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Policy Studies

Publication details, including instructions for authors and subscription information:
<http://www.informaworld.com/smpp/title~content=t713442426>

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Online Publication Date: 01 June 2008

To cite this Article: Vickers, Ian (2008) 'Better regulation and enterprise: the case of environmental health risk regulation in Britain', Policy Studies, 29:2, 215 — 232

To link to this article: DOI: 10.1080/01442870802033514
URL: <http://dx.doi.org/10.1080/01442870802033514>

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RESEARCH ARTICLE

Better regulation and enterprise: the case of environmental health risk regulation in Britain

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(Received 12 July 2007; final version received 30 January 2008)

Proposals for ‘better regulation’ and the policy dynamics behind them are examined with respect to the implications for the regulation of environmental health risks in smaller enterprises in Britain. Although better regulation has involved a fluid and rapidly changing discourse across the European Union, the regulatory reform agenda has recently refocused on competitiveness, simplification of targets and the reduction of administrative burdens on businesses. A review of the evidence base on the impact of regulation on business performance and the compliance behaviour of enterprises suggests that proposals relating to environmental health in Britain have been overly influenced by ‘red tape’ discourse which lends disproportionate weight to claims relating to regulatory burdens and underplays the benefits of regulation. Questions are raised with respect to some key aspects of better regulation: the policy to shift resources from enforcement to education; the limitations of comprehensive risk assessment applied to targeting enforcement; uncertainties relating to the potential of alternative means of achieving compliance and the adoption of good practice; and the over-emphasis in simplification exercises on the achievement of narrowly defined cost savings.

Keywords: regulation; European Union; risk assessment; environmental health; regulatory impact assessment

Introduction

How regulatory compliance on the part of business organizations can most effectively be secured while at the same time minimizing regulatory burdens and, in so doing, contributing to the fuller realization of an ‘enterprise culture’ continues to be the subject of considerable policy debate. The British government’s acceptance of the recommendations of the Hampton Review (Hampton 2005) appears to have created a dominant consensus as to the role to be played by regulatory agencies charged with monitoring and enforcing organizational compliance with statutory legal requirements. In essence, this consensus is centred on the notion that such agencies should commit greater resources to the provision of advice and guidance and reserve the use of the more ‘burdensome and expensive’ method of inspections

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to the small minority of 'high-risk' situations where its use is merited. This consensus is premised on expectations relating to the potential of alternative means of achieving compliance, including an increasing role for self-regulatory measures and the greater involvement of non-state actors.

This article draws on secondary evidence to explore the policy dynamics behind 'better regulation' in Britain and the validity of this approach, with particular reference to the implications for the regulation of environmental health risk in smaller enterprises. It begins by summarizing the recent evolution of the policy debate around better regulation. The main prescriptions of the Hampton report are then summarized and their validity considered in relation to what is known about the impact of regulation in general on businesses, enterprise compliance behaviour and the increased role of risk assessment in targeting enforcement.

The origins of better regulation

The argument that regulation is a key barrier to business growth and performance has received considerable attention in recent years (Baron 2002; FSB 2002; HM Treasury 2002; IOD 2004; OECD 2002). Concerns in Britain reflect similar experiences in a number of advanced industrial countries during the 1980s/1990s of a so-called 'regulatory crisis' focused on alleged over-regulation (Hutter 2005), with the policy debate leading to waves of initiatives concerned with 'deregulation', 'smart regulation' and 'better regulation'. Current debates and developments follow on from a longer-standing critique of 'command and control approaches' to regulation (Sinclair 1997), which are seen as being inefficient, expensive, innovation-stifling and leading to enforcement difficulties. The critique of command and control approaches has been widely accepted by policy-makers (OECD 2002) and regulatory reform in European environmental health risk regulation (i.e. including occupational health and safety, food safety and environmental risks) has been driven over a number of years by the increasing application of 'enforced self-regulation' (Braithwaite 1982; Fairman and Yapp 2005a). This involves regulators setting goal-oriented responsibilities and duties for businesses to implement through their own internal rules and procedures, rather than emphasizing detailed prescriptive standards. Allied to this, enforcement practice has entailed the adoption by inspectors of a discretionary use of the various methods of influence at their disposal, as suggested by the 'enforcement pyramid' developed by Ayres and Braithwaite (1992), where regulatory tools include a broad base of co-operative measures such as persuasion, regulatory advice and technical consultations, but with ongoing non-compliance met with a range of increasingly punitive measures.

In recent years, regulatory reform in Europe has been particularly influenced by the Lisbon Agenda of the European Union (EU) for competitiveness (Commission 2005). In general terms, 'better regulation' covers a wide range of policy instruments and programmes aimed at improving the capacity of institutions to provide high quality regulation and to address issues of economic competitiveness, social cohesion and sustainable development (Commission 2002). Regulatory impact assessment (RIA) has been presented as a key tool by promoters of better regulation, although some commentators have argued that RIA has been over-emphasized (Baldwin 2005). The alternatives to 'traditional' inspection and enforcement envisaged under better regulation include a greater emphasis on auditing, greater self-regulation on

the part of regulatees and an increase in the role of non-state actors in regulatory regimes, whether ‘economic actors’ (businesses, trade associations, etc.) or ‘civic actors’ (a range of non-governmental organizations and advocacy groups; Hood *et al.* 2001; Hutter 2006). A number of commentators have further highlighted that better regulation involves a fluid and rapidly changing discourse that allows political leaders to respond flexibly to changing priorities in their regulatory reform agendas (Baldwin 2005; Black 2005; Radaelli 2007). Radaelli (2007) redefines ‘better regulation’ as ‘meta-regulation’ – a malleable concept, involving sets of rules on the process of rule-formulation, adoption, implementation and evaluation. The diffusion of new tools (such as RIA) and models of governance across Europe has been uneven; thus Radaelli observes that the ‘better regulation’ agenda has tended to oscillate over space and time between concerns over regulatory quantity (or deregulation) and quality. In recent years, however, the pendulum appears to have swung in favour of a more narrowly defined agenda for ‘jobs and growth’ (Commission 2005). Radaelli contends that, although focusing attention on specific goals, such as the reduction of administrative burdens, this redefinition narrows the scope of better regulation in terms of its sensitivity to the full range of stakeholder concerns and its governance ambitions.

