also focused on those issues that had a detrimental effect on growth and innovation. We recognize that much technical expertise is required to implement the actions that will tackle these root causes, and we have tried not to be prescriptive as to how this should happen. Instead, we are focusing our recommendations on identifying where the problems lie, and on identifying directions for action. That said, we do recognize that we are putting forward a significant number of recommendations and that, to implement them, a concerted effort will be needed on the part of all regulators.

Second, we sought advice from independent experts on the merits of the over two dozen proposals for fundamental reforms to the management of regulatory programs and to the design and governance regime that were suggested to us as a means of reducing the compliance burden. Based on these suggestions and the subsequent advice, we have identified 15 specific systemic reforms involving all 69 regulatory departments and agencies (see Appendix A), verified at two round-table sessions in Toronto. These suggestions build on the modernization work underway within many federal regulatory organizations, as well as significant improvements already introduced to the design and governance of regulation by the *Cabinet Directive on Streamlining Regulation*.^{vii} Although we believe that what we are recommending is practical and doable, it will require significant leadership from ministers, deputy ministers and regulatory program managers. Resources will have to be reallocated to support these measures, and vigilant oversight will be required to ensure that progress remains on track.

These two streams of work—our consultations and the research and analysis that followed—have led us to group our recommendations into five main categories that cover specific concerns about departmental regulatory requirements (see Appendix B) as well as systemic reforms to regulatory program management and design.

The first three categories relate specifically to top-of-mind red tape concerns of businesses—concerns they deal with every day and in every region of Canada. The respective recommendation at the heart of each of these categories can be described as follows:

First, the federal government must cut the administrative burden that businesses have to deal with by:

- ▶ Cutting the burden of regulatory requirements on businesses;
- ▶ Cutting the information demands on businesses; and
- ▶ Enhancing the use of electronic services to reduce compliance costs.

Second, the federal government must cut the hidden burden created when individual businesses have to contend with the demands of many different federal regulators by:

- ▶ Getting the federal regulatory house in order;
- ▶ Adopting “Tell Us Once” initiatives within departments that, with consent and appropriate protection of privacy, will allow the recycling and reuse of information already provided; and
- ▶ Increasing the use of electronic “single windows” for information on regulatory requirements.

Third, the federal government must foster a true service culture among staff who have regulatory roles by:

- ▶ Setting and being accountable for meeting service standards;
- ▶ Building a culture of service excellence and professionalism;
- ▶ “Connecting the dots” for small businesses that must deal with many regulators; and
- ▶ Using plain language and providing clear, definitive interpretations.

Listening to experts both inside and outside the government made it clear that some of the biggest challenges to cutting red tape come down to how the government actually works, which is based on strong risk aversion. Consequently, our last two categories of recommendations deal with systemic reforms to bring about lasting change to the management of regulatory programs, to the assessment of the stock³ of existing regulatory requirements, to the design of regulations in the future, and to the governance and oversight of the regulatory regime.

Fourth, the federal government must improve how it designs its regulatory responses to policy issues and governs the overall regulatory regime by:

- ▶ Increasing predictability and transparency by publishing regulatory plans;
- ▶ Improving the assessment of risk, the analysis of costs and benefits, and the measurement and evaluation of the performance of regulatory programs; and
- ▶ Better understanding the impact of regulations on small businesses.

Fifth, to ensure accountability for progress, the government must mandate an independent body to review and report on progress made to reduce red tape and on the overall volume of regulatory programs so that we can evaluate how the situation is evolving. In addition, we must devise means of providing senior federal public servants with incentives to effectively manage the government’s efforts to reduce red tape on both the stock of existing regulations and flow of new and amended regulations.

Taken together, we believe our recommendations will mean transformation across the government and serious action on red tape. Our Commission believes strongly that cutting red tape is not only achievable, it is critical. Canada has been a relatively strong economic performer in recent years. Our fiscal status is much more solid than is the case for many of our trading partners. There is, consequently, no better time than now to build on success by tackling one of the most persistent barriers to business excellence. There is no better time than now to take actions to change the culture of regulation so that red tape does not creep back into existence.

3. The “stock” of regulations is the total volume of regulatory instruments that exist at any point in time; the “flow” is what is added to the stock every year.

2. Transforming—Not Just Fixing

2.1 Defining Our Mandate

When Prime Minister Harper created our Commission, he pointed out that red tape has a negative impact on Canadian business success. As we travelled across the country, we heard those concerns echoed by entrepreneurs from Vancouver to St. John's. Unnecessary and unjustified regulatory demands force owners, managers and workers away from what they need to do first—focus on their customers in a very competitive world.

Because red tape is “a hidden tax and silent killer of jobs,”^{4,viii} the Prime Minister gave us two tasks (see Appendix C for the Commission's Terms of Reference):

- ▶ To identify irritants to business stemming from federal regulatory requirements. The focus is on irritants that have a clear detrimental effect on growth, competitiveness and innovation; and
- ▶ To recommend options to address the irritants, and control and reduce compliance burden on a long-term basis while ensuring that the environment and the health and safety of Canadians are not compromised in the process.

Specifically, we have been asked to recommend how:

- ▶ Regulatory requirements can better reflect government goals and priorities, including reducing undue costs of compliance for business;
- ▶ Regulatory burdens that inhibit growth, productivity and innovation can be reduced, including through the elimination or amalgamation of regulations, or the use of alternative mechanisms;
- ▶ The cost and burden of regulation to business can be reduced through streamlining requirements related to compliance, administration and reporting;
- ▶ Regulatory duplication and overlap can be reduced or eliminated within the federal jurisdiction;
- ▶ Government can benchmark and measure progress on these objectives; and
- ▶ Protection of the environment and the health and safety of Canadians is not compromised by the reduction of regulatory requirements.

4. From a speech by Prime Minister Harper in Mississauga, Ontario, January 13, 2011.

2.2 Our Vision: Protecting the Public Interest and Enabling Innovation and Growth

We are focused on how regulations must change to deliver better results for the public with less frustration and lower costs for business. Red tape should be minimized because it is costly for all Canadians, impedes economic productivity, and gets in the way of voluntary compliance by undermining the trust between a government and its citizens. The regulatory environment that we seek is one in which the government makes the right requests of business to achieve sound public policy goals. It is one that makes it easier for businesses to comply fully with legitimate requirements that they have had a fair and transparent opportunity to help shape. It is also one that focuses on what is really important.

The government should ensure that the rules are reasonable, the total compliance burden is manageable, requirements are spelled out in plain language, officials are available to answer questions, people are treated respectfully, and the government holds itself accountable for the knowledge of its rules and the services it delivers. Meeting these objectives will result in lower costs to businesses so they can focus on their own “keys to success.” It will provide them with a level playing field in a competitive national and international environment, and it will provide citizens with the security of knowing that the rules are being followed. It means lower costs for the federal government when it manages its programs efficiently and focuses its efforts where they are most needed.

2.3 Regulation and Business Innovation and Productivity: Finding the Balance

One of the most important ways for us to create economic prosperity is to maintain high productivity, i.e., the amount of economic benefit that each worker is able to generate. According to Statistics Canada, in 2004, gross domestic product per person in Canada was almost 300 per cent higher than in 1961, with labour productivity accounting for 80 per cent of that increase.

A key responsibility of government is to set the conditions in which productivity can grow. This has never been truer than it is now, given that world economic balances are shifting to the east and south, and that the economic efforts of all nations are increasingly global. Every effort must be made to increase the competitiveness of our firms and enable them to compete for markets, production inputs, access to supply and distribution chains, and jobs for both skilled and unskilled labour, as well as the workers to fill them.

The Canadian Federation of Independent Business, in its 2010 report *Prosperity Restricted by Red Tape*,^{5,ix} noted that government regulation and paper burden is the second most important issue facing small business, after total tax burden. Cutting red tape, then, is a critically important way in which the government can support innovative firms and increase productivity.

As part of its Paperwork Burden Reduction Initiative^x (PBRI), the government asked Statistics Canada, in 2005, to survey small and medium-sized enterprises on paperwork burden. One question concerned what businesses had done with the cash freed up as a result of reductions made to that point through the PBRI initiative. A full 40 per cent indicated that they had hired people; invested in education and training for their employees; lowered their prices; purchased or developed structures, machines and equipment; and increased employee compensation. We believe that this is a trend that should continue and that we can help ensure that it does.

Our goal, then, is to provide recommendations that find the right balance in managing and designing regulations—a balance that encourages innovation in Canadian business and promotes productivity, while providing the necessary protection for health, safety and the environment in this country.

We believe that any model that aims to accomplish these goals should have political accountability, regular tracking and reporting of red tape metrics, and a clear emphasis on minimizing unnecessary burdens for entrepreneurs. Moreover, it will have to be permanent. The challenge for government is to institutionalize red tape oversight, thereby strengthening the central agencies, the roles of ministers, and the machinery of government that oversees the approval of regulations and the performance of regulatory programs.

5. Canadian Federation of Independent Business, *Prosperity Restricted by Red Tape*, 2nd edition, 2010.

3. Listening and Learning

3.1 Listening to Business

This vision of how regulation can and should work is shared by people running businesses. We heard it loud and clear through each of our consultation streams, where businesses shared their top-of-mind red tape irritants and their ideas and suggestions for making lasting improvements.

First, we heard it through our website consultation^{xi} process, which attracted more than 600 small business participants. Almost 450 people submitted responses to a questionnaire on the site that asked them to identify their regulatory irritants. Second, we heard it at our 15 face-to-face round tables^{xii} in 13 cities across Canada, attended by 189 people in business or the associations that represent them. Some of these sessions focused on federally regulated sectors (e.g., energy in Calgary, agri-food in Saskatoon, finance in Toronto and biotechnology in Charlottetown), with attention paid to small business concerns at all sessions. Finally, we heard it in the 61 written submissions we received, many from business associations in federally regulated sectors.

All three approaches resulted in a rich body of information and opinion to guide our thinking, based on the almost 2,300 specific irritants brought forward, with many accompanied by suggestions for specific improvements. We summarized the key themes among these comments in our *“What Was Heard” Report*, released in September 2011. That report enabled us to capture and convey those views in the voices of the contributors, without adding our own analysis or perspectives.

3.2 Learning From Experience and Expertise

Those consultations were just the start, although they did prove critically important. They told us where we needed to focus. They set our agenda. The secretariat that supports us took these concerns and worked directly with federal departments, agencies and other regulatory bodies to assess them carefully. Our primary goal was to uncover the root causes of the 2,300 irritants identified. We found that many irritants were explained by the same underlying issues, with as many as 25 irritants, for example, related to one or two root causes.

In completing this analysis, it became clear that some of what we heard fell outside the issues on which we could make recommendations—issues such as provincial minimum wage levels, or voluntary programs related to tax credits or other financial assistance. We grouped this set of irritants into four categories, as follows:

- ▶ Issues that pertained to regulatory policy itself, rather than to the related compliance burden;

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- ▶ The requirements of voluntary programs and the policies that inform them, i.e., programs to which businesses choose to apply but where rules and requirements place a heavy burden on them once they become involved;
 - ▶ Issues related to federal–provincial coordination and cooperation on regulations and the requirements of non-mandatory programs; and
 - ▶ Issues related to the requirements of regulations and non-mandatory programs that are already being examined or addressed under existing federal initiatives to streamline or improve processes.

As a result of this assessment, we are recommending that the Lead Minister, the Honourable Tony Clement, refer out-of-scope issues to the ministers of regulatory departments and agencies for consideration and action as deemed appropriate. For example, a business is not required to apply for the Scientific Research and Experimental Development (SR&ED)^{xiii} tax credit. Although issues related to such programs are outside the mandate of the Commission, it is still the case that if you want to apply for this support, you must go through the Government of Canada. Although dealing with government to access such programs is not strictly mandatory, this should not be an excuse for a process that is laden with red tape.

During our initial consultations, we also received many suggested solutions from business owners and representatives meant to address the fundamental problems they saw in the regulatory system itself—problems that contribute to the burden of unjustified compliance costs. We call these “systemic” issues. We arranged for independent policy experts to assess these proposals and provide us with advice on their merits and how they might be implemented, drawing in part on best practices within the government and elsewhere; summaries of these reports are available on the Commission’s website. In early September, we held two sessions with industry associations^{xiv} that enabled us to get more in-depth feedback on specific actions designed to address systemic issues. This advice was supported by responses to a second online questionnaire^{xv} that sought the same type of information from businesses at large.

4. Weighing Today's Red Tape Burden

Although many businesses share our vision of the future, they are preoccupied with the challenges of the present. We previously set out the magnitude of the federal government's red tape issue in our *"What Was Heard" Report*.^{xvi} The key facts and findings bear repeating.

4.1 A Vast Array of Regulations—At a Cost

Almost 70 departments and agencies have regulatory authorities under law, but most of the activity is centred in roughly a dozen departments. The Government of Canada has regulatory authority in about 14 areas,^{xvii} from the banking sector to inter-provincial trucking. There are currently some 2,600 federal regulations, which require the involvement of 13,000 federal employees to manage. In 2007, the government began work that, ultimately, identified approximately 400,000 paper requirements and information obligations under existing regulations and programs. Over the next two years, the government reduced that inventory by 20 per cent.

People in business and their associations point out that for many firms, particularly small firms, the burden of complying with these requirements can be very significant. A 2008 study by Statistics Canada looked specifically at five sectors of the economy. It reported that the cost to comply with the information obligations of 12 of the most common federal, provincial and municipal regulations in those sectors alone worked out to \$1.1 billion per year, with tax-related information obligations accounting for 71 per cent of those costs. It also found that small businesses generate more than 17 million regulatory submissions annually. In 2008, the Canada Revenue Agency calculated that the average annual time spent per establishment to comply with legislative tax requirements was 15 hours at an average annual cost of \$1,724, which was a modest decline from the average in 2005. In 2010, the Canadian Federation of Independent Business^{xviii} estimated a \$30.5-billion cost to businesses, every year, for total regulatory compliance with requirements coming from all three levels of government.

Specific attention must be paid to small business, i.e., to firms that have fewer than 100 employees and less than \$5 million in revenues. They make up the vast majority of Canadian businesses. They account for almost half of all private sector employment and many of the new jobs created in the private sector. Moreover, they are disproportionately affected by regulatory requirements.

Results of the Statistics Canada survey previously mentioned showed an inverse relationship between administrative burden and number of employees. Businesses that had 1 to 4 employees, for example, spent four times as much per employee on compliance as businesses that had 20 to 99 employees and nine times as much as businesses that had 100 to 499 employees.

