

President of the Treasury Board
and Minister of Digital Government



Présidente du Conseil du Trésor
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Ottawa, Canada K1A 0R5

Mr. Dan Ruimy, M.P.
Chair
Standing Committee on Industry, Science and Technology
House of Commons
Ottawa, Ontario
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Dear Mr. Ruimy:

Pursuant to House of Commons Standing Order 109, on behalf of the Government of Canada, I am pleased to enclose the Government's response to the recommendations of the Standing Committee on Industry, Science and Technology's fifteenth report, entitled "Impacts of Canada's Regulatory Structure on Small Business: Between Protection and Competition."

I would like to take this opportunity to thank you and the members of the Standing Committee for your important work.

Yours sincerely,

A handwritten signature in black ink, appearing to read "JM", followed by a long horizontal line.

The Honourable Joyce Murray, P.C., M.P.

Enclosure

GOVERNMENT RESPONSE TO THE FIFTEENTH REPORT OF THE STANDING COMMITTEE ON INDUSTRY, SCIENCE AND TECHNOLOGY

The Government accepts the recommendations of the Committee. Indeed, many ongoing and planned initiatives and upcoming policy reviews described in this response align with the Committee's recommendations.

In Canada, small and medium-sized enterprises (SMEs) account for 99.7% of all businesses (1.2 million employer enterprises), 90% of private sector employment (10.7 million Canadians), and 52% of Canadian gross domestic product (GDP) from private sector business. SMEs include both innovative, high-growth firms that are willing to grow and potentially export, as well as "everyday" businesses that have a localized or very specialized clientele. Recognizing the impact that all Canadian SMEs have on the economy, the Government of Canada continues to work to improve the business environment where small businesses can launch and grow, including how to improve their interactions with Government.

High standards for health, safety, security and the environment, are integral to Canada's regulatory system and can be enhanced as regulations evolve and are modernized. The Treasury Board of Canada Secretariat (TBS) supports the federal regulatory system by providing federal regulatory policy and oversight, supporting evidence-based Governor in Council decision-making through its challenge function role (e.g., on cost-benefit analysis, determining the administrative and compliance impacts on business, ensuring consistent application of policy and legal requirements), and advancing and promoting regulatory cooperation. While Canada has a mature regulatory system that is internationally recognized as among the best in the world, the Government continues to innovate and modernize its regulatory policy framework to address the changing demands of regulators and regulated parties.

Cabinet Directive on Regulation

In 2016, TBS launched a review of Canada's regulatory policy framework, which establishes the rules regulators need to follow when developing regulations. The review aligned the framework with the Government's priorities (e.g., reducing impacts on small business, understanding environmental impacts, increasing opportunities for regulatory cooperation, and increasing indigenous engagement and consultation). Adopted in 2018, the new Cabinet Directive on Regulation (CDR) implemented stronger analytical and transparency requirements. For example, the revised Small Business Lens requires that small business impacts be considered in all Governor in Council and ministerial regulatory proposals, ensuring a thorough, systematic assessment of small business impacts in the regulatory system. Several other Policies set out operational requirements that help regulators in implementing the vision set out in the CDR. It also introduced a requirement for departments to review all their regulations on an ongoing basis to make sure they are still relevant and effective.

The CDR is built on a life cycle approach to regulation that covers the development, management and review of regulations, and espouses the following principles: regulations protect and advance the public interest and support good government; the regulatory process is modern, open, and transparent; regulatory decision-making is evidence-based; and regulations support a fair and competitive economy.

While the CDR sets out high level objectives, it is supported by other legal and policy documents that govern the development and approval of regulations. For example, the *Red Tape Reduction Act* establishes the requirement to offset new regulatory titles and administrative burden by removing existing titles and burden; the Act is referenced in the CDR and is an important component of Canada's regulatory policy.

Regulatory cooperation

Responding to Recommendation 3, the CDR encourages regulators to consider outcome-based regulations to help ease compliance burden and facilitate innovation, particularly for technical regulations. Outcome-based regulations specify the desired result that a regulation intends to achieve, rather than a prescriptive description of how to comply, thus giving the regulated body more flexibility. While outcome-based regulations should be encouraged, small businesses and their representatives (e.g., Canadian Federation of Independent Business) have indicated to TBS that they don't always know the best way to achieve an outcome, and at times, prefer a more prescriptive rule. Through its role on reviewing regulatory submissions, TBS works with departments to ensure that the most appropriate, user-friendly model is put forward to small businesses.

