

Follow-up responses to the House of Commons Standing Committee on Government Operations and Estimates (OGGO)

Treasury Board of Canada Secretariat

March 10, 2020 – Review of the *Red Tape Reduction Act*

1. Status update on the implementation of the 11 recommendations from the Standing Committee on Industry, Science and Technology's (INDU) April 2019 report, entitled "[Impacts of Canada's Regulatory Structure on Small Business: between protection and competition](#)"

Mr. Kelly McCauley: The old Department of Industry, now Innovation, Science and Economic Development Canada, did a study about two years ago and put forward 11 recommendations. Have we acted on those recommendations that they put through on their red tape reduction study?

Mr. James van Raalte: Yes. We are acting on those recommendations.

Mr. Kelly McCauley: How many of the 11 recommendations have we instituted?

Mr. James van Raalte: The government agreed with all of the recommendations by the committee. I'm happy to report that we are making progress on all of them.

Mr. Kelly McCauley: How many of the 11 recommendations have we implemented?

Mr. James van Raalte: I'd have to come back to the committee on the exact nature of that.

Mr. Kelly McCauley: Would you be able to? Was there anything from their report that you thought was lacking, that perhaps we should look at more fulsomely?

Mr. James van Raalte: It was quite comprehensive. It provided a good sense of direction for the government and was very helpful.

Response:

INDU Recommendations	Status
Recommendation 1 That the federal government, in collaboration with municipal, provincial and territorial	<ul style="list-style-type: none">• Under the Cabinet Directive on Regulation, departments are required to work with regulators in other jurisdictions to identify regulatory duplication and find opportunities for

governments, put in place a public mechanism to measure and consolidate the number of regulatory requirements Canadian businesses are subject to, and that this mechanism also provide a way to assess duplicate regulatory requirements between levels of government, with a view to eliminating redundant requirements.

alignment. Regulators are also expected to coordinate within government to eliminate duplicative efforts and streamline processes.

- As departments and agencies are accountable for regulations within their respective areas, they work with other implicated jurisdictions, as appropriate, to minimize redundancy across regulatory systems.
- TBS, working with federal regulators across the Government of Canada, coordinates federal action at the Regulatory Reconciliation and Cooperation Table (RCT), established in July 2017 under the Canadian Free Trade Agreement (CFTA). The RCT has a two-fold mandate: 1) to lead the reconciliation of regulatory measures that act as a barriers 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 released its first work plan, highlighting 23 items for reconciliation. Since then, the RCT has endorsed five reconciliation agreements. The 2019-2020 RCT work plan carries over items from the previous plan and adds two new initiatives for regulatory reconciliation and three items for regulatory cooperation. Two federal-only reconciliation agreements, 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. Moreover, in 2019, all Parties have signed an Occupational Health and Safety agreement reconciling common

	standards for First Aid Kit Contents, Hearing Protection, Personal Flotation Devices, and Head, Foot and Eye Protection.
<p>Recommendation 2</p> <p>That the federal government, when assessing regulations, include new evaluation criteria focused on business innovation and competitiveness, and consider conducting small-scale preliminary studies on the impact of regulations on innovation and competitiveness.</p>	<ul style="list-style-type: none"> • The Government of Canada has committed to assessing opportunities for legislative changes to make regulatory efficiency and economic growth an integral part of regulators' mandates. In the 2018 Fall Economic Statement, the Minister of Finance indicated that this would encourage implicated departments and agencies to simplify regulatory proposals, and better address other considerations when designing and implementing regulations, while continuing to prioritize health and safety and environmental responsibilities. • TBS has consulted with the public and internally with stakeholders on this proposed approach and is currently undertaking related analysis in order to determine how best to meet the above-noted commitment. A consultation via <i>Canada Gazette</i> was launched from June 28 until September 5, 2019, inviting interested stakeholders to share their views on the question of legislating economic considerations in the mandates of regulators, the review of the <i>Red Tape Reduction Act</i>, and possible items for consideration in the next Annual Regulatory Modernization Bill and the second round of Targeted Regulatory Reviews. • The Government has also partnered with the Organisation of Economic Cooperation and Development to conduct research on measuring regulatory competitiveness. A research report is anticipated to be released in fall 2020.
<p>Recommendation 3</p>	<ul style="list-style-type: none"> • The Cabinet Directive on Regulation encourages regulators to consider outcome-based regulations to help