Numbers tell only part of the story, for small business in particular. We heard that regulations are put in place without sufficient recognition of the needs of businesses or the impacts on them. Business owners told us that regulators do not understand what entrepreneurs have to do to succeed and are actually making it harder for them to do so. They said they are drowning in administrative paper and pointless, frustrating busy work. Regulations are often seen as inflexible and lacking in common sense. For a variety of reasons, support and assistance from regulatory personnel is inadequate to meet the needs of businesses. Established standards are not always present, and when they are, they not always met. Contributors reported that, often, regulators do not listen to them—not when designing regulations, nor when implementing or enforcing them. As an online contributor pointed out, “Small business is the backbone of this country, and yet we treat them like they are too small to worry about.”

Contributors also argued that many of their problems relate to regulators’ apparent inability, often, to act in concert rather than in isolation—both within the same department or agency and across organizations. They feel that the regulatory system lacks sufficient predictability, often making it difficult for them to undertake business planning with reasonable certainty. They cited, as an example, a lack of transparency when seeking the status of applications or requesting direction.

Taken together, these frustrations and related costs are an obstacle to success. Getting and keeping the right people is more difficult than necessary. Overhead costs are too high. The playing field is uneven, with a competitive advantage given to others. Research and development is curtailed, as is innovation. New markets are more difficult to reach. The bottom line is fewer economic benefits for Canada.

Worst of all, this is not a new problem. Indeed, when we look at past efforts such as the 2003–04 work of the External Advisory Committee on Smart Regulation, we see businesses describing the same issues and the same concerns. Given that reality, it is not surprising that one of our contributors stated quite bluntly, “I appreciate that the Commission is trying to make positive changes but, quite frankly, I am not holding out much hope.”

This brief summary reveals the real nature of the challenge. For all the progress made to date in reducing red tape, the federal regulatory system is complex, and it is difficult to change the management of regulatory programs. If we are to tackle these enduring problems, we must get to the root of the matter.

4.2 Getting at Root Causes

Two apparent problems drive the reality of federal government red tape.

First, in an important sense, regulatory programs need to be managed better; specifically, they need to be managed in a way that sees reducing the cost of compliance and improving the quality of service delivery as core responsibilities for managers—ones for which they should be held to account. Our focus here is not solely the “flow” of new regulations, of which there are approximately 250 each year, either new or amended. What also concerns us is the hundreds of thousands of specific requirements on business that stem from the “stock” of existing regulations—the demands associated with the 2,600 regulations that have been in effect for many years.

Second, regulatory programs need to be designed better, and more scrutiny needs to be applied in the approval process. Regulators should carry the burden of demonstrating that regulations are required and, if so, have been designed in such a way as to minimize the compliance costs for businesses while continuing to ensure the health, safety and security of Canadians, as well as the protection of the environment.

Red tape often comes into the picture, we believe, because regulators, working in dynamic environments and faced with issues that are often complex and challenging, feel that they must always err on the side of caution. As a result, they frequently manage their regulatory programs by adding more compliance requirements, more demands for paperwork, and more inspections and audits than might be fully warranted. We heard, repeatedly, that risk aversion was a key problem and that using “one-size-fits-all” requirements, where all risks are assumed to be the same, is a poor approach. There is an element of risk in everything we do, from crossing the street to running a business. It has to be recognized, accepted and dealt with. “Make it so that people will have [fewer] questions to ask,” one business owner told us. “Don’t get involved with things that are not necessary. We...should have the ability to find answers ourselves, and we would if the government didn’t spend [so] much time asking us questions.”

4.3 Building on Work to Date

The work of our Commission is part of a larger agenda being implemented by the government. The government made a commitment to reducing red tape in the 2011 Speech from the Throne^{xix} and undertook specific actions in Budget 2011,^{xx} including the following:

- ▶ Tasking regulators with examining the effects of their regulations through a small business lens to ensure that regulatory requirements do not have unintended impacts on small businesses and are administered as fairly and efficiently as possible;

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- ▶ Posting consultations on regulations on the Consulting with Canadians Web portal;^{xxi} and
 - ▶ Directing the Canada Revenue Agency to provide written answers to tax questions that it receives online at My Business Account.^{xxii}

The government also took a number of other important, specific steps to reduce red tape, including the following:

- ▶ The Government of Canada's decision to introduce legislation^{xxiii} to end the Canadian Wheat Board's monopoly on marketing wheat and barley in order to reduce administrative burden and improve the competitiveness of western farmers in selling wheat and barley on the open market and to attract investment, encourage innovation and create value-added jobs;
- ▶ Human Resources and Skills Development Canada's efforts to integrate and simplify services to employers through its Employer Contact Centre^{xxiv} in order to improve interaction with businesses and to achieve measurable improvements in service delivery and a reduction in associated red tape;
- ▶ Transport Canada's efforts to clarify and, where possible, eliminate onerous requirements for the registration of small vessels by developing and introducing the necessary legislative, regulatory and related program changes to allow simplified registration processes for human-powered and small vessels, along with a corresponding elimination of associated red tape;
- ▶ Passport Canada's initiative to increase the length of passport validity by introducing a 10-year passport^{xxv} by March 31, 2013, in order to reduce the administrative burden associated with the frequency of application requirements and the associated paperwork to obtain or renew a passport;
- ▶ Transport Canada's efforts to simplify the regulatory framework and better harmonize with international standards by proceeding with the planned modernization of its *Aviation Security Regulations*^{xxvi} and related program components through consolidation of requirements, elimination of overlap and duplication, and use of performance-based regulations where appropriate;
- ▶ Foreign Affairs and International Trade Canada's initiative to cease requiring Tariff Preference Level permits when importing textiles, thereby eliminating custom duties on imported yarn and fabric by January 2015 and increasing the rate of compliance among importers while reducing the burden placed on them; and
- ▶ The government's establishment and support, under the auspices of Industry Canada, of the Expert Panel for the Review of Federal Support to Research and Development,^{xxvii} which released its report on October 17, 2011. We would support any consideration that the government might give to opportunities for reducing red tape as it reviews the Panel's advice.

In addition, the government established the Canada–US Regulatory Cooperation Council,^{xxviii} announced on February 4, 2011, by Prime Minister Stephen Harper and President Barak Obama. The work of this Council will contribute to reducing regulatory burden and unnecessary costs on Canadian businesses. As Canada and the United States have become increasingly integrated economically, both countries have developed highly effective and successful—but independent—regulatory regimes in key industry sectors. Efforts will be undertaken to align standards, and where each domestic regulatory regime already provides a high level of confidence that the outcome is being achieved, opportunities will be sought to remove duplicative procedures, thereby reducing requirements on businesses trading across borders. The Regulatory Cooperation Council^{xxix} has developed a Joint Action Plan^{xxx} that identifies specific initiatives that will be undertaken. The Council will encourage regulators to develop mechanisms that not only address the current issue, but will also create a regulatory cooperation model that can provide ongoing alignment and be applied to a broader set of issues.

5. Our Guiding Principles: Driving Transformation

We believe that federal regulators should apply four principles to achieve the vision that we set out in section 2 of this report. The principles draw on our own experiences as well as on what we heard from businesses, small and large. They take into account what we have learned from federal officials, outside experts and international examples. We are using all of this information to guide our detailed recommendations in the next section of this report. As they are put into effect, day in and day out, these principles will help bring about the culture change that is needed.

1. Regulations should be built “from the outside in,” taking into account the circumstances of the businesses being regulated as well as the public interest.

Regulators must understand the needs and circumstances of businesses before creating regulations or establishing blanket enforcement practices that will affect them. This means carrying out thorough and in-depth consultations with businesses prior to designing a regulation and during its implementation. This approach will enable regulators to understand business realities and to appreciate how proposed and existing regulations will impact businesses’ ability to innovate, compete and succeed.

2. Common sense should be applied to all aspects of regulatory activity, from planning to management to reporting on performance.

We often heard the term “common sense” during our conversations with businesses. Even when they accept the value of regulation, entrepreneurs rightly want to know, as one stated, that “everything done by the government passes the test of consistency, clarity, convenience and common sense.” What is meant by common sense is what is practical and reasonable, based on first-hand experience, proportional to the real risk being addressed, and easy to explain and implement.

In this context, common sense tells us that risk cannot and should not be regulated out of existence. Taking risks is important for economic and social progress. A society that takes no risk is a society that will not innovate, grow, increase its productivity and raise incomes. Misunderstanding the risks or being overly averse to risk leads to over-regulation.

3. Governments and regulators must be accountable for regulatory activities and management and, in particular, for taking measures to control the costs associated with regulatory compliance.

Although many regulations lead to benefits, both for business and for society, they also impose direct and indirect costs on businesses that must comply; in this, they are not like other government functions. If anything, this cost element increases the importance of the accountability that the government must accept for the regulations it introduces and that regulators have for ensuring their programs are managed well and at the least possible cost to businesses. In a system characterized by accountability, a department that generates regulations and another that enforces them would both interpret them in the same way. Licences and approvals would be provided in a timely manner, based on clear service standards.

In a fully accountable regulatory system, small business impacts would be accurately analyzed as regulations were developed and monitored. Regulators would have the scientific and technological sophistication to keep pace with innovation. Officials would provide consistent advice and interpretations. We also believe that this principle of accountability would lead to reduced compliance costs. Without ongoing regulatory accountability in the form of regular tracking and reporting, any overall reduction in red tape will be short-lived. Given the lack of competition, government agencies need to be extra vigilant about finding ways to hold themselves accountable.

4. Compliance with regulatory requirements should be promoted while showing professionalism and service excellence.

The responsibility of regulators for ensuring compliance can involve audits, inspections and, on occasion, more demanding forms of oversight and enforcement. These activities must be carried out professionally and with respect. We do not believe that there is ever a reason for a “non-cooperative” or “condescending” attitude. Professionalism must be the mark of all public services, and it should come with consequences for both good and bad performance. The private sector’s regulatory compliance obligations and the government’s regulatory administrative expectations should be symmetrical and fair. For example, a hefty fine levied on a taxpayer for being one day late in filing is asymmetrical with the same taxpayer waiting several months for money owed to him or her by the government. The private sector is held accountable for compliance. The government should be accountable for administering the rules in a way that makes compliance reasonable.

Although we believe that these four principles are important, we recognize that they will not always be easy to apply and that scarce resources will need to be allocated to priorities such as red tape reduction. We know that strong leadership—politically and from within regulatory agencies—will be needed. For example, Cabinet ministers should also be ambassadors for making the reduction of red tape a priority within their own departments and agencies. Based on our engagement with leaders to date, we have every confidence they are committed to following these principles.

6. Our Recommendations for Cutting Red Tape and Freeing Business to Grow

6.1 Reducing Red Tape

Simply put, we believe that governments ask for too much information and make too many demands too often.

We are very concerned that the federal government does not have sufficient appreciation of the administrative burden imposed by the stock of existing regulations and regulatory programs and activities. We believe that the absence of a clear awareness of the existing problem allows regulators to add, too easily, to the burden with each new regulation and requirement.

Specific Challenges

6.1.1 The total administrative burden of existing regulations and regulatory program activities is too large (and regulators are unaware of it).

Unlike other government programs—those that provide business grants and contributions or tax credits, for example—regulations place a portion of the cost of delivering something that is generally in the public interest on the shoulders of business. The government currently tracks the costs and benefits of the new regulations it introduces. However, it does not track the accumulated administrative burden that arises from the new regulations coupled with the programs and activities associated with them, nor does it know how much administrative burden already exists as a result of the stock of existing regulations and their related program activities. The importance of this last element should not be underestimated; where regulations are not accomplishing their intended goals, they should be revised or repealed.

Many of the businesses that appeared before us reported that estimating the cost of the administrative burden was essential to ensuring sustainable progress in achieving reductions and in determining whether the costs were justified by the expected benefits. We were interested to learn that the Netherlands, which among all of the countries belonging to the Organisation for Economic Co-operation and Development has probably conducted the most comprehensive and accurate estimate of the burden of information requirements, found that its administrative burden amounted to 3.6 per cent of the Dutch gross domestic product in 2002.

We examined various ways that other jurisdictions track regulations and costs. Some have adopted simple counting exercises; British Columbia's count of regulatory requirements, Nova Scotia's quantification of hours required to complete paperwork, and the federal Paperwork Burden Reduction Initiative's calculation of information requirements are examples. More sophisticated estimation processes also exist, relying on surveys, elaborate economic cost

estimates and proxy measures. We learned that many jurisdictions abroad and some government departments in Canada are using some version of the Standard Cost Model^{xxxi} as a tool to measure and reduce administrative burden. This model provides a consistent method for estimating administrative costs imposed on businesses by regulations and associated program elements. The Netherlands and the United Kingdom adopted this approach to measuring administrative burden and succeeded, respectively, in reducing the red tape burden on their economies by €4 billion (C\$5.5 billion) over four years and £3.3 billion (C\$5.3 billion) over three years.

Although it would be possible for the government to spend substantial time and effort trying to calculate the baseline of administrative burden for all existing regulations, this would probably be the wrong approach. The Dutch experience tells us that 80 per cent of the regulatory burden came from 20 per cent of the stock of regulations. This finding fits with what we, as Commissioners, know from our own experiences running businesses. If you focus on the right issues, you get the best results. For the federal government, the goal should be simple: set a whole-of-government commitment to reduce red tape, make it imperative for departments to focus their administrative reductions in the areas where the greatest impacts for business will result, and then regularly monitor and report on progress.

Based on what we have learned from others, we advocate a monetized approach using the Standard Cost Model, targeting administrative burden, with flexibility at the departmental level coupled with regular public reporting on results achieved. Using the Standard Cost Model should allow the government to communicate the results of measuring administrative burden, update the results of the measurement periodically and without much cost, and make comparisons of the red tape reduction effort across government. We believe that monetizing the costs of the administrative burden in that critical 20-per-cent problem area is particularly important in the current economic environment.

6.1.2 Although the existing stock of regulatory requirements is the main problem, administrative burden continues to increase with every new regulation and its associated program and activities.

Administrative burden grows with every new regulation and regulatory requirement and the programs and activities used to implement them. If the government is to gain control of the problem of administrative burden, it also needs to focus on controlling the flow of new and amended regulations and their associated administrative costs.