Better regulation in Britain

The British case presents a particularly dynamic example of the fluid and changing nature of the better regulation agenda. A Deregulation Task Force was established in 1994 by the Conservative government, operating outside the main government departments while being administered within the Cabinet Office. With the return of a Labour government in 1997, the pendulum of the regulatory reform agenda appeared to swing away from deregulation towards a greater emphasis on consultation, transparency and regulatory quality. A Better Regulation Task Force (BRTF) was established in 1997 and a Better Regulation Commission (BRC) subsequently established to continue the role of the BRTF to advise the government on regulatory proposals and its overall regulatory performance.

Despite this apparent change of emphasis, it is argued here that recent developments in Britain are closer in spirit to the EU’s reformulated Lisbon agenda for ‘jobs and growth’, with its new focus on competitiveness, simplification targets, and the reduction of administrative burdens on businesses (Commission 2005; Radaelli 2007). Indeed, with regard to working conditions and the regulation of health and safety, some academics have pointed to the ongoing influence over a number of years of a neoliberal rationality in transforming the British state and how it relates to business (Beck and Woolfson 2000; Toombs 2006). Of particular relevance are the economic objectives of the New Labour government, notably its vision of building an ‘enterprise society’, and its stated aim of making Britain ‘the best place in the world to do business’ (HM Treasury 2002). The policy framework for a government-wide approach to promoting enterprise has been organized under seven strategic themes, of which developing better regulation is just one (SBS 2002).

A particular dilemma presented by the small business sector is the large number of such enterprises, which also needs to be seen in the context of the aim of government to increase the rate of start-ups. There were an estimated 4.3 million business enterprises in Britain at the start of 2005, and almost all of these (99.3%)

were small (0–49 employees) and only 27,000 (0.6%) were medium-sized (50–249 employees; DTI 2005). Small enterprises in Britain accounted for 46.8% of private sector employment (including some of the most vulnerable workers) and 36.4% of turnover, while small and medium-sized enterprises together accounted for 58.7% of employment and 51.1% of turnover. Collectively, therefore, the environmental health risks associated with smaller enterprises are considerable, while their large numbers pose a particular problem for regulators in terms of how best to allocate scarce resources to encourage compliance and the adoption of good practice in the control of risk.

Important landmarks in the evolving debate on what might constitute better regulation have been the report by Philip Hampton commissioned by the Treasury (Hampton 2004, 2005) and a related report to the Prime Minister by the BRTF (2005). Hampton considered the work of 63 national regulators and 468 local authorities, which between them conduct more than 3 million inspections per year, and, in the case of the national regulators covered, send out 2.6 million forms for businesses to complete every year. The focus of this work was ‘to identify ways in which the administrative burden of regulation on businesses can be reduced, while maintaining or improving regulatory outcomes’ (Hampton 2005, p. 3). Over 300 stakeholders were consulted, including regulators and other relevant government departments and agencies, local authorities, industry representative bodies, professional bodies, campaigning organizations, trade union bodies and academics. Hampton made a number of recommendations with a view to achieving ‘greater excellence in regulatory outcomes – but to do so substantially more efficiently, by:

- entrenching the principle of risk assessment throughout the regulatory system, so that the burden of enforcement falls most on highest-risk businesses, and least on those with the best records of compliance;
- in particular, ensuring that inspection activity is better focused, reduced where possible but, if necessary, enhanced where there is good cause;
- making much more use of advice;
- substantially reducing the need for form-filling and other regulatory information requirements; and
- applying tougher and more consistent penalties where these are deserved (para. 24, p. 8).

The full and more consistent application of risk-based assessment, identified as an essential mechanism for directing scarce regulatory resources, is expected to release resources that can then be used ‘to provide improved advice, because better advice leads to better regulatory outcomes, particularly in small businesses’. Thus, Hampton identified that 36 of the 63 national regulators use some form of risk assessment; ‘only 25 of them, however, include an explicit element of earned autonomy, where good performers are visited less often, or have less onerous reporting requirements’ (Hampton 2005 p. 4). The government subsequently announced in the 2005 budget that the recommendations of the Hampton and BRTF reports would be adopted in full, with the Chancellor of the Exchequer endorsing Hampton’s recommendation of a major reduction in the number of inspections by regulatory agencies by one million a year, or a third.¹ In total, 35 agencies are to be reduced to just nine – a reduction of 26. These and other measures were presented in the Chancellor’s speech as demonstrating how ‘Britain can lead the

way in removing barriers to enterprise' (Hampton 2005 p. 6). The recommendations of the two reports have subsequently been incorporated in the Legislative and Regulatory Reform Bill, published in January 2006.²

Even prior to Hampton, some of his main recommendations had already been reflected in the policy statements of key regulatory agencies. The case for a more risk-based approach to inspection had been made by the Health and Safety Commission and a discussion article, 'Regulation and recognition' (2004), exploring the best mix of methods subsequently published.³ The HSE has more recently announced that the aim should be to achieve an 'acceptable level of risk, not zero risk' and that this will involve a new approach to 'sensible risk assessment' (HSE 2006), also endorsed by the BRC as: 'clearly an important development that has the potential to trigger a profound culture change and re-think across the board' (BRC 2007; see also BRC 2006). It is important to note, however, that risk assessment and a targeted approach have long been used by the main agencies responsible for environmental health regulation (e.g. HSE, 1986, pp. 33–37; Hawkins 2002, p. 167) and that they have supported a number of initiatives over the years aimed at strengthening information provision and education to assist businesses to comply with legal requirements. In the case of the HSE, this has included a telephone helpline, supporting and encouraging better access to occupational health and safety services, targeted campaigns and the production of a range of publications aimed at small firms (Walters 2001, pp. 236–238).

To further contextualize recent developments, research on the enforcement of health and safety law has confirmed that the decline in inspections has, in fact, been an observable trend for a number of years prior to Hampton (Unison/CCA 2002).⁴ This research also showed that levels of inspections, investigations and prosecutions varied considerably by region and sector, while a further study (Unison/CCA 2003) identifies considerable variation between local authorities (responsible for regulating health and safety in lower-risk businesses). This evidence suggests that, rather than representing a radical break, recent developments need to be understood as part of a longer-term trend towards a declining role for inspection.

