



## INTRODUCTION

Over the last decade, regulation in the UK has changed rapidly. Manufacturers have adapted and re-adapted to meet new circumstances, whether they were expected (such as the UK's exit from the European Union) or unexpected (such as health and safety requirements during the COVID-19 pandemic). Manufacturers have been fleet-of-foot to keep up with a fast-changing landscape.

However, the pace of this change has been unrelenting. Rapid technological advancement, the challenge of net zero, changes in trade rules with the EU and other global economic disruption affecting supply chains, have all had significant implications for how trade and economic prosperity is conducted and shared. With supply chains already experiencing high levels of volatility, the sector is currently juggling several issues at once, all of which could be improved by a simpler and more stable regulatory regime.

Regulations play a crucial role in guiding businesses and ensuring consistency. In a world where the EU and other major trading economies such as the USA, India and China, are advancing ambitious regulatory agendas in areas like AI, energy, and industrial decarbonisation, the UK must be ready to respond. The Brussels Effect, referring to the EU's unilateral power to shape the global business (and therefore regulatory) environment, is one that has influence everywhere, including the UK.<sup>1</sup>

Recently, the manufacturing sector has been at the forefront of responding and adapting to many new regulations, encountering challenges (though sometimes also advantages) posed by both intentional and unintentional regulatory divergence. These changes, however beneficial, impact production and distribution, and therefore productivity in the short-term, with amplified consequences for SMEs. As lead times for investment in manufacturing extend well beyond standard election cycles, regular shifts in regulation can cause uncertainty and hamper growth.

Over the course of her time in office, the Chancellor has been clear on her ambition to cut red tape for businesses, emphasising that the UK needs to "tear down regulatory barriers" to enable greater economic growth. The Prime Minister has reiterated this, saying he had heard "loud and clear" about the desire of business for less onerous regulation. The Government's Better Regulation Framework

also indicates Government's desire to consider alternatives to regulation, an earlier and more holistic scrutiny of regulatory proposals, and a greater focus on monitoring and evaluation.<sup>4</sup> Make UK welcomes these commitments and recognises the vital importance of regulation in allowing industry to operate efficiently and effectively.

Now is the time for the Government to reimagine the regulatory landscape. A key component of realising the opportunities within the upcoming Industrial Strategy will be to ensure that regulatory practice provides certainty and stability and does not prove to be a blocker on growth.

In this report, we advocate for a new approach to how regulations are devised, implemented and then reviewed, guided by clear principles. In applying this to both existing and new regulation, Government can create regulations that work for the growth of businesses, the rights of workers and consumers, and the good of the environment.



MORE MANUFACTURERS THINK
THAT THE UK HAS A WORSE TAX
AND REGULATION SYSTEM THAN
CHINA, GERMANY, FRANCE, ITALY,
AND SOUTH KOREA'

 $<sup>^1\!\!</sup>$  The Brussels Effect: How the European Union Rules the World | Oxford Academic

<sup>&</sup>lt;sup>2</sup>Chancellor calls on watchdog bosses to tear down regulatory barriers that hold back growth - GOV.UK

<sup>&</sup>lt;sup>3</sup>Keir Starmer orders ministers to go for growth

<sup>&</sup>lt;sup>4</sup>Better\_Regulation\_Framework\_guidance.pdf <sup>5</sup>Make UK/RSM, Manufacturing Growth: Tax and Regulation, 2023

# THE CASE FOR EFFECTIVE REGULATION

An effective regulatory regime supports more efficient and effective policy delivery, therefore reducing costs to the public purse, driving higher-performing regulators, and improving benefits for consumers, business and workers.

It is also clear and consistent, creating powerful benchmarks that consumers around the world know and trust. Very often these are global or regional standards, measured against the best of countries around the world on an approved whitelist or similar.

An effective regulatory regime recognises that too much change introduced too often creates confusion. It can lead to regulations that are either too complicated or too lax, and most importantly, creates room for doubt or misunderstanding, spiralling implementation costs well beyond what is anticipated.

At the same time, in any effective regulatory regime, those who fail to abide by the rules are sanctioned, therefore creating a level playing field for all companies. This maintains effective compliance with regulatory principles and prevents incentivisation to cut corners.