We were surprised that few jurisdictions have focused on controlling the flow of new regulations, with the noted exceptions of British Columbia in its implementation of a “zero net sum” model, and the United Kingdom’s with its “one-in, one-out”^{6, xxxii} approach. The United Kingdom is the only country that applies a one-in, one-out rule based on the net direct costs of regulations to business. The approach is supported by strong political leadership and appears robust. In the United Kingdom, each regulatory submission for a new initiative must be accompanied by the repeal of another regulation of equal cost to business. “Ins” and “outs” must be reconciled within six months. The accountability for ensuring that this exchange happens is reinforced through transparent forward planning and public reporting on results. There are a number of exceptions to the one-in, one-out rule; it does not apply, for example, to European Union regulations and directives, the implementation of international agreements, fiscal measures, civil emergencies, regulations that have a short life span, or fees for cost-recovery purposes.

For our part, we looked into the various mechanisms suggested by business to control the flow of new regulations and associated compliance burden, including the continued use of regulatory impact and cost-benefit analyses to monitor new regulations, establishing a One-for-One Rule and setting a zero net sum goal for administrative burden.

It is unreasonable to expect any significant reduction in administrative burden if the flow of new regulations is not tightly controlled, based on risk factors. We believe the government needs to “hardwire” a disciplined approach to controlling new administrative burden.

Recommendation

1. The government should introduce legislation as soon as possible to adopt the One-for-One Rule announced in the Conservative election platform to reduce regulatory administrative burden: every time the government proposes a new regulation, it must eliminate at least one existing regulation as well as the equivalent costs in administrative burden so as to ensure a zero net sum approach. Reductions in red tape resulting from the implementation of the One-for-One Rule should be in addition to reductions resulting from the implementation of the 90 departmental recommendations in this report (see Appendix B). In responding to this recommendation, the government should consider the following:
 - Using the Standard Cost Model as a means of measuring the administrative burden for business of complying with regulatory requirements, in order to ensure these costs to business are monetized; and
 - Requiring each regulatory department and agency to review and track, over time, the stock of existing regulations that impose administrative burden on business, focusing on the 20 per cent most burdensome each year, and to report annually on progress in implementing the One-for-One Rule. This will allow tracking progress in reducing the overall burden as well as reducing the burden by department.

6. HM Government, *One-In, One-Out (OIOO) Methodology*, July 2011.

6.1.3 There are too many unnecessary information requests.

It is not always clear why the information requested by regulators is needed, and the demands are often detailed and complex, increasing the burden on businesses that have to decipher them or seek interpretation. As we probed further, we saw little to convince us that regulators are systematically refining and focusing their demands to ensure that the information they are requesting is essential to meeting a regulation's objective. At the same time, there is little evidence that they are looking for opportunities to use information that has already been collected by other regulators. This issue is also addressed as part of the cumulative burden problem that we look at in section 6.2.

Reducing administrative burden requires the redesign of many existing processes, including the way information is collected. The work will start, we believe, with the clear identification and mapping of information requirements in order to ensure that only information that is truly necessary to managing the risk is being collected and that it is being collected with the least amount of burden for the businesses that are expected to provide it.

We believe that regulators need to be able to justify everything they request from businesses and other regulated parties, including when and how often information is to be submitted. This approach requires regulators to have a comprehensive understanding of their information needs based on proper assessment of risks, and to sharpen the focus on the essential, rather than the “nice to have.”

We believe that when information is submitted to government, then it is the responsibility of government, not business, to ensure that the information gets to all those who need it. We believe that, as much as possible, businesses should have to submit basic “tombstone” information to a department only once, providing updates as necessary. More extensive use of the Business Number^{xxxiii} would be of use here.

In short, the government needs to move decisively to identify the information requirements within departments and agencies that are essential to addressing risk factors, and it should proceed aggressively to streamline and remove unnecessary, duplicative or redundant requirements.

6.1.4 Regulators do not maximize the use of information and communications technologies.

The problem of administrative burden is aggravated by the continued use of antiquated means to provide, receive and process information from businesses. We believe that there are opportunities for the federal government and businesses to maximize the use of information and communications technologies to optimize the efficiency of the interface between regulators and

businesses. During our consultations, many business people told us that they had to spend too much time completing non-standardized forms and submitting them through numerous websites or, worse still for many businesses, using paper forms because no online option existed.

Many federal departments and agencies still require that businesses complete paperwork, and do reporting and record keeping manually. In some cases, although an electronic form is accepted, a matching paper form is required for records. In other cases, the electronic options are too complex or forms are not pre-populated. However, other federal agencies are on track to develop electronic solutions that simplify communications and exchanges of information with businesses.

We believe that it is time for the federal government to invest and move forward with comprehensive electronic submission solutions consistent with the direction charted by the Government of Canada in the digital economy strategy^{xxxiv} as outlined in Budget 2011. Moreover, we believe business should embrace this approach. It will save money for taxpayers and businesses.

Above all, we emphasize that automation has to align with a stringent review of information requirements to ensure that the government is requesting and processing the least amount of information necessary to get the job done.

Recommendation

2. All regulatory departments and agencies should establish an inventory of information obligations associated with their regulatory programs and activities, reduce unnecessary information requirements and, using the Standard Cost Model, measure the meaningful reduction of administrative burden on business and report results on their websites by December 31, 2013. Departments should review their current paper-based processes and forms, and submit proposals to their ministers, outlining how they will, wherever possible, implement electronic solutions to reduce regulatory paperwork burden by March 31, 2015. In responding to this recommendation, the government should consider the following:
- Requiring departments to take into account, in their reviews, the information obligations placed upon firms in their sector by other federal regulators;
 - Aligning departmental websites more closely with business needs to enable quick access to all e-services related to regulatory programs and information obligations;
 - Requiring departments and agencies to collaborate with other departments and agencies that regulate in the same sector, to ensure a common look and feel to their e-services and to set the stage for linkages between related websites; and
 - Managing implementation of this recommendation to achieve cost savings over time for the department, as well as for businesses.

6.2 Cutting the Cumulative Burden

Time and time again during our consultations we heard concerns about the “cumulative effect” of red tape when businesses are required to deal with a variety of regulators in the course of operating their businesses. One entrepreneur can feel the weight of many regulators imposing burdensome demands. Although the requirements of each individual regulator may be valid and serve a specific purpose, layer after layer of regulatory demands leads to confusion and frustration for people in business. The problem is often made worse because of regulatory duplication and overlap.

To better understand how the impact of cumulative burden can affect the productivity of individual small and medium-sized businesses, we considered a small aquaculture business. The business has to be registered with the Canada Revenue Agency. It needs operating permits from Fisheries and Oceans Canada, which may trigger involvement by the Canadian Environmental Assessment Agency, Environment Canada and Transport Canada. If the company needs specialized workers from other countries, then the owner must deal with the requirements of Citizenship and Immigration Canada. Add to all this the likely provincial and municipal regulatory requirements and the scale of the burden becomes obvious.

As the business operates, the owner needs to file tax forms with the Canada Revenue Agency. He or she has to complete mandatory business surveys from Statistics Canada. Because the business has employees, Human Resources and Skills Development Canada will occasionally need to be contacted for Employment Insurance purposes. Then the entrepreneur has to deal with Fisheries and Oceans Canada on the production side and Health Canada on the food safety side. Because the aquaculture operator will need to feed and keep the fish healthy, he or she will have to get permits from the feed section of the Canadian Food Inspection Agency and from the Pest Management Regulatory Agency. Meanwhile, Environment Canada will be alert to any discharges into the water or air.

And there is more. This company is also subject to the inspection and reporting requirements of the National Aquatic Animal Health Program implemented by Agriculture and Agri-Food Canada with Fisheries and Oceans Canada and administered jointly by the Canadian Food Inspection Agency and Fisheries and Oceans Canada. When this business reaches out to foreign markets, it will be time to deal with Agriculture and Agri-Food Canada and the Canada Border Services Agency, not to mention the regulations of the importing nation.

In total, 17 federal departments and agencies—of which 14 are cited here—could be involved in managing aquaculture. When an antiquated *Fisheries Act*^{xxxv} that is more than 140 years old is added to the mix, we begin to see the level of frustration experienced by individuals in the aquaculture sector—a sector that annually generates almost \$1 billion in economic activity nationally.

Of course, none of these departments or agencies is trying to make life difficult for the owner of the aquaculture company—or any company. They are trying to manage risks to the public interest as defined by their legislative mandates. But when 69 federal organizations have significant regulatory responsibilities and when they administer approximately 2,600 federal regulations, it is not surprising that problems of cumulative burden have emerged.

Specific Challenges

6.2.1 Regulators, in designing and managing their regulatory programs, are not sufficiently taking into account the collective impact of their requirements on businesses.

This is particularly true, we believe, when they operate in silos and when regulatory policy and agenda setting is done on a departmental basis rather than a sectoral or whole-of-government basis.

During consultations, we were struck by the number of stories we heard in which businesses were subject to multiple monitoring and/or inspection activities. What often made things worse was the lack of consistency in how government officials were interpreting and enforcing regulations. Consultation participants told us that problems of overlap were aggravated because departments seemed insufficiently willing or unable to work jointly on compliance activities. The Commission also felt the frustration of businesses moving regulated goods across borders. We heard from others who find it difficult to keep up with ongoing rule changes on the part of one or more of the regulators with whom they have to deal.

Regulators told us of legal and other barriers to sharing information between organizations. We also heard that there would be challenges in getting different databases to “talk to each other.” However, we see these as critical issues to resolve, not reasons to stop trying. If businesses need to sign some kind of privacy waiver to allow for data sharing, many are clearly willing to do so. Moreover, several Canadian jurisdictions including Manitoba, New Brunswick, Ontario and Nova Scotia, as well as a variety of foreign jurisdictions including the United States, the United Kingdom and several Australian states, have implemented versions of single-window submission services. Britain’s “Tell Us Once”^{xxxvi} service is particularly interesting to us; after a trial period in 2008–10, the “Tell Us Once” approach is expanding throughout the United Kingdom and is projected to save £56 million over the next 10 years.

The government can and must take leadership. The Commission firmly believes that Canada has the opportunity to become a world leader in the application of information technologies to improve regulatory compliance reporting activities through “Tell Us Once” solutions. This approach includes finding ways to maximize the use of existing business data essential for running a business and of generated business data that other regulators already have. Notwithstanding legal

challenges, we believe that the sharing and reusing of business information for multiple purposes should be enabled and that duplication of information requests should be restricted to risk-based requirements. These initiatives can help the federal government assess its own opportunities to cut the administrative burden on Canadian businesses. They can help map out the human, financial and information technology resources needed to get results.

We believe the government should take a business sector approach to eliminating regulatory overlap and duplication, and related compliance requirements. It would require the government to have comprehensive, business-sector-based regulatory road maps. Once the Government of Canada develops a baseline understanding of the regulatory compliance challenges faced by the various business sectors, then a world of streamlining possibilities will emerge. Regulators should adopt standard approaches to compliance and vary them only when a proper risk assessment justifies a different approach. We believe that overlapping compliance issues point to a broader need to align regulatory agendas across government, especially for a single business sector. We believe that there are opportunities to cooperate on compliance activities, leading to reduced burden on business. We clearly heard that it is essential to break down the walls or “silos” between departments and agencies operating in the same sector.

6.2.2 Regulators do not provide easy access to the information on regulatory requirements that businesses need in order to be compliant.

We believe that a knowledgeable business is a compliant business and that it is the responsibility of regulators to provide the various and diverse pieces of regulatory information in an accessible way. This is particularly true with respect to very small businesses that cannot find information online, cannot successfully contact a department to obtain answers, and that often lack the capacity to hire third parties to figure out all the different regulatory compliance issues they must address.

Recommendations

3. There should be greater coordination of federal regulatory compliance and enforcement activities in the same sector, and regulators operating in common business sectors should collaborate and streamline their respective compliance and enforcement activities based on a better understanding of business realities, reporting by March 31, 2014, on what common or shared approaches are being taken to inspection and compliance activities. In responding to this recommendation, the government should consider the following:
 - Identifying a governance mechanism to enhance and oversee interdepartmental coordination and collaboration to reduce the cumulative burden of regulatory programs;
 - Developing sector “regulatory maps” that document the cumulative federal regulatory requirements with which each business in a specific sector must comply; and
 - Creating and maintaining profiles of the industry sectors that must comply with the various regulations in such a way as to help improve regulators’ understanding of the impact of their requirements on businesses and their competitiveness, as well as better determine risk, decide on instrument choice, and assess implementation plans for regulatory programs.
4. All regulatory departments and agencies should work with businesses to develop, by March 31, 2015, regulatory information e-portals with sector-specific modules, which should set the stage for a “Tell Us Once” policy to ensure that individual departments do not ask the same business for the same information multiple times. In responding to this recommendation, the government should consider the following:
 - Ensuring that e-portals provide information about which regulatory requirements are applicable to businesses in the sector and clear direction to businesses on how regulatory expectations can be met; and
 - Completing a comprehensive review of all information-sharing barriers related to business across departments and identifying ways to enable consent-based sharing of information across the federal government that fully respect privacy concerns, where doing so will reduce the red tape burden on business.

A Final Word on Reducing Cumulative Burden

The Commission firmly believes that the Government of Canada can and must act decisively to solve cumulative burden issues. Although the recommendations listed in this chapter address concerns at the federal level in accordance with our mandate, they will not, ultimately, solve the whole problem. Even if all recommendations are fully implemented, cumulative burden brought on by the demands of provincial, territorial and municipal regulators in addition to those of the federal government will remain a significant problem for businesses.

Therefore, we believe that the Government of Canada must use these recommendations as a starting point for getting at larger inter-jurisdictional issues. As we have noted previously in this report, the creation of comprehensive business-sector-based regulatory maps will identify opportunities for streamlining and for creating mutual recognition agreements or joint regulatory decision-making programs. It could even lay the basis for asking more fundamental questions, such as whether two orders of government need to regulate if one can do it well enough to meet the needs of both.

For example, the Commission frequently heard concerns regarding overlap and duplication between federal and provincial environmental assessment requirements. Businesses have often had to meet separate requests for information from the two jurisdictions. We support a review that addresses duplication and examines possible changes to the *Canadian Environmental Assessment Act*^{xxxvii} that will help achieve the goal of “one project, one assessment.”

The Commission also heard from participants that it is often unclear whether the federal environmental assessment process applies to a particular project. Not knowing whether an environmental assessment is required leads to delays in project implementation and uncertainty about overall project development. Businesses were also frustrated at hearing different messages from different departments about how to conduct an environmental assessment. We look forward to proposals from the review of the Act to help reduce uncertainty for business and ensure greater consistency in the approach to environmental assessment.

6.3 Improving Service

No issue was raised more passionately during our consultations than the need for regulators to demonstrate consistent service and professionalism in their contacts with businesses. Each contact with a business is a moment of truth—from tax and payroll transactions, to issuing permits, conducting inspections and approving new products. These contacts happen face to face, on the phone and, increasingly, over the Internet. They must always be marked by a high degree of professionalism on the part of regulators. We heard of situations in which this was not the case. It should be.