<p>That the federal government consider taking measures to make regulations more flexible, for example by making outcome-based rather than process-based regulations and supplementing regulations with guidance documents.</p>	<p>ease compliance burden and facilitate innovation.</p> <ul style="list-style-type: none"> • As departments and agencies are accountable for regulations within their respective areas, they are working with regulated parties, as appropriate, to ensure that regulations are fit-for-purpose and so that expectations around compliance and enforcement are well-communicated. • The Centre for Regulatory Innovation was launched in February 2020 to test flexible approaches to regulations, throughout the regulatory lifecycle.
<p>Recommendation 4</p> <p>That the federal government report on the implementation of the initiatives announced in the new <i>Cabinet Directive on Regulation</i>, especially those aiming at supporting innovation, to assess and measure how they have affected the activities of Canadian businesses, and that it report on the results of these initiatives to the House of Commons Standing Committee on Industry, Science and Technology within three years.</p>	<ul style="list-style-type: none"> • 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 with stakeholders. • Publication is required for proposed and final regulations in the <i>Canada Gazette</i>. The <i>Red Tape Reduction Act</i> 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, by June 2022. This will include information from the annual report to Parliament on the one-for-one rule 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

	<p>number of regulatory proposals that have appropriate impact assessments, and stakeholder consultations).</p> <ul style="list-style-type: none"> • TBS is also developing a data strategy for regulations that could result in further publication of information about the CDR.
<p>Recommendation 5</p> <p>That the federal government establish modern and preferred means of communication with small businesses to respond to their questions, concerns, and applications in a service-oriented, efficient, and timely manner.</p>	<ul style="list-style-type: none"> • Establishing a modern and preferred means of communication with small business, 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, scale up and access new markets. 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 (innovation.canada.ca) pulls together more than 1,000 supports from 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 platform has a notification feature that enables businesses to be proactively notified by email when programs change, or new

	<p>programs that meet their needs are introduced. The service saves businesses time and money, and also helps government program owners reach the right types of applicants.</p> <ul style="list-style-type: none"> • 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. • The Online Regulatory Consultation Platform, which the Government committed to as part of the Canada-United States-Mexico Agreement, will also address this recommendation. The consultation platform is currently being jointly developed by TBS and PSPC, and it is anticipated to be operational in April 2021. The platform will allow Canadians to comment on regulatory proposals, and view others’ comments.
<p>Recommendation 6</p> <p>That the federal government review the <i>Red Tape Reduction Act</i> and its application in light of the implementation by the British-Columbia government of a “2-for-1” rule on introducing new regulations, and consider adopting a similar approach at the federal level.</p>	<ul style="list-style-type: none"> • In line with the statutory requirement, the President of the Treasury Board launched a review of the Red Tape Reduction Act on April 23, 2020. In preparation for this review, TBS has undertaken analysis, including assessing work in other jurisdictions to determine if there are lessons that can be applied in Canada. • TBS began preparing for the review of the RTRA in March 2019. A consultation via <i>Canada Gazette</i> was launched from June 28 until September 5, 2019, inviting interested stakeholders to share their views on the Act, its design, implementation and recommendations for improvement. TBS will re-engage with stakeholders on this topic when they have indicated

	<p>that they have the capacity to provide substantive comments on policy issues, once the immediate effects of the COVID-19 pandemic have subsided.</p>
<p>Recommendation 7</p> <p>That the federal government look for opportunities to use technology to both simplify a company’s adherence to regulations while at the same time improving compliance.</p>	<ul style="list-style-type: none"> • As departments and agencies are accountable for regulations within their respective areas, they are looking at ways to ease compliance burden, using all available tools, and in respect of the extent that the protection of the health, safety, and security of Canadians and the environment allows. • ISED’s BizPaL is 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. Launched in 2005, BizPaL is jointly managed by a partnership involving governments at the federal, provincial, territorial and municipal levels. BizPal has enabled the federal government, provinces, territories and hundreds of municipalities to collaborate to support business clients.
<p>Recommendation 8</p> <p>That the federal government collaborate with provincial and territorial governments to put in place consistent product certification standards across Canada to eliminate differences in regulatory requirements that affect trade in various industries, particularly the agri-food industry.</p>	<ul style="list-style-type: none"> • As departments and agencies are accountable for regulations within their respective areas, they are working with other implicated jurisdictions, as appropriate, to align product certification standards across regulatory systems. • The Regulatory Reconciliation and Cooperation Table (RCT) was established by the Canadian Free Trade Agreement (CFTA) to lead the reconciliation of regulatory measures that act as a barrier to trade,