The UK has a big role to play in developing and improving global standards, which support its technical regulations. Here, the work of the British Standards Institution (BSI), the International Organisation for Standardisation (ISO), the International Electrotechnical Commission (IEC), and European Standards Bodies, such as CEN, CENELEC and ETSI, is critical. To maintain our influence, the UK needs to continue and enhance the excellent work of these organisations over the coming years. It is crucial that business and Government work together to continue to punch above our weight in this area.

### THE HEALTH AND SAFETY AT WORK ACT 1974 (HWSA)

It is just over 50 years since the implementation of the HWSA: an Act that transitioned away from traditional, prescriptive view of health and safety for industry to a more flexible approach that allowed those creating the risk to manage it.

The Act is widely credited for an enormous reduction per year in non-fatal injuries at work and an 85% fall in the number of employees fatally injured at work<sup>6</sup>.

The legislation is goal-oriented, characterised by its emphasis on ensuring health and safety at work "so far as is reasonably practicable", to allow employers to develop their own rules and procedures based on their level of risk. Moreover, while it establishes a basic and specific duty of care for employers to their employees, it also places legal duties on the employees themselves. This shares the responsibility for workplace safety. There are penalties in place to ensure compliance and an enforcement agency, the Health and Safety Executive, which provides guidance and regular monitoring.

#### A 'PRINCIPLES-FIRST' APPROACH

For the Government to fully embrace their mission of growth, the regulatory system needs to work for everyone within it. By adopting a 'principles-first' approach, the Government has an opportunity to reset the narrative on regulation: one that is more workable for both consumers and business.

- 1. SIMPLICITY AND CLARITY
- **2. PROPORTIONALITY**
- 3. EVIDENCE BASED
- 4. FLEXIBILITY AND ADAPTATION
- 5. EFFECTIVE ENFORCEMENT

<sup>&</sup>lt;sup>6</sup>HSE publishes annual work-related ill health and injury statistics for 2023/24 – HSE Media Centre <sup>7</sup>Health and Safety at Work etc. Act 1974

# **PRINCIPLE 1:** SIMPLICITY AND CLARITY

For manufacturers (and all businesses), regulation works best when it is clear, easy to understand and predictable. This enables compliance without confusion.

To have the confidence to invest, business needs a long planning horizon, which is even more important for capital intense, long-cycle sectors that comprise much of manufacturing. By valuing predictability and taking steps to maintain it, business confidence for investment decisions is enhanced and the UK is made a more attractive destination for foreign direct investment.

There is also a need for realistic implementation and transition periods when new regulations are introduced. This allows businesses time to adapt to new requirements appropriately.

Significant and consistent changes to regulation can cost serious time and money for already stretched businesses. Meanwhile, poor timeliness of decision-making risk leaving many manufacturers hanging for even longer periods of time.

Through the work of the Industrial Strategy Council and beyond, now is an opportune time to simplify and clarify existing regulations and look ahead to the future. Manufacturers want a focus on reducing and streamlining what is already in the system, which would go a long way to creating long-term certainty for businesses. When looking at a new approach, clarity, consistency and predictability are vital, as has been reflected by the National Audit Office's advocacy of a "no surprises approach to provide a stable environment for investment and stakeholders".8



**MAKE UK RESEARCH SHOWS THAT 54% OF MANUFACTURERS** FEEL THAT THE IMPACT OF FREQUENT CHANGES TO POLICIES AND INCENTIVES DIRECTLY MADE IT MORE DIFFICULT TO PLAN **INVESTMENTS AND R&D<sup>9</sup>** 



62% OF **MANUFACTURERS** 



8Good practice guidance Principles of effective regulation

<sup>9</sup>Manufacturing Growth: Building a Competitive Business Environment | Make UK <sup>10</sup>Manufacturing Growth: Building a Competitive Business Environment | Make UK

UK MANUFACTURING: THE CASE FOR EFFECTIVE REGULATION

### SPOTLIGHT: THE UKCA (UK CONFORMITY ASSESSED) MARK

The UKCA mark was introduced after the UK's departure from the EU as a new conformity mark for products placed on the market in Great Britain. It was introduced to replace the CE marking, which businesses had used to show compliance with EU regulations when the UK was part of the EU's Single Market and Customs Union.