The behaviour we are suggesting respects the business reality that time is money. Time spent making one’s way through automated phone menus or explaining the same information time after time, is the equivalent of time wasted for businesses. Businesses recognize that contact with regulators is part of doing business, but they expect it to involve responsive service without unreasonable delays. Again, we heard this is not always the case. It, too, should be.

Specific Challenges

6.3.1 Regulators are not always meeting businesses' expectations for reasonable standards of service, including time frames for decisions.

We expect regulators to set and adhere to reasonable service standards when it comes to matters such as answering questions and issuing authorizations, including permits, licences and certifications. In fact, the importance of good service was made very clear when we heard some businesses tell us that they were willing to pay user fees for better, more predictable service, as long as it was backed by accountability for meeting established standards. We suggest that the underlying principles that govern service delivery—and that should, therefore, also inform service standards—include respect and accessibility, consistency, clarity, timeliness and accuracy of information, as well as ongoing evaluation and improvement of standards.

We also believe that standards should, insofar as possible, be specific and measurable. For example, it should be clear how long it will take for a permit or licence to be approved. It is understood that more complicated permits will have longer timelines, but they should still be clearly articulated to create certainty for the private sector.

Standards should also cover service expectations across the different delivery channels—in-person, electronic and by telephone. There would also need to be standards concerning appropriate conduct and describing general professional behaviour in carrying out duties. These standards would have to make it clear what the implications are if that conduct or professionalism were not shown. Standards need to be posted and readily available. Furthermore, to be truly effective, there needs to be similar transparency about what, in general, is done to address instances where standards are not met. Standards that are not enforced are worse than no standards at all.

We learned that the *Cabinet Directive on Streamlining Regulation*^{xxxviii} requires that service standards be implemented. However, as with some other requirements of this directive, not all departments have complied. We also know that the *User Fees Act*^{xxxix} requires standards when the services delivered involve charging a user fee. However, research conducted on six regulatory departments and agencies found that no service fees were charged for 50 per cent of a set of activities such as authorizations, registrations and certifications. Of that set, 81 per cent had no service standards.

We have, moreover, learned that departments have been reluctant to introduce user fees (and associated standards) because failure to meet service standards leads to a cut in resources, thus potentially reducing funds for performance improvement efforts. In addition, requirements set out in the *User Fees Act* for making even modest increases in existing user fees are sufficiently burdensome to make the process unattractive.

Although not appropriate for all regulatory programs, cost-recovery fees could be appropriate for some, and it is important that the government consult with business to find out where this might be the case and how fees might best be used to produce general benefit.

Despite these challenges, some departments are making progress. For example, Health Canada has introduced important and successful reforms to its user fees and is doing a good job of posting its standards. Transport Canada has placed its standards online and measures performance systematically, using the information to identify service improvement priorities. The Canada Border Services Agency now has a more accessible process for the public to comment on services received at Canada's ports of entry. This agency has also established an independent and non-adversarial process to resolve disputes that includes reviewing decisions related to enforcement actions. These best practices should be emulated.

Recommendations

5. All regulatory departments and agencies should set and publish measurable standards on how they deliver regulatory programs, set goals for service improvement, and report on performance at meeting these standards. All regulators that do not currently have service standards for regulatory programs should establish them by December 31, 2013. In responding to this recommendation, the government should consider the following:
 - Giving precedence to standards and service improvements that respond to business priorities that have been identified through consultations (e.g., response times for authorizations and approvals for permits, licences and certifications; reduction in the number of complaints; improvements in timeliness in resolving complaints; and client satisfaction with accuracy, timeliness and accessibility of information); and
 - Ensuring that standards set by departments and agencies are consistent and coherent, and conform to a government-wide Treasury Board service policy and related guidance specifically linked to requirements for service standards set out in the *Cabinet Directive on Streamlining Regulation*.^{xi}
6. The government should review and amend the *User Fees Act*^{xli} to enable departments and agencies to provide better service to regulated sectors and still be held appropriately to account for meeting their service standards, by March 31, 2014. This work will include streamlining the process to establish or amend fees and address the unintended consequences for departments of penalties that, ultimately, could further undermine the capacity of departments and agencies to meet those service standards.

6.3.2 Regulators do not always act in a professional and respectful manner when dealing with businesses, particularly on enforcement issues.

Professionalism and commitment to service should mark each and every encounter regulators have with businesses. During our consultations, however, we heard of problems ranging from rudeness, to aggressive enforcement and adversarial behaviour. Although these instances comprise a minority of interactions, they leave a lasting impression and demonstrate the necessity to improve the culture of service.

In our view, this requirement extends beyond helping businesses understand what to do and how to do it. It includes being professional and respectful in all interactions, particularly respecting the admittedly difficult challenges presented by enforcement. Another important aspect of service orientation—again, perhaps, with particular relevance to enforcement—is fairness, both real and perceived. Individuals tend to have an ingrained sense of this virtue and are liable to become cynical and disillusioned when interactions appear to be characterized by imbalance and asymmetry. Since regulated parties are expected to comply with numerous requirements, with reportedly little tolerance built into interpretations, compliance activities or timelines, then they have a right to expect that regulators will also have to comply with standards for accuracy, timeliness and professionalism. We believe that this balance should be one of the foundational principles underlying service to businesses.

Some departments are ahead of the curve in their approach to standards of professionalism. For example, Transport Canada launched a new national service charter in 2010, which includes a commitment respecting the performance that Canadians can expect from the department. It addresses the need for accurate, timely and helpful service in addressing requests and inquiries, in explaining decisions clearly, and in setting out how to appeal a decision when that is a possibility.

The Canadian Food Inspection Agency recently developed a fact sheet and distributed it to the businesses and other parties it regulates, outlining its values and expected employee behaviours. Statistics Canada has started a program to monitor the performance and professionalism of staff who conduct surveys over the telephone. Foreign Affairs and International Trade Canada has recourse options for exporters who wish to challenge a decision not to issue an export permit or to express concerns related to service and professionalism.

We expect federal public servants involved with regulations and regulatory programs to be professional in all interactions with business. We believe that the frustration of dealing with regulators is often as irksome to business as having to pay unjustified costs to comply. We think that instilling a culture of excellence and professionalism across the federal regulatory community is among the most pressing things to be done. It is what the great majority of regulators wish to do. It will build businesses' trust and confidence in government and result in increased compliance.

Recommendations

7. The government should require all regulatory departments and agencies to develop a service charter by December 31, 2012, which would outline the principles of a strong service culture and ensure that employees understand their accountabilities for maintaining a service orientation and showing a high level of professionalism in their conduct. In responding to this recommendation, the government should consider the following:
 - Providing training courses for regulators in order to build capacity, i.e., service-related “soft skills” in critical operational areas such as risk assessment, consultation, and compliance and enforcement procedures, and an understanding of the reality of the environment in which the businesses that must comply with their regulatory requirements have to operate. These courses should be developed and incorporated into departmental learning plans and employee appraisals. The government should consider use of the Service Canada College model; and
 - Incorporating a commitment to a culture of service quality in the overall operations of regulatory programs and activities.
8. All regulatory departments and agencies should have a process for receiving feedback that will assist them to implement continuous improvements to their regulatory programs (i.e., complaints and compliments about service quality, recourse mechanisms to deal with contested decisions) by December 31, 2013. In responding to this recommendation, the government should consider the following:
 - Enabling businesses to provide feedback and suggestions anonymously and requiring departments and agencies to evaluate the complaints and compliments mechanism on a regular basis; and
 - Empowering regulators, through these recourse mechanisms, to reverse decisions or provide redress where appropriate.

6.3.3 Regulators require small businesses to connect the dots themselves when they are seeking information and advice on how to comply with regulatory requirements.

Not knowing whom to contact for advice in interpreting regulatory requirements causes immense frustration for people in small businesses. Moreover, the search for information takes time that entrepreneurs could use more productively to run their businesses. Departments and agencies do not always have user-friendly websites where navigating is intuitive, nor do they always offer plain language documents; most important, not all have identified points of contact or established pathfinder offices to help small business clients.

We believe that small business should not have to “connect the dots” to get information on regulatory requirements; rather, regulatory departments and agencies should organize themselves to assist small businesses. The Commission underscores the necessity to help small businesses in navigating the regulatory system by providing access to individuals who can direct them to the right regulatory experts and the information they need.

The Canada Business Network^{xlii} is a comprehensive first stop for anyone seeking information on government services, programs and compliance requirements at federal, provincial and territorial levels of government. We believe that a “pathfinder” model can be used, essentially, as a personalized version of the Canada Business Network, focusing on directing small business

owners to whoever is best placed to help them with their issues and provide the necessary information. A pathfinder function would complement the single-window e-portals that regulators would be establishing under another of our recommendations.

Using various channels, small businesses would communicate with staff in the pathfinder office about issues with which they need assistance. The coordinators could then connect the right individual within the department with the small business. The pathfinder office would track progress with respect to the interaction to ensure that the necessary information was provided by the department.

Recommendation

9. All the major regulatory departments and agencies should establish a pathfinder function, consisting of a service whereby an information officer within a department is responsible for channelling requests for information from small businesses to departmental regulatory experts as well as for tracking and following up on the status of requests for assistance. We recommend that this function be piloted by December 31, 2013.

6.3.4 Regulators do not always ensure that regulatory obligations are communicated in a clear, consistent and accessible manner.

We were struck by the frustrations we saw respecting the complexity of regulations and the lack of clarity or availability of information on the Web and in print. This complexity appears to be behind some of the examples we heard reported where businesses received confusing information and contradictory instructions from different federal employees. For example, too often, we heard that interpretations of regulatory requirements differed depending on the region or the time in which they were provided.

We understand that laws and regulations are often highly technical. However, this reality simply increases the responsibility of regulators to issue guides and other outreach materials in plain language. It underlines the need to provide helpful advice geared to interpreting specific regulatory situations so that businesses, especially small businesses, can understand what they have to do without having to pay for legal, accounting or other outside expertise. Given the complexity of the tax system, the problem is nowhere more obvious than with questions that arise, from businesses, on how to file taxes, notwithstanding progress made by the Canada Revenue Agency.

Small businesses have a right to understand what regulators expect of them without having to pay expensive consultants or advisors to explain it to them. We believe that using plain language to communicate with businesses would contribute to more efficient interactions and may lead to increased compliance; reduced need for follow-up, site visits or audits; and fewer disputes over decisions—results that could potentially lower costs for both business and government.

Recommendations

10. All regulatory departments and agencies should review and, based on consultations with businesses, update their most accessed regulatory publications, forms and website content by December 31, 2012, to ensure that they are written in plain language and adhere to the plain language provisions of the *Communications Policy of the Government of Canada*,^{xliii} and should publicly report on the results of the assessment.
11. All departments and agencies that currently do not have a policy setting out how they interpret their regulatory requirements should develop one and publish it, by December 31, 2012, in order to ensure consistency in decisions, instructions and information provided to business. In responding to this recommendation, the government should consider the following:
 - Making regulators accountable for the information and interpretations they provide to business; and
 - Providing interpretations in writing, if requested and where practical, and not penalizing businesses for following written directions.

6.4 Improving Regulatory Design and Governance

The best place to stop red tape is at the source. The federal government needs to prevent additional red tape when it designs and approves regulations. The Organisation for Economic Co-operation and Development^{xliv} tells us that “new, poorly designed regulation may add more regulatory burden to the pile than has been reduced.”⁷ The Government of Canada has made considerable effort to improve the quality and rigour of its regulatory design process. For example, the Regulatory Affairs Sector of the Treasury Board of Canada Secretariat has done a good job on many of its functions. Since it was established in 1998, the number of new regulations introduced has fallen dramatically. A solid and significant step implemented by the Sector was the introduction of the *Cabinet Directive on Streamlining Regulation*^{xlv} in 2007. This directive requires regulators to:

- ▶ Develop and report publicly on regulatory plans and priorities;
- ▶ Consider alternatives to regulating;
- ▶ Consult with affected parties;
- ▶ Consider the specific needs of small business and then identify the least burdensome but most effective approach to addressing the policy objectives;
- ▶ Use outcome-based regulations where appropriate;
- ▶ Develop regulations that are proportionate to the degree and type of risk, and analyze the benefits and costs of proposed regulations;

7. Organisation for Economic Co-operation and Development, Regulatory Policy Committee, *Cutting Red Tape II: Still Uncut—How Hard it Is to Make Life Easier*, April 1, 2010, p. 35.

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- ▶ Develop plans for implementation, compliance and enforcement (including ensuring that the necessary human and financial resources, skills and abilities are in place);
 - ▶ Limit the cumulative administrative burden; and
 - ▶ Review and renew regulatory frameworks.

And yet, businesses told us repeatedly that they did not see evidence that regulators have been seriously considering alternatives to regulations. They pointed to inadequate consultations, a lack of awareness of the impacts of regulations on businesses, inaccurate risk assessments and implementation planning that was incomplete or did not accurately take risk into account. These shortcomings can result in regulations that are targeting the wrong objectives, are too inflexible given true risk levels, are imposing more burden and cost than necessary, or are liable to have unintended consequences—all this despite the government’s regulatory design policy commitments and its governance regime for approving new and amended regulations.

One of the experts we asked to study this issue pointed to “the pervading culture of regulation” as an issue. Although many federal regulators follow practices that are in line with the policy direction and the calls for change that we heard from businesses, this is not the case for all. Until regulators consistently and fully apply the government’s own policies and respect the spirit that underpins them, businesses will have every right to complain.

The Commission believes that the government must take immediate action to address this gap between policy and practice. Improving regulatory design and governance will allow the government to cut red tape off at the source, and to produce regulations that are better targeted, more effective, less costly and more responsive.

Specific Challenges

6.4.1 There is a lack of predictability and stability in the regulatory landscape, with costly results.

We heard loud and clear that businesses do not have sufficient and timely information on what is “coming down the regulatory pipe.” This makes it very difficult for them to make confident and sound business and financial decisions or to undertake long-term planning. To be competitive, businesses need to know with reasonable certainty what regulators intend to do—both with new regulations and with amendments. We need to ensure that businesses have a clear understanding of regulatory plans well in advance, and that these plans are coordinated and coherent across business sectors.

We found that, in some cases, regulators introduce new or revised regulations without sufficient warning, consultation and consideration of their full impact. We also feel strongly that many regulations have been introduced without regulators having fully considered the broader

government-wide regulatory agenda of which they are a part. Regulators also need to consider other existing or planned regulations of relevance to businesses in a particular industry. In large part, this failure to consider the broader context occurs because there is no government-wide regulatory agenda and no systematic reporting by departments of their regulatory plans and priorities. This lack of information and coordination can only add to the overall burden of red tape that businesses face.