A number of studies have also been commissioned by regulatory agencies to examine regulatory efficacy and the potential of alternative approaches for specific areas of regulation (e.g. Howard and Galbraith 2004). The main alternatives considered or under consideration include: a shift to auditing rather than inspection; regulatory thresholds (i.e. excluding enterprises below a certain size); removing regulations altogether; and alternative ways of achieving compliance/behavioural change, including the wider adoption of voluntary codes, kitemarks, reputational sanctions and positive incentives for good performers. A recent report on regulatory sanctions (Macrory 2006) has recommended a more flexible and proportionate approach with a broader range of sanctioning options being made available to regulators in order to facilitate the implementation of Hampton's agenda for risk-based regulation.

It has been noted that there is limited experience of novel alternatives to 'classic' regulation (Fairman and Yapp 2005b, p. 33). Voluntary systems have been applied by the Environment Agency in the case of waste minimization clubs during the 1990s and recently by the English Regional Development Agencies.⁵ Positive incentives have also been used by the Food Standards Agency in the form of food award schemes, piloted in Wales and Northern Ireland; the scheme in Wales is reported by

Hampton to be held in high regard by the catering industry, which believes the awards add value to the recipient businesses (Hampton 2005, p. 42). Regional health and safety representatives have been shown to be among the most powerful and effective of intermediaries for supporting participative arrangements for health and safety in small businesses. Positive experiences of this have been driven by legislation in Sweden, Norway, Italy and Australia; whereas in Britain calls for such legislation have been resisted by policy makers and efforts in this direction, although showing some success, have been very limited in their breadth of coverage and sustainability (see Walters and Nichols 2007, for a recent discussion of the evidence).

Following the acceptance of Hampton's recommendations, a government-wide Administrative Burdens Measurement Exercise has involved external consultants measuring the costs associated with administrative tasks (form-filling, record-keeping etc.) and estimating the total annual administrative cost contained in all legislation in force before May 2005. Initial simplification plans have subsequently been produced by the agencies concerned (Defra 2006; FSA 2006; HSE 2006) and by December 2006 it was claimed that administrative burdens of around £14 billion had been identified, with the government subsequently committing to reduce these burdens by 25% or £3.5 billion (BRC 2007).

Many of Hampton's proposals have been broadly welcomed, particularly those relating to simplifying procedures, eliminating unnecessary bureaucracy and adopting a systematic approach to RIA. Critical responses have been mainly from the labour movement and particularly concerned with the implications for occupational health and safety of the proposal to shift resources away from inspection and enforcement towards education and advice (CCA 2004; TUC 2005) and can be summarized as follows:

- that routine inspection should not be reduced since the credible threat of inspection is held to be a key motivator of compliance;
- that inspection visits are essential to assessing risk including in apparently 'low risk' businesses (which should therefore not be exempted from inspections altogether), and that greater resources are therefore needed by regulators for them to conduct more targeted and proactive inspections;
- that investigations of incidents and regulatory failures are also a crucial aspect of any effective regulatory regime, but that regulators are currently insufficiently resourced to undertake such investigations.

Similar concerns had been expressed by the House of Commons Work and Pensions Committee, following its investigation of the work of the Health and Safety Commission and Executive, concluding in July 2004 that: 'the HSE should not proceed with the proposal to shift resources from inspection and enforcement to fund an increase in education, information and advice' and that 'the evidence supports that it is inspection, backed up by enforcement, that is most effective in motivating duty holders to comply with their responsibilities under health and safety law' (HCWPC 2004, para. 142). The Committee also expressed concern over the low levels of investigation of incidents and of proactive inspections and called for a doubling in the number of inspectors. Such expressions of concern have had little influence on policy: since 1997 the HSE's workforce has fallen from over 4000 to its current number of less than 3500, and the Department of Work and Pensions is

proposing that the HSE should receive a 5% real-terms cut in its budget each year from 2008–2009 to 2010–2011 (TUC 2008).

Enterprise and regulation: the evidence base

There is a diverse body of literature relevant to the debate, which this section draws on to address the following key themes: the impact of regulations in general on business performance; the compliance behaviour of enterprises; the role of risk assessment in targeting enforcement; and the role of inspection.

Regulation and business performance

There is a considerable body of literature which addresses the impact of regulation on business performance, some of which has been particularly influential on policy (see Chittenden *et al.* 2002, and SBRC 2005, for two recent reviews of this literature). Although Hampton (2005, p. 25) refers to a number of such studies, his report, at the same time, acknowledges evidence that ‘Overall, the UK’s regulatory regime is well respected internationally’ (para. 2.2). The policy emphasis on reducing regulatory burdens therefore appears, through Hampton’s own acknowledgement, to fit uneasily with evidence that the British regulatory environment in general is already relatively ‘business-friendly’ compared with that in other countries (see also Nicoletti and Scarpetta 2003; World Bank 2006). This apparent paradox has been noted in two recent reviews of studies concerned with the impact of regulation on business performance (SBRC 2005; Kitching 2006). These authors suggest that, despite the growing body of literature on regulatory ‘burdens’, there is a need to take greater account of the inadequate definitions of regulation typically used and also evidence of inaccurate reporting of regulation-related costs.

Kitching (2006, p. 802) cites three surveys where ‘regulation’ is covered by the broad concept of ‘legislation, norms, regulations, standards and taxation’ and points out that norms and standards could apply to industrial, trade or commercial customs, as well as regulatory requirements and guidance. He further argues that the reported ‘burden’ of regulation has been amplified by the limitations of the survey methodologies utilized, and a failure to investigate the precise nature of the causal mechanisms through which regulation contributes to business-performance outcomes. Many studies have therefore inevitably tended to reinforce the notion of regulation as a constraint on business. Other studies, however, which have utilized qualitative methods, have been more attuned to the complexities involved (e.g. Edwards *et al.* 2002, 2004, in the case of employment legislation). Such studies show that regulations generate a variety of consequences and that the emphasis on costs and constraints is misconceived.