From 1 October 2024, manufacturers have continued to place a range of products on the GB market that meet EU requirements, using (UK Government permitted) EU CE marking. This confirms that the UK Government continues to recognise EU requirements. Originally, the Government's deadline for businesses to stop using the CE marking on the GB market was December 2021, but this was extended first to 2024, and then indefinitely for a smaller group of industrial products and components.

This was largely due to feedback and evidence from businesses and trade associations, including Make UK, that to continue to recognise the CE marking would reduce frictions to UK-EU supply chains and cut costs for business, while benefitting consumers and ensuring the regulatory system remained agile. The UKCA mark still has a part to play, however, where it provides a means for the acceptance of product placed onto the GB market following UK legislation, rather than that of the EU.

Owing to differences in the regulatory approach in some manufacturing sectors, the change does not cover areas like construction products and medical devices. Therefore, manufacturers are legally required to check the requirements placing goods on the GB market in these categories. This complexity has naturally led to UK manufacturers calling for consistency across all products areas when it comes to conformity markings.

### SPOTLIGHT: EXTENDED PRODUCER RESPONSIBILITY (EPR)

From 2025, some organisations and businesses will need to pay the EPR fee for the packaging they supply to or import into the UK market, including UK manufacturers. This money will go to Local Authorities who deal with waste disposal to cover the net costs of collecting, managing, recycling and disposing of household packaging waste.

The EPR has been subject to numerous consultations and has subsequently endured several delays. Short timescales around the Recycling Assessment Methodology, a crucial element of the policy, put immense pressure on industry to digest and understand the proposals, previously compounded by the numerous uncertain delays in implementation. This has only increased the already significant cost, which is estimated at £1.5 billion a year for businesses for the EPR alone, as well as adding hundreds of millions more for the Deposit Return Scheme, which still lacks a clear policy implementation framework. Many manufacturers also worry that the added complexities in reporting requirements, as well as the fees, will place further strain on their business.

11 Extended producer responsibility for packaging: illustrative base fees (December 2024) - GOVUK and BRC estimates DRS will cost UK retailers up to £1.7 billion



# PRINCIPLE 2: **PROPORTIONALITY**

Regulatory burden should be proportionate to the risks involved, ensuring that regulations do not impose excessive costs on businesses relative to the benefits they provide.

This can be particularly harmful if regulations are provided in a 'one-size-fits-all' approach, enabling larger entities to absorb the burdens that smaller businesses cannot. For example, the British Coating Federation reports that one SME member has calculated that they are personally liable for 142 different pieces of legislation. Balancing the management of this regulatory burden while also trying to grow is impossible without taking a huge toll on the business and the people within it.12

However, ensuring accurate impact assessments before implementing regulations could help identify and reduce areas of disproportionality at an earlier stage. Where technical guidance is discussed with industry too late in the process, detail and sector nuances can be missed, leading to complications and delays in implementation. There is a good argument for ongoing Regulatory Impact Assessments in the continued application and proportionality of regulations.

Additionally, Make UK research shows that 65% of manufacturers increase their investment to comply with export and import regulations. This is likely motivated by the UK's changing trade relationships with the EU as well as other countries (such as Japan and New Zealand). 13 Whilst this shows that regulation can increase investment, it is unclear whether that investment is productive. Indeed, it may be the case that this is crowding out wider investment activities that can stimulate stronger and faster growth. Greater proportionality of regulation could free up this capital and time to be used elsewhere in a business.

## SPOTLIGHT: UK REACH (REGISTRATION, EVALUATION, AUTHORISATION AND RESTRICTION OF CHEMICALS)

UK REACH forms part of the regulatory regime for chemicals in Great Britain and came into force after Brexit when the EU REACH regulation was brought into UK law.

As it stands, UK regulation necessitates that manufacturers undergo the registration of chemical substances that they use and market in Great Britain, even if they were already registered in the EU REACH database, which contains around 20,000 registrations. The process for the UK is duplicative but also contains a degree of regulatory divergence.