The *Cabinet Directive on Streamlining Regulation* requires departments and agencies to develop and report publicly on regulatory plans and priorities. Most departments, particularly the larger regulators (e.g., Health Canada, Transport Canada, the Canadian Food Inspection Agency and Environment Canada), do some regulatory planning and priority setting. However, those plans are not always publicly available or easily accessible, nor are they always developed after taking into account what other regulators are doing in the same business sectors. Each regulator should therefore develop clear plans and make them available to the public.

In short, we believe that Canadians and businesses have a right to know about planned regulatory changes that could affect them, and to provide their views on those planned changes.

6.4.2 More attention should be paid to alternatives to traditional regulation.

We heard very clearly that government departments and agencies reach for regulation far too quickly. They do not always seem to consider alternatives such as self-regulation, self-certification and adherence to codes of practice. They often appear unwilling to move to “performance or outcome-based”^{8,xlvi} regulation—or at least, to do so quickly. The decision to regulate should not be taken lightly. Regulations can be the right tool in some cases. They can offer a lower-cost approach for government to use in getting its objectives met compared with other options, such as direct spending. However, regulations can also be a very blunt instrument.

Although alternatives to regulation (e.g., self-regulation, codes of practice) can be very effective in certain circumstances, some industries are better suited than others to using these voluntary tools. During our work, we learned that some countries (e.g., Australia) have developed tools to help regulators identify which industries might, successfully, be made subject to voluntary instruments or performance-based regulations. The Government of Canada should consider elaborating on the tools it has to help regulators find opportunities to use these voluntary approaches or performance-based options. A stricter challenge function should be exercised on this front and be applied much earlier in the process.

8. Glen Hepburn for the OECD Regulatory Policy Division, “Alternatives to Traditional Regulation,” no date.

Streamlining and simplifying the regulatory design process would also be useful. For example, incorporation by reference of documents such as industry or international standards and the legislation of other jurisdictions, as these are amended from time to time, is a drafting technique commonly used to harmonize regulations with those of other regimes or to benefit from technical expertise that exists outside the government. Using this technique can be useful in reducing red tape and facilitating the efficient flow of goods and services across borders. It is essential that the legal authority for using the technique be securely established in law.

6.4.3 There is insufficient engagement of regulated parties and other regulators.

We heard time and again that businesses want more and better engagement with governments that are considering action that may affect them. This engagement has to go beyond consultations with associations and major companies, important as these are, to reach the grassroots where small business needs can be heard and understood. In our view, the more that departments reach out to businesses to involve them in discussing the policy problem, the risk assessment, options for action and detailed implementation, the better. This approach will result in outcomes that are more effective, more targeted and less burdensome. This type of consultation should be coordinated among regulators operating within the same business sector to avoid overlapping, duplicative or conflicting regulatory requirements.

When we look at interdepartmental cooperation among regulators, we see a gap between what the *Cabinet Directive on Streamlining Regulation*^{xlvi} stipulates and the processes that departments and agencies have put in place to make that happen. For example, there is no formal process or mechanism for consultations among departments to allow for discussions, clarifications, strategy decisions or alignment. As a result, we have learned that a regulatory proposal can go to the Treasury Board for a decision with virtually no interdepartmental review to identify overlaps or conflicts. Since the *Cabinet Directive on Streamlining Regulation*^{xlvi} already requires regulators to consult with other departments, formalizing this requirement could simplify matters and eliminate the need for departments to invent a new consultation process for each regulatory proposal.

We believe, in conclusion, that regulators have a responsibility to ensure that they do not introduce new regulations that overlap, duplicate or conflict with existing regulations created by other federal regulators. There must be greater coordination among regulators throughout regulatory processes.

6.4.4 There is insufficient recognition of small businesses' limited capacity to comply with regulatory requirements.

Small business is special. When the design and implementation of regulations do not take into consideration the capacity of small businesses to meet requirements, the result is a one-size-fits-all bias that does not work. The *Cabinet Directive on Streamlining Regulation* already requires departments and agencies to consider the specific needs of small business and to address those needs by identifying the least burdensome and most effective approach to achieving policy objectives. Canadian regulators have access to broad guidance from the Treasury Board of Canada Secretariat in the form of the *Canadian Cost-Benefit Analysis Guide: Regulatory Proposals*^{xlix} and the comprehensive *Market Assessment Tool*. However, neither of these tools focuses primarily on the realities of small business. In reviewing a recent sample of Regulatory Impact Analysis Statements (between 2007 and 2010), it is not clear that regulators have effectively or consistently applied these tools.

Implementing such a tool should lead to more pragmatic approaches in the design, implementation and enforcement of federal regulations. It should also lead to the development of related tools that better reflect the real risks to Canadians and that take into account the nature of small business.

We applaud the government's commitment in Budget 2011 to introduce a "small business lens." We have reviewed examples from the United States, the United Kingdom and British Columbia¹—jurisdictions that are incorporating the realities of small business by instituting versions of such a lens. This tool usually consists of a set of questions designed to ensure that the needs of small business are considered as a policy is being developed. The questions help identify the least burdensome and most effective approach to addressing policy needs by taking small business realities into account. In practice, this approach has resulted in exemptions (based on number of employees or revenue and levels of risk), delayed introduction of requirements (to give greater time to adjust), and a reduced number of reporting requirements.

Although we expect benefits for small business, regulators and the public to accrue, we are aware, based on evaluations of the use of these kinds of mechanisms in the United States and the United Kingdom, that there are difficulties in achieving consistent and sustained success in applying small business filters. We have learned that considerable time and effort are required before "thinking small first" becomes an ingrained aspect of the way government conducts its business. We think that requiring officials to use a small business lens when reviewing the stock of existing regulations is one way to drive the necessary culture change.

We want to ensure that the small business lens is targeted to areas where the regulatory action is considered to have a significant impact on a substantial number of small businesses.

Furthermore, we think that it is important that regulators demonstrate that their regulatory approach is the most efficient means to achieve the policy intent. Regulators need to show that they have engaged small businesses, have seriously considered targeted mechanisms that reduce costs for small businesses, and are selecting the approach that best minimizes regulatory costs on small business while achieving the required level of risk protection.

In short, we believe that mitigating risk does not mean that one size fits all. Regulators need to recognize and account for small businesses' limited capacity to comply with regulatory requirements. Moreover, moving forward with the small business lens also presents an important opportunity for greater alignment of our regulatory practice with that of our major trading partner, the United States—an alignment that will have benefits for all small businesses engaged in cross-border trade. We strongly encourage the Canada–US Regulatory Cooperation Council^{li} to take this opportunity into account.

Recommendations

12. The government should take measures, by March 31, 2014, to significantly strengthen departments' and agencies' adherence to key regulatory policy requirements contained in the *Cabinet Directive on Streamlining Regulation*.^{lii} In responding to this recommendation, the government should consider the following amendments to the directive:

- Requiring departments and agencies to develop and make publicly available three-year regulatory plans, which set out departmental regulatory priorities and key activities;
- Requiring regulators to explicitly identify the administrative burdens associated with complying with regulatory requirements in their Regulatory Impact Analysis Statements (RIASs), and to make public all background elements of the RIAS if requested (e.g., risk assessments, full cost-benefit analysis and performance measurement and evaluation plans); and
- Evaluating regulations and associated regulatory programs and activities to ensure they are achieving their intended objectives and doing so with the minimum amount of cost to both business and government.

13. Government should move quickly to fulfill its Budget 2011 commitment to implement a small business lens. While constructing, consideration should be given to requiring that regulators make publicly available the results of having applied the small business lens to new or amended regulations.

7. Conclusion and Acknowledgements

7.1 How Will We Know If We Have Made a Difference?

At our initial meeting in Toronto in January 2011, the very first question we asked ourselves was: How will we know if the work of our Commission has made a difference?

Just as it is important to ask regulatory departments and agencies to make a measurable and meaningful reduction in red tape, so is it important to ask ourselves to identify measures of success. We therefore propose that the Red Tape Reduction Commission will have made a difference if, within five years:

- ▶ The core principles we set out are embedded in the federal regulatory regime:
 - Regulations are built “from the outside in,” taking into account the circumstances of the businesses regulated as well as the public interest.
 - Common sense is applied to all aspects of regulatory activity, from planning to management and reporting on performance.
 - The government and regulators are fully accountable for regulatory activities—in particular, for the performance of their programs and activities and for measures to control the costs associated with complying with them.
 - Compliance with regulations is promoted in a professional and client-focused manner.
- ▶ The systemic reforms we set out in our recommendations section are approved by the government and embraced by regulatory departments and agencies, such that a significant culture change occurs and that business, particularly small business, feels that there is no need for another Red Tape Reduction Commission:
 - The management of regulatory programs and activities—specifically regarding reducing red tape, improving coordination with other regulators, and improving service—is marked by excellence, and reduction of compliance burden is a central responsibility of all regulatory managers and is one for which they are held to account; and
 - The design and governance of regulations is focused on achieving the policy objectives of the government while ensuring that red tape is eliminated at its source and ministers and deputy heads are held to account individually and collectively for bringing about this transformation, thereby building on the important regulatory modernization initiatives they have already launched.

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- ▶ The recommendations that we put forward to tackle the root causes of the specific top-of-mind irritants are approved by the government and implemented by departments and agencies, such that a measurable and meaningful difference is felt by business, particularly small business:
 - Regulators have addressed, head-on, the specific priority concerns of businesses in a manner that brings about lasting improvements.

Ultimately, the difference we make will be measured by whether Canadian businesses are put on a more competitive footing, and whether lower compliance costs and reduced frustration levels help them be more innovative and more focused on serving their clients.

7.2 Ensuring Accountability for Progress

7.2.1 Market failure and government failure

Regulation is traditionally justified by the “market failures” argument; when markets do not succeed in transmitting and reconciling individual preferences, the state must intervene to re-establish true costs and protect consumer sovereignty. This argument often makes sense. However, a market failure is only a necessary condition, not a sufficient one, for regulatory intervention. The reason is that government failure may be even worse than the market failure that an intervention is meant to correct. The underlying reasons reside in the often misaligned incentives of politicians and public servants, who naturally show a bias toward regulation and control, often under the pressure of organized and vocal interests. We thus end up with a total volume of regulations that is systematically detrimental to economic freedom and prosperity.^{9,liv}

These insights have informed our search for solutions to regulatory burden.

7.2.2 Three prescriptions to meet the long-term challenges

Over and above any short-term solutions to irritants, we are facing a long-term challenge that takes a triple form. First, we must not only eliminate or reduce irritants today, but make sure that new regulations do not build up again. This was the goal of the One-for-One Rule proposed by the Conservative Party in the last election: “We will legislate a **One-for-One Rule—every time the government proposes a new regulation, it must eliminate an existing one.**”^{10,liv} As noted, this commitment is our first recommendation in section 6.

9. The discovery of government failure has been formalized by the so-called “public choice” school of economic analysis over the past half century. There is voluminous literature on public choice. For an overview, see Gordon Tullock, Arthur Seldon and Gordon L. Brady, *Government Failure: A Primer in Public Choice* (Cato Institute, 2002); and Jean-Luc Migué, *L'économiste et la chose publique* (Presses de l'Université du Québec and University of Toronto Press, 1979).

10. Conservative Party of Canada, *Here for Canada: Stephen Harper's Low-Tax Plan for Jobs and Economic Growth*, 2011, p. 13; emphasis is original.

Second, we cannot realistically hope that a widening scope of regulation can translate into lightened burden for the “regulated subjects,” as the Organisation for Economic Co-operation and Development^{lv} calls them.^{11, lvi} A larger stock of regulations cannot turn out to be less burdensome. To the extent that a government wants to substitute its own decisions for individual choices, regulation will grow; to the extent that it favours individual liberty and responsibility, a government will enact fewer and simpler regulations. The long-term solution to red tape is less regulation, which means stopping the flow of new regulations and eventually reducing the existing stock.

The burden of proof must be shifted. The presumption must be that individuals, their voluntary organizations, and businesses are better suited to make trade-offs between costs and benefits and between risks and security. Only when this presumption is clearly demonstrated to be false, and only when the remedy is clearly not worse than the disease, should government intervene with regulations.

Third, as economists always remind us, incentives matter. Rules and institutions often give politicians and public servants incentives to regulate more. It serves no purpose to repeat, from one government report on regulation to another, that we need only smart regulations. We must devise rules and institutions such that politicians and public servants are not rewarded when they impose unnecessary regulations.

As we have noted previously, political leadership is essential for the successful reduction of red tape. Moreover, to control red tape over time, this leadership by ministers must be supported by a governance structure that ensures ongoing focus and accountability, both at the Cabinet level and with central agency oversight. We believe that the gains from previous regulatory reform exercises have been lost because the latter has not been put in place.

We propose to address these long-term challenges, as our mandate invites us to.

7.2.3 Recommendations for long-term, sustainable change

The Commission’s mandate asked us to “recommend options that address the irritants and that will control and reduce the compliance burden on a long-term basis.” This allowed us to propose how to start addressing the long-term challenges involved in stopping the net flow of (new) regulations and eventually decreasing the stock. To do this, we must measure the evolution of regulation. How exactly is federal regulation evolving over time? Is it increasing or decreasing, and at what rate? What is the net flow of new regulations every year—positive or negative?

11. See OECD, *Why Is Administrative Simplification So Complicated? Looking Beyond 2010*, 2010. The OECD report also uses the term “regulate.”

As noted above, Statistics Canada has started a survey that measures businesses' cost of compliance with 12 regulatory requirements (mainly related to tax administration, submission of information, and obtaining municipal and provincial operating licences and permits). Mandated by the federal government in 2005 as part of the Paperwork Burden Reduction Initiative, the Survey of Regulatory Compliance Costs helps the government collect information on the cost and nature of the paperwork burden imposed on small and medium-sized enterprises and to track changes in that burden over time. This survey is a useful first step, but its scope is limited. Only a few regulations are covered, and only administrative costs (and not the total regulatory burden that falls on businesses) are ascertained. Our consultations show that there is a need for broader measures encompassing the whole gamut of federal regulations affecting businesses.

Measuring regulation is a notoriously complicated matter. Regulations are varied and do not lend themselves to an obvious common metric (for example, the way dollars are naturally used for measuring government expenditures). Analysts often use proxies such as the number of regulations, their volume in pages or words, the number of permits or licences required, or the budgets of regulatory agencies. The accepted international approach for measuring costs to business is to use the Standard Cost Model.^{lvii} Hence, we recommend that the government adopt this approach in implementing the One-for-One Rule, as well as other government-wide and department-specific measures to reduce red tape. This will allow for consistency and comparability.