Notwithstanding these qualitative critiques of survey-based approaches, some more sophisticated quantitative studies also lend support to the view that the effects of regulation on business performance have been exaggerated in better regulation discourse. The study by Carter *et al.* (2006) utilizes a large-scale biennial survey of small business attitudes and opinions towards employment legislation undertaken on behalf of the Federation of Small Business. Analysis of the survey data lends support to the findings of qualitative studies on the impact of employment legislation: that there is a difference between perceived potential effects and actual experience of such

legislation; that regulations are not uniformly problematic; and that the effect of legislation is mediated by competitive conditions, which are a greater influence on firm performance. A further example is the study by Capalleras *et al.* (2007) which looked at differences in start-up size and employment growth in new firms in highly regulated (Spain) and less regulated (Britain) national economies.⁶ Despite sharp differences in the regulatory approaches of the two countries, surveys of new firms in the two countries showed more similarities than differences. The authors' analysis shows that the background and skills of firm founders are of greater significance than regulation in influencing the performance of new and small firms. Other econometric-based literature draws attention to the potential cost of misdirected efforts at deregulation, including in terms of the danger of 'excess entry' of 'inefficient' and 'lower quality' firms and corresponding loss of welfare in the wider economy (Ghosh and Saha 2007; Lohira and Ono 1988; Suzumura 1995). Such studies lend support to the argument that well-designed and enforced regulatory regimes have a positive role to play in improving economic efficiency and that the dominant emphasis on lessening regulatory 'burdens' may not be the panacea it is claimed to be by policy-makers and industry representatives.

Enterprise compliance behaviour

Hampton identifies advice as a key unmet need in current regulatory regimes and that meeting this need will contribute to reducing the need for enforcement activity in the form of inspection, referring to two studies to support this contention (EA 2002; Yapp and Fairburn 2004). His report further observes that: 'this lack of knowledge is less a mark of failure by business, and more a mark of failure by regulators to communicate their message' (Hampton 2005, para. 2.53). However, closer examination of the evidence base on business compliance behaviour and responsiveness to socio-economic influences suggests an alternative and more complex interpretation.

First, it is important to acknowledge that there is a lack of accurate information on levels of compliance with legal requirements in general due to the methodological difficulties involved (Lehmann Nielson and Parker 2006). Given these difficulties, many studies rely on proxy measures of compliance while some also seek to explain the causal factors involved in compliance and non-compliance. With regard to smaller enterprises, there are numerous studies on specific aspects of regulation which support the view that non-compliance in such enterprises is prevalent.⁷ This prevalence has, in part, been linked to the more limited resources of small firms, including restricted financial resources for investment in new plant, equipment and training and also limited management time and skills for identifying and addressing hazards and risks (Chittenden *et al.* 2002; Lancaster *et al.* 2003; Walters 2001). It has also been linked to the low awareness of regulatory requirements among such firms (Fairman and Yapp 2005a,b; Hillary 2000; Vickers *et al.* 2005). This widespread lack of knowledge among small firms has been found to be compounded by the difficulties they experience in understanding how the legal requirements relate to their business and a tendency to conceive compliance differently to the view of enforcers. Fairman and Yapp (2005a,b) therefore argue that enforced self-regulation poses particular problems for many small businesses that lack the requisite systems-based management approaches.

Studies concerned with attitudes to environmental quality have found that small business owner-managers often show very positive attitudes to the environment but that this concern is typically not reflected in their behaviour (Petts *et al.* 1998; Redmond *et al.* 2006; Schaper and Raar 2000; McKeiver and Gadenne 2005; Williams *et al.* 2000). A recent review of studies concerned with environmental proactivity, including participation in voluntary environmental programmes, identifies company size (as measured by the number of employees) as one of the most influential structural affecting the implementation of environmental practices (Gonzalez-Benito and Gonzalez-Benito 2006, pp. 91–92). Compliance and the adoption of compliance-related improvements have been noted to be better amongst businesses which are more connected to external organizations and those that are more generally receptive to external influences, such as directly through their customers – notably in the case of food safety (Hutter and Jones 2006); through trade membership, supply chain/franchise arrangements and taking courses (e.g. Lowrie and Greenberg 1997 in relation to ground water contamination; Baldock *et al.* 2006 in relation to health and safety). Membership of industry associations and trade groups is generally low, however, in smaller businesses (particularly in Britain). Employees in small firms are also much less likely to be members of trade unions and to have access to representative arrangements through which joint consultation over health and safety matters can occur, a situation which several studies have identified as being associated with higher rates of injury (Nichols *et al.* 1995, 2004). A range of studies on occupational health and safety have further identified that small firms are most responsive to direct contact techniques including inspection (Biggs and Crumie 2000; Davis 2004; Rakel *et al.* 1999; Wright *et al.* 2004).

A number of studies emphasize the heterogeneity of the small business sector and that how enterprises respond to regulatory and other social pressures consequently varies considerably according to their particular characteristics (i.e. the awareness and motivation of owner-managers, and the capabilities and ‘culture’ of enterprises) and their operational contexts (i.e. the competitive conditions they face, as determined by the nature of product market and supply chain influences, as well as their exposure to regulatory pressures and the public eye; Carter *et al.* 2006; Edwards *et al.* 2002; Hutter and Jones 2006; Vickers *et al.* 2005). Thus, while previous research supports the understanding that many small firms have a reactive stance towards regulation, often expressing that they find it burdensome, it also demonstrates how attitudes and motivations can range considerably from overt rejection of the legitimacy of regulation and its avoidance to more positive and even proactive stances that involve going ‘beyond compliance’, suggesting that responses to newer ‘soft-regulation’ initiatives are, in turn, likely to vary considerably.

The increasing role of risk assessment in targeting enforcement

Hutter (2005) observes that the increasing use of risk-based tools appears to satisfy the need for greater objectivity and transparency in making policy choices and aiding decision-making; such tools are therefore regarded by policy-makers as particularly helpful in resolving conflicts between different interest groups, and also providing a transparent explanation of the allocation of resources. The more comprehensive application of risk assessment to improve targeting of enforcement activity is, as noted earlier, central to Hampton’s recommendations:

The fundamental principle of risk assessment is that scarce resources should not be used to inspect or require data from businesses that are low risk, either because the work they do is inherently safe, or because their systems for managing the regulatory risk are good (para. 2.13).

However, the review believes that no country at present has a fully comprehensive approach to regulation, as is proposed in this report. While some countries use some elements of risk assessment in their regulatory work, the review believes that the UK can take a lead internationally by making comprehensive risk assessment the core element of its regulatory system (para. 2.21).

Hampton suggests a number of principles for improving risk assessment, relating to openness to scrutiny, balance, simplicity (with a preference for mathematical expression), that it should be dynamic and incorporate deterrent effects, and should 'always include a *small* element of random inspection' (para. 2.31 – emphasis added) since: 'This is important both to test the validity of the risk assessment, and to ensure that businesses that are tempted to break the law always know they could be inspected' (para. 2.38).