UK REACH has the potential to limit manufacturers' ability to use substances due to high registration costs, which could encourage closure or relocation. If the domestic costs of UK REACH are set too high, this will lead to fewer substances being registered for use in the UK, less inward investment, a hit to competitiveness, and reduced exports. The requirement to compile a full chemical registration dossier is not financially viable for many businesses and newly defined importers of chemicals will face high costs of compliance. DEFRA itself recognised that its original proposals for re-registration of substances would cost around £2 billion to industry and has set out to explore alternatives. 14

The lack of proportionality in this case has caused a significant barrier to implementation. Industry requires a workable solution that does not deter investment to the UK: greater proportionality here would not place UK manufacturers at a disadvantage and still delivers high quality outcomes on human and environmental health and safety.

<sup>12</sup>Submitted as evidence as an SME based on the British Coating Federation's Regulatory Register

<sup>&</sup>lt;sup>13</sup>Manufacturing Growth: Building a Competitive Business Environment | Make UK <sup>14</sup>An alternative transitional registration model (ATRm) for UK REACH - GOV.UK

# PRINCIPLE 3: EVIDENCE BASED

Regulatory decisions should be grounded in robust evidence and data to effectively address the real issues that hinder business growth. The National Audit Office suggests that it would be helpful to accompany this with a robust evaluation framework able to determine whether intended outcomes have been achieved and examine the impact of interventions.<sup>15</sup>

Without a strong evidence base, Government risks rolling out ineffective or superfluous regulation. Early conversations with industry and trade associations are also vital to work out how far new regulations will reach.

A careful evidence-based approach needs to be taken to tackle the issue of regulatory divergence from the EU. There should be an impact assessment of the manufacturing sector to determine whether it is preferable for Great Britain to recognise EU regulation or to diverge. Currently, no such analysis is being carried out and thus Great Britain risks continuing to passively diverge on key regulations, rather than purposefully setting its own direction. The new Product Regulation and Metrology Bill seeks to provide delegated powers to enable the Department for Business and Trade to amend UK regulations more easily, though much remains to be seen ahead of its passage through the House of Commons.

### SPOTLIGHT: CLASSIFICATION, LABELLING AND PACKAGING (CLP) REGULATION

The CLP Regulation requires manufacturers, importers or downstream users of substances or mixtures to classify, label and package their hazardous chemicals appropriately before placing them on the market.

There is currently a lack of clarity as to whether a UK manufacturer can place some products on the UK market using EU regulations, given the context of the UK's opposition to some of the new hazard classes being introduced by the EU. These hazard classes are out of step with the Globally Harmonised System of Classification and Labelling of Chemicals (GHS), agreed at UN level.

As it stands, there is no evidence-backed consensus on a potential future alignment, leaving many UK manufacturers in limbo.



# PRINCIPLE 4: FLEXIBILITY AND ADAPTATION

Good regulation should promote flexibility and adaptation, enabling businesses to respond to changing circumstances and emerging technologies to their best advantage.

Rigid regulatory frameworks can make it challenging for businesses to evolve quickly, for example, when attempting to embrace the benefits of new digital technologies. This was reflected by the Public Accounts Committee in their 2021 report, who recommended that Government "should require regulators to engage meaningfully with businesses to explore potential new ideas and innovations and adopt regulatory sandbox type approaches". 17

Equally, if regulation is not working to its intended outcomes, it is important that feedback can be taken on board and discrepancies are addressed. A risk versus reward appraisal can be a useful exercise to understand this.

Regular reviews of regulations should be factored in from their introduction to assess their effectiveness and relevance, allowing for adjustments based on economic conditions, global shocks and stakeholder feedback.

### SPOTLIGHT: THE UK CARBON BORDER ADJUSTMENT MECHANISM (CBAM)

CBAM is an essential tool to mitigate carbon leakage and drive international efforts to reduce emissions, yet its challenging implementation timelines have led to confusion and delay.

Divergence of implementation dates between the EU and Great Britain (2026 and 2027, respectively) is problematic and exacerbated by concerns from many businesses that a rushed UK CBAM will only lead to poor data collection, incorrect tax payments and an unclear understanding of their exposure. On its design principles, the UK CBAM is comparably weaker and less robust than its EU equivalent, allowing for high-emission imports using default values, 400 times higher registration thresholds, and no formal export provisions.