Whatever method is used, it is certain that the estimates of the flow of regulations should be made by an independent, reputable and non-partisan agency.

Information and goals are not sufficient. We also need to put in place the proper incentives in each regulatory department and agency. Public servants must be given incentives to look critically at new and existing regulations so that the One-for-One Rule is respected and that, if possible, more is done to reduce the existing stock of regulations. Senior public servants receive annual "pay-at-risk," which, currently, is based—at least in part—on the department's success in controlling expenses; this approach should also be used to ensure effective implementation of this important government priority.

Consequently, we make the following two recommendations. Combined with our short-term recommendation to address the root causes of top-of-mind irritants and other recommendations to make lasting changes, we believe that they would contribute much to making sure that only essential federal regulations are introduced and kept on the books at a minimum cost to businesses.

Recommendations

14. The “Powers and Duties” section^{lviii} of the *Auditor General Act*^{lix} should be modified so that the Office of the Auditor General of Canada is given the mandate to review and report on the progress in reducing regulatory administrative burden. Specifically, the Auditor General should monitor and report on government efforts to reduce regulatory administrative burden through the implementation of the One-for-One Rule and the streamlining and reduction of information obligations, as well as its performance in meeting service standards for regulatory programs. The results of the review should be presented to Parliament every year in a report on regulation. The Auditor General will do the following:
- Assess the validity of the calculation of administrative burden through the use of the Standard Cost Model in implementing the One-for-One Rule and in reviewing the stock of existing regulations;
 - Assess the government’s progress in ensuring that new regulations are “paid for” by reducing the administrative burden of old regulations; and
 - Use other methods it may consider relevant to illustrate the evolution of the burden of regulation, including an evaluation of the budgets of regulatory agencies, plus the cost of the public servants employed in developing and enforcing laws and regulations.
15. A substantial part of the annual “pay-at-risk” of senior public servants should be given on the basis of successful implementation of the One-for-One Rule. If a department or agency does not at least respect the One-for-One Rule, its senior public servants will lose part of their bonus. If it does even better and succeeds in reducing the stock of its regulations, the higher the bonuses paid to its senior public servants should be. This will bring the public servants’ incentives more in line with the long-term goal of controlling regulation.

7.3 Acknowledgements

With this report, we believe we have fulfilled the mandate given to us by the Prime Minister in January 2011. We are honoured to have been asked to work on this important initiative, and we are grateful to the many businesses and associations that provided us with their insights and advice.

In closing, we would like to thank the Honourable Rob Moore, who chaired our Commission through the consultations phase. We also acknowledge the strong leadership and support shown by the Honourable Stockwell Day and, subsequently, by the Honourable Tony Clement, President of the Treasury Board and Lead Minister for the red tape reduction exercise.

We submit this report to Mr. Clement and look forward with confidence to hearing how the Government of Canada intends to respond to our recommendations.

Appendix A: Systemic Recommendations to Cut Red Tape

Reducing Red Tape

Cutting the regulatory requirements on businesses

1. The government should introduce legislation as soon as possible to adopt the One-for-One Rule announced in the Conservative election platform to reduce regulatory administrative burden: every time the government proposes a new regulation, it must eliminate at least one existing regulation as well as the equivalent costs in administrative burden so as to ensure a zero net sum approach. Reductions in red tape resulting from the implementation of the One-for-One Rule should be in addition to reductions resulting from the implementation of the 90 departmental recommendations in this report (see Appendix B). In responding to this recommendation, the government should consider the following:
 - ▶ Using the Standard Cost Model^{lx} as a means of measuring the administrative burden for business of complying with regulatory requirements, in order to ensure these costs to business are monetized; and
 - ▶ Requiring each regulatory department and agency to review and track, over time, the stock of existing regulations that impose administrative burden on business, focusing on the 20 per cent most burdensome each year, and to report annually on progress in implementing the One-for-One Rule. This will allow tracking progress in reducing the overall burden as well as reducing the burden by department.

Cutting the information demands on businesses and enhancing the use of electronic services to reduce compliance costs

2. All regulatory departments and agencies should establish an inventory of information obligations associated with their regulatory programs and activities, reduce unnecessary information requirements and, using the Standard Cost Model, measure the meaningful reduction of administrative burden on business and report results on their websites by December 31, 2013. Departments should review their current paper-based processes and forms, and submit proposals to their ministers, outlining how they will, wherever possible, implement electronic solutions to reduce regulatory paperwork burden by March 31, 2015. In responding to this recommendation, the government should consider the following:
 - ▶ Requiring departments to take into account in their reviews the information obligations placed upon firms in their sector by other federal regulators;
 - ▶ Aligning departmental websites more closely with business needs to enable quick access to all e-services related to regulatory programs and information obligations;

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- ▶ Requiring departments and agencies to collaborate with other departments and agencies that regulate in the same sector to ensure a common look and feel to their e-services and to set the stage for linkages between related websites; and
 - ▶ Managing implementation of this recommendation to achieve cost savings over time for the department, as well as for businesses.

Cutting the Cumulative Burden

Getting the federal regulatory house in order

3. There should be greater coordination of federal regulatory compliance and enforcement activities in the same sector, and regulators operating in common business sectors should collaborate and streamline their respective compliance and enforcement activities based on a better understanding of business realities, reporting by March 31, 2014, on what common or shared approaches are being taken to inspection and compliance activities. In responding to this recommendation, the government should consider the following:
 - ▶ Identifying a governance mechanism to enhance and oversee interdepartmental coordination and collaboration to reduce the cumulative burden of regulatory programs;
 - ▶ Developing sector “regulatory maps” that document the cumulative federal regulatory requirements with which each business in a specific sector must comply; and
 - ▶ Creating and maintaining profiles of the industry sectors that must comply with the various regulations in such a way as to help improve regulators’ understanding of the impact of their requirements on businesses and their competitiveness, as well as better determine risk, decide on instrument choice, and assess implementation plans for regulatory programs.

Increasing the use of electronic single windows for information on regulatory requirements, including “Tell Us Once” initiatives to reuse information provided, ensuring consent and protection of privacy

4. All regulatory departments and agencies should work with businesses to develop, by March 31, 2015, regulatory information e-portals with sector-specific modules, which should set the stage for a “Tell Us Once” policy to ensure that individual departments do not ask the same business for the same information multiple times. In responding to this recommendation, the government should consider the following:
 - ▶ Ensuring that e-portals provide information about which regulatory requirements are applicable to businesses in the sector and clear direction to businesses on how regulatory expectations can be met; and
 - ▶ Completing a comprehensive review of all information-sharing barriers related to business across departments and identifying ways to enable consent-based sharing of information across the federal government that fully respect privacy concerns, where doing so will reduce the red tape burden on business.

Improving Service

Setting and being accountable for service standards

5. All regulatory departments and agencies should set and publish measurable standards on how they deliver regulatory programs, set goals for service improvement, and report on performance at meeting these standards. All regulators that do not currently have service standards for regulatory programs should establish them by December 31, 2013. In responding to this recommendation, the government should consider the following:
 - ▶ Giving precedence to standards and service improvements that respond to business priorities that have been identified through consultations (e.g., response times for authorizations and approvals for permits, licences and certifications; reduction in the number of complaints; improvements in timeliness in resolving complaints; and client satisfaction with accuracy, timeliness and accessibility of information); and
 - ▶ Ensuring that standards set by departments and agencies are consistent and coherent, and conform to a government-wide Treasury Board service policy and related guidance specifically linked to requirements for service standards set out in the *Cabinet Directive on Streamlining Regulation*.^{lxi}
6. The government should review and amend the *User Fees Act* to enable departments and agencies to provide better service to regulated sectors and still be held appropriately to account for meeting their service standards, by March 31, 2014. This work will include streamlining the process to establish or amend fees and address the unintended consequences for departments of penalties that, ultimately, could further undermine the capacity of departments and agencies to meet those service standards.

Building a culture of service excellence and professionalism

7. The government should require all regulatory departments and agencies to develop a service charter by December 31, 2012, which would outline the principles of a strong service culture and ensure that employees understand their accountabilities for maintaining a service orientation and showing a high level of professionalism in their conduct. In responding to this recommendation, the government should consider the following:
 - ▶ Providing training courses for regulators in order to build capacity, i.e., service-related “soft skills” in critical operational areas such as risk assessment, consultation, and compliance and enforcement procedures, and an understanding of the reality of the environment in which the businesses that must comply with their regulatory requirements have to operate. These courses should be developed and incorporated into departmental learning plans and employee appraisals. The government should consider use of the Service Canada College model; and
 - ▶ Incorporating a commitment to a culture of service quality in the overall operations of regulatory programs and activities.

8. All regulatory departments and agencies should have a process for receiving feedback that will assist them to implement continuous improvements to their regulatory programs (i.e., complaints and compliments about service quality, recourse mechanisms to deal with contested decisions) by December 31, 2013. In responding to this recommendation, the government should consider the following:

- ▶ Enabling businesses to provide feedback and suggestions anonymously and requiring departments and agencies to evaluate the complaints and compliments mechanism on a regular basis; and
- ▶ Empowering regulators, through these recourse mechanisms, to reverse decisions or provide redress where appropriate.

“Connecting the dots” for small businesses that must deal with many regulators

9. All the major regulatory departments and agencies should establish a pathfinder function, consisting of a service whereby an information officer within a department is responsible for channelling requests for information from small businesses to departmental regulatory experts as well as for tracking and following up on the status of requests for assistance. We recommend that this function be piloted by December 31, 2013.

Using plain language and providing clear, definitive interpretations

10. All regulatory departments and agencies should review and, based on consultations with businesses, update their most accessed regulatory publications, forms and website content by December 31, 2012, to ensure that they are written in plain language and adhere to the plain language provisions of the *Communications Policy of the Government of Canada*,^{lxii} and should publicly report on the results of the assessment.

11. All departments and agencies that currently do not have a policy setting out how they interpret their regulatory requirements should develop one and publish it, by December 31, 2012, in order to ensure consistency in decisions, instructions and information provided to business. In responding to this recommendation, the government should consider the following:

- ▶ Making regulators accountable for the information and interpretations they provide to business; and
- ▶ Providing interpretations in writing, if requested and where practical, and not penalizing businesses for following written directions.

Improving Regulatory Design and Governance

12. The government should take measures, by March 31, 2014, to significantly strengthen departments' and agencies' adherence to key regulatory policy requirements contained in the *Cabinet Directive on Streamlining Regulation*. In responding to this recommendation, the government should consider the following amendments to the directive:
 - ▶ Requiring departments and agencies to develop and make publicly available three-year regulatory plans, which set out departmental regulatory priorities and key activities;
 - ▶ Requiring regulators to explicitly identify the administrative burdens associated with complying with regulatory requirements in their Regulatory Impact Analysis Statements (RIASs), and to make public all background elements of the RIAS if requested (e.g., risk assessments, full cost-benefit analysis and performance measurement and evaluation plans); and
 - ▶ Evaluating regulations and associated regulatory programs and activities to ensure they are achieving their intended objectives and doing so with the minimum amount of cost to both business and government.
13. Government should move quickly to fulfill its Budget 2011 commitment to implement a small business lens. While constructing, consideration should be given to requiring that regulators make publicly available the results of having applied the small business lens to new or amended regulations.

Ensuring Accountability for Progress

Adding a mandate for the Auditor General of Canada

14. The "Powers and Duties" section of the *Auditor General Act* should be modified so that the Office of the Auditor General of Canada is given the mandate to review and report on the progress in reducing regulatory administrative burden. Specifically, the Auditor General should monitor and report on government efforts to reduce regulatory administrative burden through the implementation of the One-for-One Rule and the streamlining and reduction of information obligations, as well as its performance in meeting service standards for regulatory programs. The results of the review should be presented to Parliament every year in a report on regulation. The Auditor General will do the following:
 - ▶ Assess the validity of the calculation of administrative burden through the use of the Standard Cost Model in implementing the One-for-One Rule and in reviewing the stock of existing regulations;

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- ▶ Assess the government’s progress in ensuring that new regulations are “paid for” by reducing the administrative burden of old regulations; and
 - ▶ Use other methods it may consider relevant to illustrate the evolution of the burden of regulation, including an evaluation of the budgets of regulatory agencies, plus the cost of the public servants employed in developing and enforcing laws and regulations.

Devising a new criterion for the “pay-at-risk” of senior public servants

15. A substantial part of the annual “pay-at-risk” of senior public servants should be given on the basis of successful implementation of the One-for-One Rule. If a department or agency does not at least respect the One-for-One Rule, its senior public servants will lose part of their bonus. If it does even better and succeeds in reducing the stock of its regulations, the higher the bonuses paid to its senior public servants should be. This will bring the public servants’ incentives more in line with the long-term goal of controlling regulation.

Appendix B: Specific Departmental Recommendations to Cut Red Tape

As a result of the work of the Secretariat in engaging departments, as a Commission, we recommend that the ministers responsible for the departments and agencies listed in the following take action that would result in measurable reduction in red tape and set out clear milestones on how such actions will be achieved.