A recent regulatory modernization success is related to the coming into force of the new SFCR in January 2019. These modern regulations apply across all sectors and have introduced an outcomes-based approach to food safety regulations. The Canadian Food Inspection Agency (CFIA) has developed guidance documents as well as interactive tools and plain-language resources to help businesses understand which requirements apply to them, and when and how to comply with them. The CFIA website also includes a Toolkit for Food Businesses to help guide businesses through SFCR requirements.

The CDR specifies that regulators should provide clear and up-to-date guidance on compliance with regulations.

Responding to Recommendations 1, 8, 9, 10, and 11, regulatory cooperation and alignment is a key part of the CDR and Canada's updated regulatory policy. Since 2016, the TBS has been responsible for coordinating regulatory cooperation across the federal government. Regulatory cooperation is a process where governments work together to: reduce unnecessary regulatory differences; eliminate duplicative requirements and processes; harmonize or align regulations; share information and experiences; and adopt international standards. Regulatory cooperation applies to a range of regulatory activities, including: policy development; inspections; certification; adoption and development of standards; and product and testing approvals.

TBS coordinates three formal regulatory cooperation forums with key partners: the Canada-U.S. Regulatory Cooperation Council (RCC), the federal-provincial/territorial Regulatory Reconciliation and Cooperation Table (RCT) under the Canadian Free Trade Agreement (CFTA), and the Canada-European Union (EU) Regulatory Cooperation Forum (RCF). These tables work together to reduce or eliminate regulatory misalignment and barriers to trade.

Reinforcing Recommendations 9 and 11, the RCC provides a forum for stakeholders, including industry, consumers, and non-government organizations, to discuss regulatory barriers and identify opportunities for regulatory cooperation, including how to eliminate barriers to bringing products to market. Recent successes under the RCC include:

- Simultaneous reviews of veterinary drugs: Canada and the U.S. are coordinating their respective submission and review processes for veterinary drug applications to enable simultaneous product reviews with a view to simultaneous product availability; and
- Energy Efficiency: Canada and the U.S. have been working together to harmonize energy efficiency standards for products such as refrigerators and air conditioners. Recent efforts to align standards will save Canadians about \$1.8 billion in energy costs by 2030, and manufacturers about \$1.5 million per year.

Reinforcing Recommendation 1, TBS coordinates federal action at the RCT. The RCT has a two-fold mandate: 1) to lead the reconciliation of regulatory measures that act as a barrier to trade, investment or labour mobility within Canada; and 2) to cooperate in the development of future regulatory measures (note – municipalities are exempt from these provisions of the CFTA). In 2018, the RCT developed its first annual workplan, which contained 23 items for regulatory reconciliation. In 2018-19, the RCT oversaw the development of a number of reconciliation agreements. Two federal-only reconciliation agreements, which address Recommendation 8, in the areas of organic labeling for aquaculture products and inspection requirements for produce, have been completed and implemented as a result of the coming into force of the *Safe Foods for Canadians Regulations* (SFCR). Three other reconciliation agreements in the area of occupational health and safety, technical safety, and transportation have been finalized and are awaiting final signatures from their respective jurisdictions. The RCT continues to add new items for reconciliation to its workplan to eliminate barriers to trade.

The RCF was established between Canada and the EU in the Comprehensive Economic and Trade Agreement. The role of the RCF is to facilitate and promote regulatory cooperation between Canada and the EU by providing a forum to discuss regulatory issues of mutual interest, assist regulators in identifying potential partners for cooperation, review potential regulatory initiatives, and encourage and promote the progress, achievements, and best practices of regulatory cooperation initiatives. Following stakeholder consultations in both jurisdictions, the RCT negotiated its first regulatory cooperation workplan in 2018. The workplan includes agreement to

cooperate on: cybersecurity with respect to the “Internet of Things”; pharmaceutical product inspection practices; testing for certain types of low-risk “cosmetic-like” products; consumer product safety alert and incident reporting systems; and the long distance transportation of animals.

Approvals of health products

Supporting Recommendation 9, 10, and 11, Health Canada participates in a number of multilateral organizations that facilitate international policy development, establish common approaches and set standards. This work reduces regulatory burden for industry by aligning policies and requirements across jurisdictions.