The UK Government has not acknowledged the trade diversion risks highlighted by manufacturers and shown little flexibility in its delivery timeline. It has not yet introduced any robustness tests (like the EU) and is now separately proposing to reduce free allocations for affected sectors without any fallback options should the CBAM not deliver as intended. This could lead to a potentially poor policy outcome, where regulations would potentially fall short of their intended aim. In addition, inaccurate reporting by third countries could lead to significant issues, thus strict data validation procedures and compliance audits would be of benefit here.

### **LOOKING AHEAD: AI REGULATION**

The Government's recent AI Opportunities Action Plan demonstrates the need for flexibility and adaptability in the face of emerging technologies. Al and wider technologies have the power to revolutionise the manufacturing sector, unlocking previously unimaginable productivity and growth benefits.

However, innovative technologies can be prohibited from quick and effective utilisation where regulation is too slow to respond. Regulatory guidance is seen as essential by 15% of manufacturers, which highlights concerns about navigating Al-related regulations and ensuring compliance. Manufacturers wish to see clear guidelines to help them implement Al while avoiding potential legal and regulatory obstacles.

Al's increasing complexity brings ethical and moral challenges, along with residual uncertainty. Regulation cannot eliminate all risks, but should aim for a balanced, iterative approach that evolves alongside the technology. The Al Safety Institute could play a key role here, provided it receives adequate funding. It should prioritise initiatives, such as regulatory sandboxes for collaborative robots, to aid manufacturing environments to enhance productivity and safety.

Government must also ensure the UK workforce has the necessary skills to develop, deploy, and maintain AI systems in manufacturing. This includes supporting upskilling programmes for existing workers and promoting AI education in relevant fields. Business is keen to encourage collaboration between regulators, industry, and academia to develop best practices that recognise the unique opportunities of AI adoption in manufacturing, such as use in industrial control systems or industrial robotics, and craft regulations that are effective and which encourage the development and utilisation of AI in manufacturing.





# PRINCIPLE 5: EFFECTIVE ENFORCEMENT

Even the best regulation is only as good as its enforcement. A key concern amongst manufacturers is that poor or lacking enforcement is often corrected by more regulation rather than improved market surveillance or better resourcing for enforcement.

Indeed, the enforcement of effective regulations ensures excellent quality goods and a level playing field – something manufacturers welcome. However, for those who comply to properly feel the benefits of their actions, those who do not comply should be sufficiently deterred. The availability of non-conforming products in the UK marketplace, particularly those online that bypass trading standards, results in an uneven playing field for manufacturers. A similar issue arises where regulation is too expensive to comply with.

Without support, it can be difficult for businesses to comply with expensive regulatory requirements in a way that correlates with their business planning and investment cycles. Compliance guidelines are most effective when written in conjunction with industry, rather than imposed at a late stage, and must be completed in a timely way, therefore eliminating inaccuracies and ensuring a smooth roll-out.

### **SPOTLIGHT: EUROPEAN PAINT DIRECTIVE (EPD)**

The EPD was carried over from the EU upon the UK's exit and remains in force in the UK. It limits the volume of solvents in decorative and vehicle refinish paints to reduce the level of Volatile Organic Compounds (VOCs) released into the atmosphere.

Compliance in the decorative sector is reportedly high, but research by the British Coatings Federation suggests non-compliance could be up to 30% by car body-shops who are still using cheaper solvent-based paints, often imported into the UK.<sup>21</sup> Given a lack of specialist knowledge and resource, enforcement is sparse. This creates unfairness for UK manufacturers of water-based paints, which were developed at a high R&D cost purposefully to comply with this new directive.

# UK TRADE AND REGULATION SINCE EU DEPARTURE

The UK's departure from the European Union has had a significant impact on our regulatory landscape for manufacturers, particularly regarding regulatory divergence.