Legend

AB: Administrative burden

CB: Cumulative burden

L: Requires leadership

RD: Regulatory design

SB: Small business

ST: Short term

SV: Service

Aboriginal Affairs and Northern Development Canada

1. To improve service standards and streamline program requirements, we recommend that Aboriginal Affairs and Northern Development Canada establish streamlined application and review processes to support small business growth and development. AB, SV, SB, CB
2. To facilitate service standard improvements, streamlined processes and the integration of Aboriginal Affairs and Northern Development Canada programs with those of other federal regulators, we recommend that the department develop a simplified approach for land processes and economic development projects. AB, SV, RD, CB

Agriculture and Agri-Food Canada

1. To reduce administrative burden and support the development, approval and distribution of new technologies, we recommend that Agriculture and Agri-Food Canada, in collaboration with other federal regulators, develop a single-window approach through which traceability data collected under different regimes can be shared between business and government. AB, CB

Canada Border Services Agency

1. To reduce administrative burden associated with business reporting of trade information and to improve transparency, predictability, accountability and overall performance, we recommend that the Canada Border Services Agency simplify the process of reporting for the importing community as well as improve knowledge of the pertinent legislative and policy requirements. AB
2. To reduce duplication and streamline processes, we recommend that the Canada Border Services Agency expedite its efforts to enhance and harmonize its trusted trader programs with the United States with a view to, in particular, facilitating joint admission of applicants through a single application process. AB, CB
3. To reduce wait times and associated burden, we recommend that the Canada Border Services Agency review its eligibility requirements for the use of Free and Secure Trade (FAST) lanes at the Canada–United States border, with a view to allowing small and medium-sized business better access to this enhanced service. SV, SB, ST
4. To reduce businesses’ frustration and provide a flexible and transparent process, we recommend that the Canada Border Services Agency develop an online tool for its trusted traders programs to speed up the application process. SV, AB
5. To ensure consistent service delivery, we recommend that the Canada Border Services Agency develop and implement new service standards, based on client input and feedback, and ensure that they are effectively communicated and adhered to. SV
6. To increase clarity, predictability and reduce duplication at the border for the movement of goods, we recommend that the Canada Border Services Agency expedite, in conjunction with other regulators, the development and implementation of a single-window initiative to simplify and integrate regulatory approval processes. CB, SV, L
7. To remove administrative burden on businesses, particularly paper burden, improve timelines and facilitate transactions, we recommend that the Canada Border Services Agency automate its processes for the importation of goods (including financial transactions and trade data collection). AB
8. To improve timeliness and simplify processes, we recommend that the Canada Border Services Agency develop a system to allow businesses to submit shipment information electronically as well as provide them with services for the pre-screening of import data for low-risk shipments prior to goods’ arrival at the border, with a view to achieving expedited clearance. AB, SV

Canada Revenue Agency

1. To reduce administrative burden and improve the availability and clarity of tax information that businesses need to meet their reporting obligations, we recommend that the Canada Revenue Agency work with businesses to identify the specific information sources that need to be easier to obtain, clarified and simplified, as well as implement an action plan to make the required changes to improve availability and clarity. AB, SV
2. To reduce business frustration and related administrative burden in communicating with the Canada Revenue Agency, including not getting responses to questions or getting different responses from different agents when businesses contact the Agency by telephone, we recommend that the Canada Revenue Agency improve its business enquiries telephone line services and enhance its website based on feedback, particularly from small businesses. SV, AB, SB
3. To improve online service and information accessibility and clarity, we recommend that the Canada Revenue Agency:
 - Increase options for electronically filing and amending information;
 - Create a business landing page on its website;
 - Enhance My Business Account;
 - Enhance Business Number online processes;
 - Enhance current electronic payment services;
 - Introduce electronic communication methods;
 - Accept supporting documentation and receipts from taxpayers or representatives through a secure channel (e-documents);
 - Identify opportunities to streamline and enhance identity proofing and/or authentication of secure electronic services; and
 - Find alternate ways of authenticating representatives who do not have a filing history in Canada. SV
4. To improve service and foster increased confidence in the written advice that it provides to business, we recommend that the Canada Revenue Agency develop an improved approach to communicating its accountability for the written information that it produces. SV

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5. To improve the service and professionalism of its auditors, we recommend that the Canada Revenue Agency engage with small businesses to identify needs and solutions, including soft skills enhancement and an increased commitment to performance management and respect for the Taxpayer Bill of Rights. SV
 6. To reduce administrative burden and eliminate the collection of redundant information, it is recommended that the Canada Revenue Agency pursue a “Tell Us Once” policy in order to reduce duplicate requests to businesses by different programs within the Agency. AB, CB
 7. To improve the timeliness of appeals processes, it is recommended that the Canada Revenue Agency reduce the turnaround time to resolve low-complexity, non-related objections. SV
 8. To improve the timeliness of decisions related to rulings and to better serve the needs of small businesses, we recommend that the Canada Revenue Agency eliminate the inventory backlog resulting from the harmonization of the Ontario sales taxes and adhere to a reasonable service standard thereafter. SV, SB
 9. To reduce administrative burden, we recommend that the Canada Revenue Agency simplify and scale down reporting obligations, in consultation with business stakeholders, including combining reporting for different programs or eliminating the need to report specific data elements. AB, CB
 10. To reduce the burden of filing frequency requirements for small businesses, we recommend that the Canada Revenue Agency engage small businesses in a sustained manner, particularly on issues related to filing and remitting frequency and take into account their realities in designing solutions to the problems identified. AB, SB
 11. To ensure that business perspectives are fully understood and appreciated in the policy development stage, we recommend that the Canada Revenue Agency ensure that business input is obtained and considered in an open and transparent manner during policy and program development; that it identifies and responds to issues that directly impact the small business population; and that it instills and encourages a culture of partnering with external stakeholder organizations that will foster wider acceptance, understanding, and compliance related to policies and programs. RD, SB
 12. To improve coordination of program delivery and information sharing, we recommend that the Canada Revenue Agency cooperate with other federal departments as well as provincial and territorial governments with a view to reducing cumulative burden on business for filing taxes. CB

Canadian Food Inspection Agency

1. To improve program performance, we recommend that the Canadian Food Inspection Agency undertake the necessary system improvements through, among other ways:
 - Legislative and regulatory modernization;
 - Introduction of new regulatory approaches for low-risk products, such as low-risk fertilizers;
 - Increased use of electronic certification and client interfaces; and
 - Streamlined approvals of such things as meat packaging and veterinary biologics. SV, RD, AB
2. To improve coordination among regulators in a number of areas and to reduce cumulative compliance burden, we recommend that the Canadian Food Inspection Agency:
 - Work with the provinces through, among other ways, streamlining meat hygiene requirements, recognizing dairy equivalency, and integrating laboratory networks; and
 - Work with other federal government departments to coordinate regulation of plants with novel traits, strengthen interdepartmental governance on food safety, and develop a coordinated and integrated set of requirements and approval processes for bio-safety containment. CB, RD, AB
3. To improve transparency and predictability and to adjust to changing industry practices, we recommend that the Canadian Food Inspection Agency work with stakeholders and other government departments through, among other ways:
 - Broad legislative and regulatory renewal, including modernization and simplification of agri-food regulations under the *Canada Agricultural Products Act*;
 - Achieving equivalence of Canadian and United States sanitary standards for dairy products; and
 - Pursuing other regulatory improvements related to labelling and meat hygiene. RD, AB, CB
4. To improve service and responsiveness, we recommend that the Canadian Food Inspection Agency increase its capacity to accommodate business needs and realities by aligning its fees with the cost of providing services and linking them to service standards and adherence to those standards, as well as ensuring compatibility with trading partners and consistency across sectors. The Agency should:
 - Foster a stronger service-oriented approach to dealing with regulated parties, increase professionalism, achieve greater consistency in service delivery, and improve information products and tools used to interface with regulated parties; and
 - Draw more consistently on business through more effective stakeholder engagement to keep their programs current and as least burdensome on business as possible. SV, CB

Canadian Nuclear Safety Commission

1. To reduce administrative and cumulative burden on business, we recommend that the Canadian Nuclear Safety Commission develop and implement an annual online compliance reporting system, with appropriate guidance, to reduce the burden on its nuclear substance licensees, most of whom are small businesses. AB, SV, CB, L, SB, ST

Citizenship and Immigration Canada

1. To improve the quality, transparency and timeliness of service for the Temporary Foreign Worker Program and the International Student Program, we recommend that Citizenship and Immigration Canada significantly reduce wait times using electronic applications, as appropriate. AB, SB, SV, L

Department of Justice Canada

1. To improve the clarity and predictability of regulation for business and improve understanding of regulatory requirements, we recommend that the Department of Justice Canada continue to develop tools to foster the intelligibility of legislative texts. SV

Environment Canada

1. To reduce administrative burden and improve service standards, we recommend that Environment Canada develop a system to allow importers and exporters to use electronic information exchange as a first step toward a complete online tracking system for hazardous waste and recyclable materials. AB, CB, SV, L

Fisheries and Oceans Canada

1. To improve fisheries regulation in Canada and to reduce administrative burden, improve clarity and establish a functional framework in which aquaculture operators can thrive, we recommend that Fisheries and Oceans Canada work with the provinces and industry to improve regulatory processes related to aquaculture, with a particular emphasis on the following:
 - Consolidating permit, authorization and licence processes to minimize the number of applications;
 - Amending or removing certain provisions of the *Management of Contaminated Fisheries Regulations*, for example, eliminating the requirement to list names of workers on licences and the associated fee for changes, to reduce frequency of application; and
 - Amending the administration of introductions and transfers to eliminate duplicative authorization processes. AB, SB, CB

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2. To improve clarity, consistency and predictability for Canada's commercial fisheries, including aquaculture, we recommend that Fisheries and Oceans Canada develop clear guidance to business as well as national standards, practices and tools for managing threats to fish and fish habitat. AB, SB, CB
 3. To improve clarity and consistency of communications with stakeholders and reduce compliance burden, we recommend that Fisheries and Oceans Canada improve the transparency, predictability and accountability of fisheries management decisions and decision-making processes, as well as standardize and strengthen the delivery of compliance programs. SV, SB
 4. To improve coherence and consistency on a national scale, we recommend that Fisheries and Oceans Canada review existing fisheries management policies and measures, including consolidating regional and national policies into a single nationally coherent policy document that integrates regionally specific requirements. AB, CB, SB, L
 5. To improve transparency and accountability, we recommend that Fisheries and Oceans Canada work with key federal marine transportation regulators to clearly identify roles, responsibilities and authorities, and have this information communicated to businesses. SV, CB, SB, L

Foreign Affairs and International Trade Canada

1. To eliminate cumulative burden caused by duplicative requirements over the administration of exports of certain nuclear and nuclear-related goods and technology, we recommend that Foreign Affairs and International Trade Canada and the Canadian Nuclear Safety Commission, both with overlapping jurisdiction, work together to streamline and harmonize the administrative and substantive requirements of their respective regulatory regimes. AB, CB, ST, SV
2. To improve service, predictability and the timeliness for the incorporation of changes to international export control regimes in domestic regulations, we recommend that Foreign Affairs and International Trade Canada update its Export Control List on a more consistent basis, establish service standards to that effect, and implement a process to provide the benefits of internationally agreed upon decontrols to Canadian exporters. SV, ST, AB

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3. To reduce compliance burden and provide greater flexibility to exporters, we recommend that Foreign Affairs and International Trade Canada introduce revised risk management practices for export controls that align with actions already taken in other countries. Such a system would include the introduction of multiple general export permits covering exports of certain lower-risk items to low-risk destinations. AB, SV, ST

Health Canada

1. To increase predictability, timeliness and transparency of the hemp licence application and approval process, we recommend that Health Canada achieve system efficiencies in its reviewing, tracking and reporting functions, as well as improve the communication of program requirements. L
2. To improve service orientation and achieve greater efficiencies for Canadian growers of hemp, we recommend that Health Canada:
 - Better communicate reasons for delays in processing licence applications;
 - Consider revising the *Industrial Hemp Regulations* to increase the validity period of licences subject to notification provisions; and
 - Consider revising the *Industrial Hemp Regulations* to optimize and streamline licence renewal requirements where feasible and appropriate. SV, RD
3. To improve efficiency, transparency and accountability, we recommend that Health Canada explore and implement improved IT solutions for the application and review process to obtain export permits for class B precursor chemicals. AB, L
4. To improve accountability and services related to the review of human drug and medical device submissions, and to respond to requests in a timely manner, we recommend that Health Canada update processes, as necessary, and meet established review performance standards. SV, L
5. In order to provide efficient services with respect to inquiries for licensing and the revised user fees, we recommend that Health Canada implement new service standards and post frequently asked questions on its website. SV
6. To improve the consistency in the application of its regulations, we recommend that Health Canada ensure that staff, particularly new staff, is adequately trained. SV
7. To improve transparency and communication, we recommend that Health Canada update its guidance to stakeholders regarding pre-market review of health claims on food. RD, SV, ST

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8. To improve predictability in the application of regulations and policies for food and to improve the opportunity for businesses to input into their design and application, we recommend that Health Canada:
 - Engage regularly with food manufacturers on regulations, policies and standards of relevance to them; and
 - Pay particular attention to the circumstances of small and medium-sized enterprises in regulatory design. RD, CB, SV
 9. In addition, with the same objectives in mind, we recommend that Health Canada:
 - Address areas that exist in the current regulatory frameworks, including food fortification, food additive and novel food frameworks, to ensure that they support rapid response to emerging food safety issues or opportunities for innovation and growth;
 - Examine areas where regulatory frameworks and approaches are out of step internationally and pose high levels of compliance burden for business relative to the risks being managed; and
 - Work closely with provincial and territorial governments to identify areas where duplication and overlap can be reduced. RD, CB, SV
 10. To remove unnecessary barriers and burden while continuing to ensure the highest level of safety for Canadians, we recommend:
 - That Health Canada modernize its regulatory framework, with a move to more proportional oversight based on risk, through changes to the establishment licence regulations to support outcomes-based regulations for secure supply chains;
 - Implementation of recently improved risk-based approaches to good manufacturing practices (GMPs) during drug inspection;
 - Conducting quality-system-based reviews for the medical devices program and the cells, tissues and organs program; and
 - Implementation of risk-based regulatory refinements to the *Natural Health Products Regulations*. RD, CB, AB
 11. Also, with the same objectives in mind, we recommend that Health Canada modernize its regulatory framework, with a move to more proportional oversight based on risk, through:
 - Development of a regulatory approach for “orphan drugs” (to treat rare diseases), leveraging work with the United States and other international regulatory counterparts;

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- Introduction of a streamlined risk-based approach for regulatory approvals of low-risk veterinary drugs; and
 - The development of a more flexible and risk-based regulatory framework for food additives. RD, CB, AB
12. To alleviate the financial burden that revised user fees may have on applicants, we recommend that Health Canada address pharmaceutical, biotechnology and radiopharmaceutical small business realities by providing opportunities for the remission of fees for qualifying companies (with the effect of reducing the amounts paid in relation to products that have low volumes of sales). SB, ST
13. To increase predictability and transparency and to improve review performance, we recommend that Health Canada accelerate and enhance upstream measures such as pre-submission and pipeline meetings with businesses (e.g., pharmaceutical companies). SV, ST
14. To improve transparency and communication, we recommend that Health Canada accelerate its efforts to update regulatory guidance for business and implement a single-window system involving all relevant directorates for reporting adverse drug reactions. RD, CB
15. To reduce administrative burden and improve service related to the review of changes to approved drugs, we recommend that Health Canada streamline its post-approval changes system and eliminate the category for minor chemistry and manufacturing changes to pharmaceuticals. AB, ST, SV
16. To facilitate and improve the application process for natural health products licensing, we recommend that Health Canada update its electronic tools and provide training to stakeholders on their use. SV
17. To improve predictability, service orientation, as well as consistency and clarity of advice and guidance to the natural health products industry, we recommend that Health Canada develop a risk-based approach to site licensing for natural health products and align quality standards with those of key international partners. RD, SV, CB
18. Also, with the same objectives in mind we recommend that Health Canada:
- Complete the review by February 2013 of applications received before August 2010, which are subject to the *Natural Health Products (Unprocessed Product Licence Applications) Regulations*;
 - Modify pre-cleared labelling information on new claims and safety concerns as new information becomes available;