Issues relating to enforcement and inspection in current and future strategies have recently been explored by Sanderson and Brady (2006), using interviews with 19 senior managers responsible for regulation/enforcement strategy in various British inspectorates. The salient points raised relate to:

- concerns over the methodological rigour of risk assessment and, in particular, that by aggregating large numbers of small regulatees and focusing on higher risks, there is a danger of an increase in the incidence of low-risk harms;
- the significance of a shift away from interaction in the form of routine inspection and towards more of an audit approach, given that, historically, improvement has often come about as a result of frequent contact between inspectors and inspectees;
- that the increased emphasis on risk-based regulation potentially involves greater political and reputational risks, i.e. in the case of incidents in regulatees deemed by the new procedures as 'low risk', there will be a greater tendency to 'blame the regulator' for poor operational judgement in not assessing the relevant risks correctly.

These concerns exist alongside well-recognized limitations to risk-based and cost-benefit approaches in assessing what is an acceptable risk or cost, which suggest that the simplification inherent in tools can result in the full complexity of problems being underplayed. There is, for instance, a substantial body of work taking socio-cultural perspectives on the perception of risk which challenges the distinction made in earlier scientific/technical approaches between risks that are measurable and unpredictable uncertainties (Taylor-Gooby and Zinn 2005). A number of studies in the environmental field have pointed out that assessments of risk, cost and benefit tend to favour a view that business costs are high, as the immediate costs to businesses are always much easier to calculate than are the wider socio-economic benefits (Yeager 1991). The potential limitations of risk-based and cost-benefit approaches applied to the targeting of enforcement, however, are largely unacknowledged in better regulation policy discourse, as represented by the Hampton and BRTF reports.

The role of inspection

Inspection has long been recognized as a key aspect of the regulation process. Inspection regimes in Britain have tended, on the whole, to be particularly sympathetic to the difficulties faced by smaller firms; a number of studies have revealed the extent to which inspectors have long used advice, discretion and flexibility, according to the nature of the business and the risks involved (e.g. Hawkins 2002; Hutter 1997). This tendency to rely more on education and persuasion rather than assumed wrong-doing and immediate recourse to punishment at the beginning of the process is consistent with responsive regulation theory (Ayres and Braithwaite 1992). While, as with regulation in general, inspection is seen as performing an important role in deterring risky practices and behaviour, it is potentially also concerned with catalysing improvement, including through recognition and praise for strengths (Day and Klein 1987; Braithwaite *et al.* 2007; Sanderson and Brady 2006). Protection and improvement can therefore be seen as two aspects of the same process in the context of what Sanderson and Brady (2006, p. 3) describe as a 'complex progressive definition of regulation', in which inspection is, potentially, an important change tool. Hampton does not acknowledge this aspect of regulation, although he does emphasize – in line with 'red tape' discourse – the danger of 'over-compliance by nervous businesses' as a result of 'regulatory creep' causing unnecessary administrative costs (Hampton 2004, p.6, para. 1.8).

While prescriptions for better regulation suggest that redirecting resources from inspection to 'education' will lead to better regulatory outcomes, responsive regulation theory draws attention to the importance of the interrelationship between information channels, education and the enforcement function. This can involve inspectors themselves acting as important sources of information and advice, as previously noted, or inspection (or the threat of inspection) prompting the uptake of alternative sources of information and advice, such as websites and telephone helplines provided by regulators, and other non-regulatory sources (James *et al.* 2004). Thus, while there may be potential for innovative approaches to improving levels of compliance, including better information and education and the involvement of non-state actors, firms still need to be motivated to respond and to make use of the available information. Some credible threat that wrong-doing will be detected and proportionate sanctions applied is clearly crucial here.⁸ While the Macrory (2006) report proposes the need for more flexible and proportionate sanctions, the effective implementation of this is likely to be dependent on the efficacy of systems of detection.⁹

There is therefore a strong case that innovative approaches need to be developed alongside a strengthened inspection function rather than one that is reduced, albeit ostensibly better targeted. Thus, there may be great scope for improving the effectiveness of the existing inspection regime through complementary measures to increase the role of other stakeholders. Griffith (2005), for instance, explores the potential for improving the effectiveness of food safety inspections through making inspection reports publicly available and the application of information technology to the inspection process. He also notes the requirement for greater consistency and transparency in inspections and enforcement – clearly contingent on the inspection function being appropriately resourced.

The important point to emphasize is that the issue of what might be a credible level of random inspection in the context of better regulation is not addressed by Hampton – other than the reference to a ‘small element of random inspection’ – despite this being a key issue raised by a number of stakeholders and particularly in the context of the decline of resources devoted to inspection and enforcement in Britain over a number of years. A striking aspect of recent better regulation discourse, moreover, is the one-dimensional approach to costs, in that the demonstration of savings in administrative costs and decreases in regulatory ‘burdens’ on businesses have tended to be prioritized over improvements in levels of compliance and the potential benefits in terms of reductions in injury, illness and environmental damage.¹⁰

Understanding the varied responses of enterprises to regulation

Hampton and related policy statements from government appear to present a simplistic conception of businesses’ compliance behaviour, with (a) a majority of legitimate businesses who are well-intended towards legal requirements that they view as being ‘reasonable’, and which are substantially compliant most of the time (and in need of ‘better education’ rather than inspection, insofar as they are not compliant) and (b) a small minority of ‘rogue traders’ needing greater regulatory attention, this to be achieved by the adoption of more systematic approaches to targeting enforcement measures and increased penalties for non-compliance. This dualistic conceptualization of business compliance behaviour is consistent with the perspective promoted by industry representative bodies towards which Hampton and the British government have been particularly responsive.

A number of studies, however, have sought to explain responses to regulation by way of a more differentiated understanding of the characteristics of enterprises and the extent to which they are variously exposed to socio-economic and stakeholder pressures. The stances adopted often involve a spectrum, ranging from resistant to proactive; Tilley (1999), for example, identifies SME environmental strategies as resistant, reactive, proactive or sustainable/ecological strategy. Similarly, previous work on health and safety (Vickers *et al.* 2005) suggests a typology by which enterprises can be differentiated in terms of their attitudes and responses towards regulation: avoiders/outsidiers (or ‘rogue traders’); reactors (including the sub-categories of minimalists and positive responders); and proactive learners. Although such typologies inevitably involve a degree of simplification of a complex and dynamic reality, they do help to provide a more realistic understanding of the behavioural and contextual factors that underlie different responses to regulation.