An example of this work is Health Canada’s extensive participation in the joint industry-regulators International Council for Harmonization (ICH). The ICH’s mission is to achieve greater harmonization worldwide to ensure that safe, effective, and high-quality medicines are developed and registered in the most resource-efficient manner. In 2017-2018, ICH finalized nine technical guidelines for human drugs, including on Good Clinical Practices, Multi-Regional Clinical Trials, Pediatric Drug Development, and the Management of Genomic Data. All ICH guidelines are currently being implemented in Canada. Under the RCC initiative, Health Canada and the U.S. FDA hold joint public consultation meetings every six months on the ICH guidelines currently under development.

Health Canada is also active in the International Medical Device Regulators Forum (IMDRF). Through the Canada-U.S. RCC, Health Canada is exploring a pilot project with the U.S. FDA to advance at the IMDRF the development of criteria to determine which devices would be suitable for a single review.

More generally, Health Canada is simplifying and reducing the cost of product approvals by facilitating access to prescription drugs for human and veterinary use by creating an alternate pathway, with eligibility requirements, for the authorization of drugs that meet an unmet medical need for Canadians or their animals. The use of foreign decisions would permit the approval of a subset of drugs that have been authorized by specified foreign regulators, have an adequate amount of post-market experience, and meet internationally established food safety standards for certain veterinary drugs. The proposed Use of Foreign Decisions pathway will allow manufacturers of drugs for human use to submit drug submissions in Canada basing their submissions on foreign decisions and with a reduced cost thereby providing an incentive for manufacturers to bring their product to market if criteria are met. This in turn, will facilitate access to medically necessary drugs that are not readily available to Canadians.

Health Canada’s Pest Management Regulatory Agency (PMRA) seeks to facilitate the registration of new products in a variety of ways. For example, PMRA has fee reductions in place to encourage new pesticide registrations and maintain existing

registrations of products with low sales. Application fees can be reduced by up to 90% to encourage the registration of new innovative products in Canada, which supports niche markets and small businesses.

Transparency and reporting

In response to Recommendation 4, transparency and accountability are key features of the regulatory process. One of the guiding principles of the CDR is that regulations be accessible and understandable, and are created, maintained, and reviewed in an open, transparent, and inclusive way that meaningfully engages the public and stakeholders. The CDR requires more and earlier engagement with stakeholders and should use, where possible, modern, digital, accessible and secure platforms and tools for consultation and engagement. Publication is required for proposed and final regulations in the *Canada Gazette*. The *Red Tape Reduction Act* mandates an annual reporting on the one-for-one rule. The Government will report to INDU on the implementation of the CDR for those elements TBS is able to measure. This will include information from the annual report to Parliament on the one-for-one rule—a requirement under the *Red Tape Reduction Act*—and the TBS Policy on Limiting Regulatory Burden on Business, which provides that the annual report can include other information as determined by the President of the Treasury Board. The report to INDU would include information from the annual report (i.e., regarding the one-for-one rule, cost-benefit analysis, the Administrative Burden Baseline) and the Departmental Results Framework (i.e., regulatory cooperation, the number of regulatory proposals that have appropriate impact assessments, and stakeholder consultations). TBS is also developing a data strategy for regulations that could result in further publication of information about the CDR.

Regulatory Modernization

In 2018, the Government announced an expanded suite of regulatory modernization measures to help make the regulatory system more efficient, more agile, and less burdensome. In addition to regulatory cooperation tables and the new CDR described above, these include targeted regulatory reviews and a suite of new initiatives announced in the 2018 Fall Economic Statement.

Targeted regulatory reviews

Budget 2018 announced targeted reviews of regulatory requirements and practices that are creating bottlenecks to economic growth and innovation. TBS coordinates the regulatory reviews with federal departments and agencies. The first round of targeted regulatory reviews focused on three high-growth sectors: agri-food and aquaculture; health and bio-sciences; and transportation and infrastructure. This involved leading stakeholder engagement, which included a national *Canada Gazette* consultation process generating over 140 stakeholder responses.

To address stakeholder issues and irritants, departments and agencies developed sectoral Regulatory Roadmaps that lay out regulatory modernization plans to improve the efficiency and effectiveness of Canada's regulatory system while ensuring Canada maintains its health, safety, security, and environment protections. As a result,

departments and agencies identified regulatory modernization initiatives proposing to update and modernize regulations, including moving towards more outcomes based approaches, and use technology and other novel approaches to improve regulatory outcomes, such as improving compliance. In total, across the three targeted review sectors, the Regulatory Roadmaps resulted in:

- 61 regulatory modernization initiatives to address stakeholder issues and irritants. The identified suite of actions range from proposed legislative amendments; to proposed regulatory changes and amendments; to new policies and practices in support of good regulatory management.
- In addition, 12 novel approaches were identified. These include regulatory sandboxes, pilots, and examples of iterative co-development involving regulators and stakeholders.