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- Revise the standard for safety and efficacy of finished natural health products as soon as possible; and
 - Improve screening and review processes. RD, SV, CB
19. To improve service orientation and to ensure that Health Canada can better meet the information and communications needs of its stakeholders, including business applicants, we recommend that Health Canada streamline its website to feature relevant, organized and timely information for business users. SV, L, SB, CB
 20. To reduce cumulative burden and increase predictability we recommend that Health Canada, Foreign Affairs and International Trade Canada, and Natural Resources Canada coordinate efforts to communicate and clarify their respective program requirements with regard to the regulation of different categories of precursor chemicals (including those used for weapons production and controlled substances).
 21. To improve coordination, consistency and predictability in the application of regulations and policies for veterinary drug products and livestock feeds, and to minimize regulatory roadblocks, we recommend that Health Canada work with the Canadian Food Inspection Agency to implement a single-window approach to assist businesses in determining the appropriate pathway for the commercialization of their product. RD, CB
 22. To reduce the administrative burden faced by applicants and regulators for the registration and amendment of registered pest control products in Canada, we recommend that Health Canada continue to review its current notification/non-notification policy with a view to reduce approval times and regulatory requirements for certain administrative and scientific changes to registered pesticides. RD, AB

Human Resources and Skills Development Canada

1. To achieve improvements in service and consistency within the Temporary Foreign Worker Program, we recommend that Human Resources and Skills Development Canada, working with Citizenship and Immigration Canada, strengthen operational guidance, improve systems, change the assessment of wages, improve coordination via federal and/or provincial agreements, and develop a sound evaluation plan. SV

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2. To reduce cumulative and administrative burden and improve service to businesses we recommend that Human Resources and Skills Development Canada improve the Record of Employment (ROE) processes and systems by:
 - Redesigning the ROE Web application to be more user-friendly for small and medium-sized businesses, maintaining strong partnerships with large payroll service providers and the payroll software vendor community; and
 - Implementing an online registration and account maintenance process for ROE Web. AB, SV, CB

Human Resources and Skills Development Canada—Labour

1. To examine how best to streamline business reporting requirements, including consideration of raising the employee number threshold, we recommend that a legislative review of the *Employment Equity Act* be undertaken. AB, RD
2. To reduce administrative burden, we recommend that the Labour Program of Human Resources and Skills Development Canada develop tools that would allow businesses to submit information via electronic means, or the Internet, and thus reduce the time spent on meeting reporting requirements (hazardous occurrence, or employment equity reporting). AB, CB
3. To improve service to the trucking industry and reduce confusion and disagreement regarding the interpretation of overtime pay requirements, we recommend that the Labour Program of Human Resources and Skills Development Canada undertake a review of related policies and guidelines. RD, ST

Industry Canada

1. To improve service and reduce compliance costs associated with current processing delays for, in particular, small business, we recommend that Industry Canada amend the *Trade-marks Regulations* to allow for electronic evidence filing, setting a prescribed period for the completion of all cross examinations for the opposition process, and harmonizing administrative procedures with other jurisdictions. AB, RD, CB
2. To reduce the compliance costs faced by Canadian business due to differences in regulatory requirements between Canada and its major trading partners in a number of important areas, we recommend that the Minister of Industry Canada encourage the Standards Council of Canada's efforts to achieve increased harmonization of Canadian regulatory requirements for standardization and conformity assessment with those of other key jurisdictions. AB, CB

Public Health Agency of Canada

1. To support its certification and import program activities regarding pathogens, we recommend that the Public Health Agency of Canada and the Canadian Food Inspection Agency jointly develop a bio-containment standard for human and animal pathogens. CB, SV, ST
2. To improve service delivery for laboratories working with human pathogens and toxins, we recommend that the Public Health Agency of Canada introduce an electronic information management system to support the collection, review and processing of laboratory certification requests and import permit applications. SV
3. To improve the understanding of bio-safety and compliance requirements by regulated parties, we recommend that the Public Health Agency of Canada and the Canadian Food Inspection Agency jointly develop and implement bio-safety training. SV, ST

Public Works and Government Services Canada

1. To reduce duplication in security screening processes that can impede businesses from accessing contract opportunities, we recommend that Public Works and Government Services Canada streamline the process for security screening for all of government. AB, SV, CB
2. To reduce duplication, volume and the complexity of paperwork required for federal procurement bids, we recommend that Public Works and Government Services Canada simplify and standardize the procurement process and minimize the amount of paperwork required from suppliers, in particular small business, and work with other departments to help them do the same. AB, SV, SB
3. To eliminate excess administrative burden and ensure government contracting opportunities are easily accessible for suppliers, we recommend that Public Works and Government Services Canada evaluate the government electronic tendering service, currently the Open Bidding Service (MERX), and develop a single-point-of-entry no-cost option for Government of Canada procurement information before the current arrangements expire. SV, AB

Statistics Canada

1. To reduce the administrative burden of Statistics Canada's business surveys on stakeholders, we recommend that Statistics Canada implement measures to reduce compliance costs such as optimizing sample size and follow-ups, reducing content for small businesses, and examining the impact and feasibility of limiting the number of questionnaires sent to a small business as well as the period in which a small business must remain in a survey sample. AB, SB
2. To reduce redundancy in requests for financial and/or payroll information by different federal departments or agencies, we recommend that Statistics Canada collaborate with the Canada Revenue Agency to further substitute financial survey data with tax data, and review current information collection activities to eliminate redundancy as well collaborate with other federal government departments to align and coordinate information needs, regardless of purpose, with the objective of collecting any information element once and only once. CB, AB
3. To reduce business frustration, we recommend that Statistics Canada:
 - Review and update its communications methods with survey respondents to assist their understanding of the links between the information collected from them and the benefits of its uses;
 - Better convey the survey importance to survey participants;
 - Enhance its website and improve the visibility and content of information tailored to inform survey participants; and
 - Engage small business associations to communicate the benefits of surveys. SV, SB
4. To reduce administrative burden associated with Statistics Canada's data collection methods and practices, we recommend that Statistics Canada implement Web-based data collection methods, allowing, when appropriate, information from the previous collection period to be pre-populated to reduce burden and requiring only the participant's validation. AB, SV

Transport Canada

1. To eliminate administrative burden on small businesses, we recommend that Transport Canada implement plans to exempt small businesses that use smaller trucks locally from the administrative requirements in relation to hours of service (including the maintenance of logbooks). AB, SB

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2. To increase the uniformity in the enforcement of the transport of dangerous goods regulatory regime and reduce administrative burden, we recommend that Transport Canada accelerate initiatives designed to effect improvement in the consistency of application of program delivery and their communication to regulated parties. CB, AB
 3. To provide a predictable and uniform business environment across Canada for the trucking industry and to reduce current compliance burden and associated costs, we recommend that Transport Canada engage its provincial and territorial counterparts with concrete proposals to advance the harmonization of regulations that pertain to the *National Safety Code* (including hours of service). The department should aim to eliminate unnecessary compliance burden on inter-provincial truck commerce stemming from differences in regulatory requirements across jurisdictions. CB, AB, L
 4. To provide businesses with greater certainty and predictability through reasonable timelines and service standards, we recommend that Transport Canada streamline its processing of exemptions under the *Motor Vehicle Transport Act*. ST, SV
 5. To alleviate current compliance and paperwork burden on smaller recreational vehicle (RV) dealers, we recommend that Transport Canada, in consultation with industry stakeholders and taking into account the impact on small businesses, streamline the pre-clearance process for RV importation to effect a reduction in administrative burden on smaller dealers, and focus regulatory activities on a smaller number of larger Canadian RV importers with established expertise. AB, SB, ST
 6. To improve business understanding of regulations related to the recreational vehicle (RV) industry and to reduce corresponding compliance burden, we recommend that Transport Canada improve communication to stakeholders regarding current pre-clearance program requirements for RV importation, including through modifications to its website, and ensure that future changes to the program be communicated clearly and in advance of implementation. SV, ST
 7. To reduce administrative burden and more effectively account for the realities of smaller aviation maintenance operations and their capacity to meet regulatory requirements, we recommend that Transport Canada review quality assurance requirements for aviation maintenance operations. In doing this, the department should ensure that a performance-based approach is applied for businesses and that clear guidance is given in terms of expectations, particularly as it relates to the size of the operation. SV, SB, AB

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8. To reduce the compliance burden on airport authorities related to lease monitoring, we recommend that Transport Canada complete the implementation of its risk management strategy with a view to reduce red tape for airport authorities, notably in reduced frequency of certain audits. AB, ST
 9. In order to improve services to businesses and to ensure consistent and standardized service delivery across Canada, we recommend that Transport Canada review, update and implement service standards, as well as promote clear communication of those standards, such as through an improved website. SV
 10. To provide flexibility and reduce costs, we recommend that Transport Canada amend the *Marine Transportation Security Regulations* to clarify that regulated Canadian-flagged vessels, while on a domestic voyage, may interface with either regulated or unregulated ports and marine facilities, with a view to increasing business competitiveness. RD
 11. In order to minimize compliance burden on business, we recommend that Transport Canada propose amendments to the *Navigable Waters Protection Act* to exempt certain minor projects and certain waters that have minimal utility for navigation from its application. The department should aim to reduce the number of projects subject to the legislation and requiring applications, as well as improve the response times for processing applications and provide a more predictable framework for business and investors. RD, AB, SV
 12. To reduce compliance burden on small business, we recommend that Transport Canada proceed on an expedited basis with the planned risk-based modernization of its small fishing vessel regulatory regime, with particular focus on removing excessive requirements and oversight where risks inherent to the operation are low. AB, SB

Appendix C: The Commission's Terms of Reference

Role of Ministers

The Honourable Tony Clement, President of the Treasury Board, will be the overall Lead Minister for this exercise. The Honourable Maxime Bernier, the Minister of State for Small Business and Tourism, will be the Chair of the Commission, with a particular responsibility to ensure issues relevant to small business are addressed.

Structure

In addition to the Chair, the Commission will be comprised of five other parliamentarians, nationally representative, and six private sector leaders representing business and associations of federally regulated sectors, with appropriate regional balance.

The Treasury Board of Canada Secretariat will provide secretariat support for the Commission's work.

Mandate

The Commission's mandate is to:

- ▶ Identify irritants to business that stem from federal regulatory requirements, or how those requirements are administered, in areas where reform is most needed to reduce the compliance burden on business, especially small business. The focus will be on irritants which have a clear detrimental effect on growth, competitiveness, and innovation; and
- ▶ Recommend options to address such irritants, and control and reduce the compliance burden on a long-term basis while ensuring the protection of the environment and health and safety of Canadians is not compromised.

In discharging this mandate, the Commission will have two principal areas of focus:

- ▶ First, it will address current regulatory irritants raised by businesses in public and online consultations, where federal regulatory requirements cause undue or excessive compliance burden. The focus area will be the "stock" of existing regulations and should target known irritants which have a clear detrimental effect on Canadian productivity and innovation and which therefore inhibit competitiveness. As part of its analyses, the Commission should consider the appropriateness of instrument selection, administrative costs, level of intervention, and degree of prescription.
- ▶ Second, in light of the regulatory irritants identified by businesses, it will identify options for permanent solutions to control and reduce regulatory compliance burden, with special attention to the impact on small business.

For the purposes of the Commission, compliance burden refers to the time and resources spent by business to demonstrate compliance with government regulations in terms of planning; collecting, processing and reporting of information; completing forms and retaining data required by governments; inspection costs; and waiting for regulatory decisions and feedback.

Objectives

In support of the mandate, the Commission's objectives are to recommend to government ways in which:

- ▶ Regulatory requirements can better reflect government goals and priorities, including reducing undue costs of compliance for business;
- ▶ Regulatory burdens that inhibit growth, productivity, and innovation can be reduced, including through the elimination or amalgamation of regulations, or the use of alternative mechanisms;
- ▶ The cost and burden of regulation to business can be reduced through streamlining requirements related to compliance, administration, and reporting;
- ▶ Regulatory duplication and overlap can be reduced or eliminated within federal jurisdictions;
- ▶ Government can benchmark and measure progress on the above objectives; and
- ▶ Protection of the environment and health and safety of Canadians is not compromised by the reduction of regulatory requirements.

The Commission's ultimate objective is to provide advice to the government through the Lead Minister on issues within its mandate to reduce the regulatory compliance burden on business that inhibits growth, productivity and innovation while ensuring the protection of the environment and health and safety of Canadians is not compromised.

Appendix D: Commission Members

The Red Tape Reduction Commission is composed of parliamentarians and members of the private sector.

On May 18, 2011, the following were appointed to the Commission¹²:

The Honourable Tony Clement,^{lxiii} President of the Treasury Board and Minister for the Federal Economic Development Initiative for Northern Ontario, new Lead Minister for the red tape reduction exercise

The Honourable Maxime Bernier,^{lxiv} Minister of State (Small Business and Tourism), new Chair of the Commission

Dean Allison, Member of Parliament (Niagara West–Glanbrook)

Lois Brown, Member of Parliament (Newmarket–Aurora) and Parliamentary Secretary to the Minister of International Cooperation

Cathy McLeod, Member of Parliament (Kamloops–Thompson–Cariboo) and Parliamentary Secretary to the Minister of National Revenue

The Honourable Rob Moore, Member of Parliament (Fundy Royal)

Chris Warkentin, Member of Parliament (Peace River)

Bill Aho, President and Owner, Central Mechanical Systems, Ltd., Northwest Territories

Bernard Bélanger, Chairman of the Board and CEO, Premier Tech, Quebec

Stirling MacLean, President, WearWell Garments Ltd., Nova Scotia

Gord Peters, President and Owner, Cando Contracting Ltd., Manitoba

Denis Prud'homme, former owner of Prud'homme Trucks and President of the Prud'homme Group of Companies, Saskatchewan

Catherine Swift, Chairwoman, Canadian Federation of Independent Business

12. On January 13, 2011, the Honourable Stockwell Day, President of the Treasury Board and Minister for the Asia-Pacific Gateway was appointed as the Lead Minister for the red tape reduction exercise and has since retired. The Honourable Rob Moore was Chair of the Commission from January 19 to May 18, 2011.

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