As previously noted, while it is not possible to precisely identify levels of legal compliance, the available evidence suggests that enterprises that are most responsive to ‘soft regulation’, and therefore effective as self-regulators, are likely to continue to be in the minority, these being those who are most subject to effective stakeholder influence or otherwise motivated to respond proactively to regulation as an opportunity for improvement/innovation and the achievement of competitive advantage. In contrast, most other small businesses will continue to struggle with self-regulation and be most responsive to direct contact techniques (including inspection) or, in a context of minimal enforcement or stakeholder influence, be increasingly undeterred from routine recourse to ‘informal’ practices and associated

non-compliance which, as well as increasing risk exposure to employees, the general public and the environment, is a source of unfair competitive advantage against those businesses which are more committed to regulatory compliance and the pursuit of good practice.

In conclusion

This article has attempted to critically assess the validity of better regulation in the context of environmental health risk regulation in smaller enterprises, focusing in particular on the priority of the British government to reduce regulatory burdens while at the same time 'maintaining or improving regulatory outcomes'. The article also identifies implications for the broader study of public policy. Clearly there are positive aspects to better regulation, including the commitment to consultation through open and transparent processes and a move to more flexible and proportionate sanctions, as well as simplifying procedures and eliminating unnecessary bureaucracy. Nevertheless it has been overly influenced by 'red tape' discourse which lends disproportionate weight to claims relating to the burden of regulation on enterprises, oversimplifies the impacts on business performance and underplays the benefits of regulation. Hence some campaigning groups and academics have subsequently reiterated their concerns relating to the implications for workplace health and safety of the reduced emphasis to be given to enforcement in the form of inspections. The debate has been characterized by differing views (and interpretations of the evidence base) as to the extent to which regulation imposes an unnecessary burden on businesses and the potential that there may be for alternative approaches. Examination of the evidence base lends further support to critiques made of the main suppositions underlying better regulation policy discourse by raising questions relating to: the policy to shift resources from inspection and enforcement to 'education'; the limitations of comprehensive risk assessment applied to targeting enforcement; uncertainties relating to the potential of alternative means of achieving compliance and the promotion of good practice; and the over-emphasis given in simplification exercises to the achievement of short-term financial cost savings.

Further exploration and experimentation with regard to the introduction of more effective approaches to achieving policy aims is clearly desirable. The danger is that better regulation, as currently conceived, will tend to further encourage many businesses to accord a lesser priority to (or continue to avoid) legal compliance and the adoption of good practice in their pursuit of competitive advantage, increasing risks to employees, consumers and the environment and associated long-term economic cost. While this may well fulfil the government's immediate aims in relation to business and enterprise and with respect to reducing the financial costs of regulation in the short term, questions clearly remain as to the desirability and sustainability of the particular version of the 'enterprise society' that is being endorsed and supported.

Finally, the article draws attention to the ongoing susceptibility of policy processes to elite interests, notwithstanding professed commitments to evidence-based policy and consultation. The findings therefore lend support to calls for the need to strengthen the role of democratic deliberation in policy-making (Fischer

2003) in a genuinely modernized policy arena in which ‘research evidence carries as much weight as political faith’ (Burton 2006, p. 192).

Notes

1. http://www.hm-treasury.gov.uk/budget/budget_05/bud_bud05_speech.cfm
2. www.publications.parliament.uk/pa/cm200506/cmbills/111/en/06111x--.htm
3. <http://www.hse.gov.uk/consult/condocs/cd-interventions.htm>
4. Key findings include that the number of inspections of workplaces declined by 41% in the five years to 2001 – a decrease of 48,300; that a workplace registered with HSE currently received, on average, an inspection once every 20 years; and that, in spite of increases in the investigation of reported incidents over the previous five years, in 2000/2001 the vast majority of major injuries to workers (80%) and to the public (93%) were not investigated.
5. Similar voluntary initiatives were investigated and promoted by the OECD across several countries (e.g. OECD, 1993).
6. For instance, time needed to start up a business in Spain is 108 days compared with just 18 days in Britain; the cost of starting a business in the UK is 0.9% of gross national income per capita in the UK compared with 16.5% in Spain (World Bank, *Doing Business in 2005*).
7. With respect to workplace safety, for instance, the under-reporting of major injuries is considered to be significant (Daniels and Marlow 2005).
8. There is some existing evidence that regimes that depend on self-regulation are open to abuse and difficult to maintain in the absence of explicit sanctions, e.g. in the case of the chemical industry: see Gunningham (1995), King and Lennox (2000).
9. Macrory does not comment directly on this issue, although he does note the need for greater follow-up of low-level enforcement actions than has been the case in the past (pp. 32–33) while recognizing that the extent of follow-up activity has been constrained by the resources available to individual regulators.
10. See, for instance, the responses of the BRC (2007) to the simplification plans of the main agencies.

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References

- Ayres, I. and Braithwaite, J., 1992. *Responsive regulation. Transcending the deregulation debate*. Oxford: Oxford University Press.
- Baldock, R., James, P., Smallbone, D., and Vickers, I., 2006. Influences on small firm compliance related behaviour: the case of workplace health and safety. *Environment and planning C: government and policy*, 24, 827–846.
- Baldwin, R., 2005. Is better regulation smarter regulation? *Public law*, Autumn, 485–511.
- Baron, R., 2002. *The red tape menace*. London: Institute of Directors.
- Beck, M. and Woolfson, C., 2000. The regulation of health and safety in Britain: from old Labour to new Labour. *Industrial relations journal*, 31 (1), 35–49.
- Biggs, D. and Crumbie, N., 2000. *Characteristics of people working with chemical products in small firms*, Contract Research Report 278/2000. Norwich: The Health and Safety Executive.
- Black, J., 2005. The emergence of risk-based regulation and the new public risk management in the United Kingdom. *Public law*, Autumn, 512–548.