Budget 2019 announced \$219.1 million over five years for the first three Regulatory Roadmaps to support implementation of identified actions to address stakeholder issues and irritants in the targeted review sectors. The full Regulatory Roadmaps, as well as timelines for enacting specific initiatives, will be published.

Fall Economic Statement initiatives

In November 2018, the Government announced additional modernization measures, funds, and tools through the Fall Economic Statement (FES) that will provide mechanisms to address concerns and challenges faced by small businesses. The creation of an External Advisory Committee on Regulatory Competitiveness (EACRC) was announced in the FES, and was formally announced on May 3, 2019. The EACRC is a multiple-disciplinary group representing industry, consumer representatives and academia. The Chair of the EACRC is the executive vice-president of the Canadian Federation of Independent Business, which is an organization representing the interests and concerns of over 110,000 Canadian owners of small and mid-size enterprises.

The EACRC will provide expert advice to support the Government's efforts to improve regulatory competitiveness in Canada while protecting health, security, safety, and the environment. In addition, the EACRC will also advise and make recommendations on areas of focus for the second round of regulatory reviews, which will likely consider some of the broad recommendations of INDU as regulatory modernization initiatives are developed. The second round of targeted Regulatory Reviews will be announced shortly.

Pursuant to a pronouncement in the FES, TBS is also exploring ways to make regulatory efficiency and competitiveness a permanent part of regulators' mandates. This would address the Committee's Recommendation 2 to include evaluation criteria focused on innovation and competitiveness, as the mandated legislative amendments would require regulators to address economic growth considerations (e.g., innovation and competitiveness) in their regulatory impact analysis. The goal is to better consider the economic impacts of new, revised, or cumulative regulations on Canadians and

make sure that regulators consider the impacts of regulation on competitiveness of Canadian business.

The FES also announced that the *Red Tape Reduction Act*, the Government's legislative tool to measure and limit administrative burden, undergo a full review by 2020 to look for ways to further reduce administrative burden on Canadian business. Responding to Recommendation 6, the review will consider a number of policy options, including whether to amend the scope and direction of the one-for-one rule (e.g., adopt a two-for-one rule), and consult with Canadians as part of the process.

To further regulatory innovation, the FES provided for the creation of a new business-facing Centre for Regulatory Innovation (CRI), which will be launched in 2019. The CRI will support regulatory modernization activities as part of a strategy to advance innovation and Canada's global competitiveness. In particular, the CRI will enhance regulatory experimentation that provides opportunities for the safe piloting of new products, services, and business models, which will in turn enable the development and refinement of appropriate regulatory frameworks. This will help bring new innovative products to market while continuing to protect Canadians' health, safety, security, environment, and economy.

In the same vein of supporting greater innovation and competitiveness, the 2018 FES introduced a new process to remove outdated legislative requirements that prevent regulatory innovation through an annual Regulatory Modernization Bill. The Government intends to table annual regulatory modernization bills in order to update legislation that is an impediment to making and amending regulations that support the Government's agenda, such as innovation and economic growth, and modernizing Canada's regulatory regimes. The first Bill was introduced in 2019, as part of the *Budget Implementation Act, 2019*, and seeks to amend 12 separate acts in an effort to facilitate the modernization of Canada's regulations. Several of these amendments flow from the first round of regulatory reviews and address irritants identified by business. The Government will consult with stakeholders to identify other possible measures to address in future bills.

For the next several years, this comprehensive suite of actions and tools will drive regulatory transformation across the federal government. This work will help make Canada's regulatory framework more adaptable, agile, and responsive to the needs of business while continuing to protect the health, safety and security of Canadians and the environment.

Communicating and engaging with business

Responding to Recommendation 5, establishing a modern and preferred means of communication with small businesses, including the use of technology to reduce administrative burden, is a priority for the Government. For example, Innovation, Science and Economic Development Canada (ISED), which plays a pivotal role for the

Government's interaction with Canadian entrepreneurs, has been modernizing how it communicates with small businesses and entrepreneurs.