Since its exit from the European Union, the UK Government has delivered several trade deals with critical international partners on trade and regulation. Most of these agreements are continuations of arrangements secured whilst the UK was an EU member, though recent agreements also reveal a tilt towards the Indo-Pacific region. The most notable of these are deals struck with Australia and New Zealand, the 2022 digital agreement with Singapore and the UK's accession to membership of Asia-Pacific's Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

Although it may take time for the benefits of such agreements to be brought to bear, their very existence helps to diversify import supply chains. Nonetheless, while such agreements in the Indo-Pacific have encompassed cooperation and aspects of mutual recognition, manufacturers continue

to cite concerns in these areas with the EU-UK Trade and Cooperation Agreement (TCA). This agreement, which regulates UK trade with the EU, is critical for the management of significant manufacturing supply chains and the setting of rules of origin as well as business mobility options. As the EU is the sector's largest trading destination, it is crucial that changes are made to prevent unnecessary and unintended regulatory divergence that would spell further difficulty for manufacturers.

There are positive signs that the EU is already listening when it comes to simplifying regulation. Valdis Dombrovskis, the European Commissioner for Trade, recently said that the EU needs "simpler rules that are easier to implement", and reporting obligations for companies should be reduced by at least 25% and 35% for SMEs.<sup>22</sup>

### **SPOTLIGHT: THE TCA**

As it stands, UK manufacturers are operating within the context of regulatory drift (unintentional divergence) from the EU, which is neither effectively nor proactively managed. This creates additional barriers to trade within the UK internal market and outside of it, whilst also making a clear impact on the domestic manufacturing sector, for example, by contributing to the closure of 10 chemical factories in the UK (causing significant problems in other subsectors, such as UK pharmaceutical producers).

With the 2026 review of the TCA rapidly approaching, it is important to reflect on the detail of the challenges posed by the UK's departure from the EU in a regulatory context, particularly as it pertains to passive divergence. SMEs may find it especially difficult to adhere to both UK and EU standards and the lack of consistency poses threats to the UK supply chain. The aim of the Product Regulation and Metrology Bill is to begin to address these issues and Make UK welcomes these efforts, whilst calling for the implementation of the recommendations distributed across this report.

# RECOMMENDATIONS

Make UK encourages the UK Government to seek regulatory coherence with the EU by:



**Working to align different regulatory frameworks** arising from 'passive regulatory divergence'. This could include using a framework for incremental alignment and early and structured dialogue between the UK and the EU on any new regulatory regimes.



Undertaking effective monitoring on regulatory developments by establishing a regulatory divergence database. Curating a central database and library of EU (proposed and enacted) legislation and regulation would provide an early warning for businesses to understand possibilities of ongoing divergence. Enabling the Product Regulation and Metrology Bill will provide a mechanism for the UK Government to consult, review and assess how the UK can align in future with EU regulations.



**Exploring how access to the Single Market could be enhanced** through a separate legal agreement, part of which should include a renewed effort to seek a mutual recognition agreement on conformity assessment to streamline processes at the EU border.



**Seeking UK-EU cooperation** on approaches to Industrial Strategies and aligning on carbon border mechanisms.



**Establishing a mechanism** for ongoing and proactive consultation with the manufacturing industry to understand fully where opportunities for divergence might apply.



**Undertaking a review** into which regulations impacting the manufacturing industry are helpful and prohibitive for economic growth. In conjunction with industry, any insights can be built into an action plan to streamline the current regulatory framework.

# CONCLUSION

We recognise that a constructive regulatory system is vital to the UK's economic prosperity. Whilst it is crucial for the Government to provide a safe regulatory environment, it needs to be balanced with industry's ability to invest and grow.

With the cost of doing business in the UK ever increasing, there is a risk that further regulation could stifle innovation and investment. By adopting our 'principles-first' approach, there is an opportunity for the Government to reimagine our regulatory framework to ensure it works for everyone.

This is especially important in light of the new Industrial Strategy, which will rely on effective regulation, and our

transition away from EU regulations, which is currently marred by incidences of unhelpful divergence.

Perhaps most importantly, Government should recognise that this kind of principles-based approach is not only applicable to manufacturing. Indeed, by adopting this method across the piste, Government can enable growth in any area the UK can find it.

The findings of this report are supported by the following Make UK Affiliate Partner Board Members:



















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