- Braithwaite, J., 1982. Enforced self-regulation: a new strategy for corporate crime control. *Michigan law review*, 80, 1466–1507.
- Braithwaite, J., Makkai, T., and Braithwaite, V., 2007. *Regulating aged care: ritualism and the new pyramid*. Cheltenham: Edward Elgar.
- BRC. 2006. *Risk, responsibility and regulation*. London: Better Regulation Commission.
- BRC. 2007. *The Commission's independent assessment of simplification plans* [online]. Available from: http://brc.gov.uk/scrutiny/simplification_plans.asp.
- BRTF. 2005. *Regulation – less is more*. Better Regulation Task Force. London: Cabinet Office.
- Burton, P., 2006. Modernising the policy process: making policy research more significant? *Policy studies*, 27 (3), 173–195.
- Capalleras, J.-L., Mole, K., Greene, F.J. and Storey, D.J., 2007. Do more heavily regulated economies have poorer performing new ventures? Evidence from Britain and Spain, *Journal of international business studies*, 1–17 [online]. Available from: <http://www.palgrave-journals.com/jibs/journal/vaop/ncurrent/index.html#29112007>.
- Carter, S., Mason, C. and Tagg, S., 2006. Small business owners' perceptions and experience of regulation. In: *Institute for Small Business and Entrepreneurship Conference*, 31 October to 2 November, Cardiff.
- CCA. 2004. *Hampton review: CCA's initial response* [online]. Centre for Corporate Accountability. Available from: <http://www.corporateaccountability.org/regulation/main.htm>.
- Chittenden, F., Kausser, S., and Poutziouris, P., 2002. *Regulatory burdens of small business: a literature review*. Sheffield: Small Business Service.
- Commission. 2002. *Action plan: simplifying and improving the regulatory environment*. Communication from the Commission, COM(2002)278 final, Brussels, 5 June 2002.
- Commission. 2005. *Better regulation for growth and jobs in the European Union*. Communication to the Council and the EP, COM (2005)175, Brussels, 16 March 2005.
- Daniels, C. and Marlow, P., 2005. *Literature review on the reporting of workplace injury trends*. Buxton: Health and Safety Laboratory.
- Davis, C., 2004. *Making companies safe: what works?*. London: Centre for Corporate Accountability.
- Day, P. and Klein, R., 1987. *Accountabilities: five public services*. London: Tavistock.
- Defra. 2006. *The Defra simplification plan: maximising outcomes, minimising burdens* [online]. Department for Environment Food and Rural Affairs. Available from: <http://www.defra.gov.uk/corporate/regulat/pdf/simplification-plan.pdf>.
- DTI. 2005. *SME Statistics UK 2005* [online]. Department of Trade and Industry. Available from: <http://www.sbs.gov.uk/sbsgov/action/layer?r.l2=7000000243andr.l1=7000000229andrs=tl&topicId=7000011759>.
- EA. 2002. *How green is small business?* London: Environment Agency.
- Edwards, P., Gilman, M., Ram, M., and Arrowsmith, J., 2002. Public policy, the performance of firms, and the missing middle: the case of the employment regulations, and a role for local business networks. *Policy studies*, 23 (1), 5–20.
- Edwards, P., Ram, M., and Black, J., 2004. Why does employment legislation not damage small firms? *Journal of law and society*, 31 (2), 245–265.
- Fairman, R. and Yapp, C., 2005a. Enforced self-regulation, prescription, and conceptions of compliance within small businesses: the impact of enforcement. *Law and policy*, 27 (4), 491–517.
- Fairman, R. and Yapp, C., 2005b. *Making an impact on SME compliance behaviour: an evaluation of the effect of interventions upon compliance with health and safety legislation*. Norwich: HSE Books.
- Fischer, F., 2003. *Reframing public policy: discursive politics and deliberative practices*. Oxford: Oxford University Press.
- FSA. 2006. *Simplification plan 2006/7* [online]. London: Food Standards Agency. Available from: <http://www.food.gov.uk/foodindustry/betregs/>

- FSB. 2002. *Lifting the barriers to growth in UK small businesses*. Federation of Small Businesses.
- Ghosh, A. and Saha, S., 2007. Excess entry in the absence of scale economies. *Economic theory*, 30 (3), 575–586.
- Gonzalez-Benito, J. and Gonzalez-Benito, O., 2006. A review of determinant factors of environmental proactivity. *Business strategy and the environment*, 15 (2), 87–102.
- Griffith, C.J., 2005. Are we making the most of food safety inspections? *British food journal*, 107 (3), 132–139.
- Gunningham, N., 1995. Environment, self-regulation and the chemical industry. *Law and policy*, 19, 57–109.
- Hampton, P., 2004. *Reducing administrative burdens: effective inspection and enforcement*. London: HM Treasury.
- Hampton, P., 2005. *Reducing administrative burdens: effective inspection and enforcement*. London: HM Treasury.
- Hawkins, K., 2002. *Law as last resort*. Oxford: Oxford University Press.
- HCWPC. 2004. *The work of the health and safety commission and executive*. House of Commons Work and Pensions Committee, Fourth Report of Session 2003–04, Volume 1. London: The Stationery Office.
- Hillary, R., ed., 2000. *Small and medium enterprises and the environment*. Sheffield: Greenleaf Publishing.
- HSE. 1986. *Report by HM Chief Inspector of Factories 1985*. Health and Safety Executive. London: HMSO.
- HSE. 2006. *Simplification plan 2006/7* [online]. Health and Safety Executive. Available from: <http://www.hse.gov.uk/simplification/index.htm>.
- HM Treasury. 2002. *Enterprise Britain: a modern approach to meeting the enterprise challenge*. London: HMSO.
- Hood, C., Rothstein, H., and Baldwin, R., 2001. *The government of risk*. Oxford: Oxford University Press.
- Howard, M. and Galbraith, A., 2004. *Factors influencing local authorities and enforcement activity*. Norwich: Health and Safety Executive.
- Hutter, B.M., 1997. *Compliance: regulation and environment*. Oxford: Clarendon Press.
- Hutter, B.M., 2005. *The attractions of risk-based regulation: accounting for the emergence of risk ideas in regulation*. Centre for Analysis of Risk and Regulation, Discussion Article no. 33. London School of Economics.
- Hutter, B.M., 2006. *The role of non-state actors in regulation*. Centre for Analysis of Risk and Regulation, Discussion Article no. 37. London School of Economics.
- Hutter, B.M. and Jones, C., 2006. *Business risk management practices: the influence of state regulatory agencies and non-state sources*. Centre for Analysis of Risk and Regulation, Discussion Article no. 41. London School of Economics and Political Science.
- IOD. 2004. *Real impact of red tape*. London: Institute of Directors.
- James, P., Vickers, I., Smallbone, D., and Baldock, R., 2004. The use of external sources of health and safety information and advice in the case of small firms. *Policy and practice in health and safety*, 2 (1), 91–104.
- Kitching, J., 2006. A burden on business? Reviewing the evidence base on regulation and small-business performance. *Environment and planning C: government and policy*, 24, 799–814.
- King, A. and Lennox, M., 2000. Industry self-regulation without sanctions: the chemical industry's responsible care program. *Academy of management journal*, 43 (4), 698–716.
- Lahira, S. and Ono, Y., 1988. Helping minor firms reduces welfare. *The economic journal*, 98, 1199–1202.
- Lancaster, R., Ward, R., Talbot, R., and Brazier, A., 2003. *Costs of compliance with health and safety regulations in SMEs*. Norwich: HSE Books.