One of ISED's foremost technology-enabled supports is Innovation Canada. Launched in January 2018, Innovation Canada is modernizing how the Government shares important information about the programs and services it delivers to help small, medium and large businesses start and scale up in Canada. It is making it easier for Canadian entrepreneurs to find the right programs and services at the right time, digitally, over the phone, and in-person. Innovation Canada's digital platform pulls together more than 1,000 supports from the federal, provincial and territorial governments. After answering a few simple questions, businesses receive a tailored list of the programs that match their needs – everything from funding to loans, grants, tax credits, wage subsidies, collaboration opportunities and expert advice. The service saves businesses time and money, and also helps government program owners reach the right types of applicants. Since its launch, there have been nearly 900,000 visits to the platform (as of May 7, 2019).

Responding to Recommendation 7, another one of ISED's technology-enabled tools is BizPaL – a digital service that provides business clients with a customized list of the permits and licences that they require in order to start or grow a business in Canada. The service integrates permit and licence information from all levels of government and makes it accessible to clients through multiple web access points. BizPaL supports improved compliance, while saving businesses time and money.

The Government also launched Canada's Economic Strategy Tables, a new and modern model for industry-government collaboration. One of the Economic Strategy Tables' priorities was the call for Canada to develop an agile regulatory system that ranks within the top quartile globally, is conducive to innovation, creates public trust, and attracts investment. The Economic Strategy Tables have already facilitated a very constructive dialogue about regulatory reform and contributed tangible ideas, which are now being implemented to reduce regulatory burden.

Corporations Canada, the federal regulator for federal corporations, has recently improved service offerings by launching a live Web chat service. This new way of communicating with entrepreneurs aims to increase accessibility to client support and client satisfaction. Since the implementation of the chat service, there has been an increase in the volume of client enquiries, with chats representing an additional 10% of all client interactions. The feedback received to date has been very positive for clients. Clients are pleased that they have an additional channel of communications and have stated that the chat service is faster, efficient and more responsive. As a means to reduce administrative burden, the live chat service creates a more efficient channel of communication because clients can immediately receive hyperlinks to forms and web-pages, making it easier and more convenient for clients. Furthermore, the live Web chat service has proven to be a preferred method of communication for certain types of

clients since it provides real-time support and is accessible to clients who may not be able to use the phone (hearing and speech impairment).

Corporations Canada has also worked with provinces and territories to address the complaint that businesses can face significant red tape having to operate in multiple jurisdictions, with 13 independent registries who administer separate requirements and registration processes. In response, the Government and provinces and territories are co-developing a multi-jurisdictional registry access system (MRAS) that will connect business registries and enable streamlined registration by 2020. MRAS launched its beta search in June 2018, data is updated monthly and participating registries include British Columbia, Alberta, Ontario, Quebec, and Corporations Canada. MRAS will enable the connection of corporate registries, offering a unified search of businesses across multiple registries, a streamlined registration process (from “Tell us many times” to “Tell us once”), and notifications of key changes from the registry where the business is incorporated. At the First Ministers’ meeting in December 2018, Premiers emphasized the importance of maintaining momentum and completing this work as soon as possible.

The Government of Canada also streamlined services for high-potential firms and reduced overall administrative burden through the consolidation of the Accelerated Growth Service (AGS) and the Industrial Research Assistance Program’s Concierge Service in Budget 2018. Over the phone and in person, Innovation Canada’s expert Innovation Advisors are now helping high-potential firms to make the right connections to grow their business. In so doing, the AGS is employing a streamlined model to support the growth of high-potential firms through client-centric, coordinated service delivery with a customized team focused on the firm’s unique growth requirements.

The Clean Growth Hub, co-led by Natural Resources Canada and ISED, is a further initiative, announced in Budget 2017 to streamline client services, improve federal program coordination, enable tracking and reporting on clean technology results across government, and connect stakeholders to international markets. The Hub provides companies, including small businesses, and projects across Canada’s clean technology ecosystem with a whole-of-government focal point focused on supporting clean technology users and producers by leveraging and coordinating the knowledge and expertise of over 16 federal departments and agencies. The Hub’s representatives work with clients to obtain details about their organization and project and provide information and connections to the federal programs and services that are most relevant to their needs. The Hub can also answer questions regarding regulatory, standards, government procurement, skills and training matters, and help connect companies to international markets.

The Government would like to reiterate its support for the Committee work in supporting small business, and will continue to take proactive steps to address the various challenges facing this important sector of the economy so that it can continue to grow and innovate. Through the initiatives raised above, the Government recognizes the impact that Canadian SMEs have on the economy, and will continue to improve the business climate where small businesses can launch, thrive, and innovate.