- Lehmann Nielson, V. and Parker, C., 2006. *Is it possible to measure compliance?* University of Melbourne Legal Studies Research Article no. 92.
- Lowrie, K.W. and Greenberg, M., 1997. Promoting ground water pollution prevention in small businesses. *Journal of the American Water Resources Association*, 33 (1), 193–204.
- Macrory, R., 2006. *Regulatory justice: making sanctions effective*. London: Cabinet Office.
- McKeiver, C. and Gadenne, D., 2005. Environmental management systems in small and medium businesses. *International small business journal*, 23 (5), 513–537.
- Nichols, T., Dennis, A., and Guy, W., 1995. Size of employment unit and industrial injury rates in British manufacturing. *Industrial relations journal*, 26 (1).
- Nichols, T., Walters, D. and Tasiran, A., 2004. *The relation between arrangements for health and safety and injury rates – the evidence-based case revisited*. Working Article 48. Cardiff: School of Social Sciences, Cardiff University.
- Nicoletti, G. and Scarpetta, S., 2003. *Regulation, productivity and growth: OECD evidence*. Economics Department. Working Article no. 347. Paris: Organization for Economic Co-operation and Development.
- OECD. 1993. *Environmental policies and industrial competitiveness*. OECD 2162/2342. Paris: Organization for Economic Co-operation and Development.
- OECD. 2002. *Regulatory policy in OECD countries: from interventionism to regulatory governance*. Paris: Organization for Economic Co-operation and Development.
- Petts, J., Herd, A., and O'hEocha, M., 1998. Environmental responsiveness, individuals and learning: SME experience. *Journal of environmental planning and management*, 41 (6), 711–730.
- Radaelli, C.M., 2007. Whither better regulation for the Lisbon agenda? *Journal of European public policy*, 14 (2), 190–207.
- Rakel, H., Gerrard, S., Langford, I. and Shaw, K., 1999. *Evaluating the impact of contact techniques*. HSE Contract Research Report 212/219. Sudbury: HSE Books.
- Redmond, J., Walker, B. and Wang, C., 2006. Small business environmental management: rhetoric or reality? In: *29th Institute for Small Business and Entrepreneurship Conference*, 31 October to 2 November 2006, Cardiff.
- Sanderson, P. and Brady, J., 2006. Current issues in UK inspection strategy: the observations of directors of inspection. In: *Regulation, inspection and improvement conference 2006: soft law, soft regulation? The implications for regulatory practice*, Anglia Ruskin University, Cambridge.
- SBRC Small Business Research Centre. 2005. *Regulation and small firm performance and growth: a review of the literature* [online]. Small Business Service. Available from: <http://www.sbs.gov.uk/content/analytical/litreviewsmes.pdf>.
- SBS. 2002. *Small business and government*. London: Small Business Service.
- Schaper, M. and Raar, J., 2000. Not so easy being green? *Australian CPA*, 71 (5), 40–42.
- Sinclair, D., 1997. Self-regulation versus command and control? Beyond false dichotomies. *Law and policy*, 19, 527–559.
- Suzumura, K., 1995. *Competition, commitment and welfare*. Oxford: Clarendon Press.
- Taylor-Gooby, P. and Zinn, J., 2005. *Current directions in risk research: reinvigorating the social?* University of Kent, Social Contexts and Responses to Risk Network, Working Article no. 4.
- Tilley, F., 1999. Small-firm environmental strategy: the UK experience. *Greener management international*, 25, 67–80.
- Toombs, S., 2006. Regulating safety at work: what works? In: M. McConkey and P. Dutil, eds. *Dreaming of the regulatory village: speaking of the regulatory state*. Toronto: The Institute of Public Administration of Canada.
- TUC. 2005. *The Hampton Review and Health and Safety* [online]. Trades Union Congress. Available from: http://www.tuc.org.uk/h_and_s/tuc-9598-f0.cfm.

- TUC. 2008. *TUC evidence to work and pensions select committee into the work of the HSE and HSC* [online]. Available from: http://tuc.org.uk/h_and_s/tuc-14176-f0.cfm.
- Unison/CCA. 2002. *Safety last? The under-enforcement of health and safety law*. London: Unison/Centre for Corporate Accountability.
- Unison/CCA. 2003. *Safety lottery – how the level of enforcement of health and safety depends on where you live*. London: Unison/Centre for Corporate Accountability.
- Vickers, I., James, P., Smallbone, D., and Baldock, R., 2005. Understanding small firm responses to regulation: the case of workplace health and safety. *Policy studies*, 26 (2), 149–169.
- Walters, D., 2001. *Health and safety in small enterprise*. Oxford: PIE Peter Lang.
- Walters, D. and Nichols, T., 2007. *Worker representation and workplace health and safety*. Basingstoke: Palgrave.
- Williams, H., van Hooydonk, A., Dingle, P., and Annadale, D., 2000. Developing tailored environmental management systems for small businesses. *Eco-management and auditing*, 7, 106–113.
- World Bank. 2006. *Doing business in 2006: creating jobs*. Available from: http://www.doingbusiness.org/documents/DoingBusiness2006_fullreport.pdf.
- Wright, M., Marsden, S., and Antonelli, A., 2004. *Building an evidence base for the Health and Safety Commission Strategy to 2010 and beyond: a literature review of interventions to improve health and safety compliance*. Sudbury: HSE Books.
- Yapp, C. and Fairburn, R., 2004. *The evaluation of effective enforcement approaches for food safety in SMEs*. London: Food Standards Agency.
- Yeager, P., 1991. *The limits of the law: the public regulation of private pollution*. Cambridge: Cambridge University Press.