	<p>investment or labour mobility within Canada and to cooperate in the development of future regulatory measures. Since its inception, the RCT has overseen the development of a number of reconciliation agreements. Two federal-only reconciliation agreements, 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. Moreover, in 2019, all Parties have signed an Occupational Health and Safety agreement reconciling common standards for First Aid Kit Contents, Hearing Protection, Personal Flotation Devices, and Head, Foot and Eye Protection. The RCT continues to address other items to eliminate barriers to trade.</p>
<p>Recommendation 9</p> <p>That the federal government consider ways to simplify and reduce the cost of the various product approval processes in Canada in order to eliminate barriers to bringing products to market.</p>	<ul style="list-style-type: none"> • The RCT provides a forum for stakeholders, including industry, consumers, and non-government organizations, to discuss regulatory barriers and identify opportunities for regulatory cooperation. As it relates to Health Canada’s mandate, this includes looking at options to eliminate barriers to bringing new health products to market. • In 2019, the Government introduced the Annual Regulatory Modernization Bill as a means of simplify procedures. The amendments included in the first Modernization Bill addressed regulatory irritants in legislation that were identified by Canadian businesses, departments and agencies. The Bill has also created space for innovation and increased transparency and efficiency. • For example, the Minister of Health under the <i>Food and Drug Act</i> received the authority to enable the use of

	<p>“regulatory sandboxes” for the purposes of regulatory experimentation. These changes created a pathway to streamline access for new and innovative treatments and therapies, such as tissues developed through 3D printing or gene therapies targeted to specific individuals, while maintaining rigorous oversight to protect health and safety.</p> <ul style="list-style-type: none"> • Health Canada amended the Food and Drug Regulations (Finished Product Testing) to allow for importation of lower risk products, such as sunscreen, from countries that have comparable Good Manufacturing Practices compliance programs to Canada. The initiative relieves Canadian importers and manufacturers from testing requirements for certain imported products prior to being sold in Canada, allowing products to be shipped directly to retailers, distributors and wholesalers in Canada. This initiative was published in <i>Canada Gazette</i>, Part II and came into force on July 1, 2020.
<p>Recommendation 10</p> <p>That the federal government consider ways to eliminate barriers of entry for new health products when doing so would favour public health, for example by allowing drug manufacturers and importers to file multiple pharmaceutical formulations of the same drug under a single application, when appropriate.</p>	<ul style="list-style-type: none"> • As part of the 2019 Health and Biosciences Regulatory Review Roadmap, Health Canada has committed to providing exemptions for certain low-risk digital health software from regulatory requirements (e.g., software intended to monitor heart rate and daily calorie intake to allow an individual to self-manage their weight and fitness levels). In December 2019, the final guidance on the definition and classification of software as a Medical Device has been posted on Health Canada’s website. Health Canada will continue to monitor this initiative to determine if further regulatory measures are needed to support the roadmap commitment. • Health Canada continues to look at ways to simplify and reduce the cost of

	<p>product approvals by facilitating access to prescription drugs for human and veterinary use.</p> <ul style="list-style-type: none"> • 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. • One example of this is the 2019 approval of two oncology drugs through a joint review process with the US and Australia.
<p>Recommendation 11</p> <p>That the federal government consider increasing the harmonization of regulatory standards and processes with those of its trade partners in order to ensure the safety and security of products while reducing Canadian market access barriers for businesses.</p>	<ul style="list-style-type: none"> • The Treasury Board of Canada Secretariat coordinates three formal regulatory cooperation forums with key partners: the Canada-U.S. Regulatory Cooperation Council (RCC) (Canada-U.S. Regulatory Cooperation Council), the federal-provincial/territorial Regulatory Reconciliation and Cooperation Table (RCT) under the Canadian Free Trade Agreement (Canadian Free Trade Agreement: Regulatory Reconciliation and Cooperation Table), and the Canada-European Union (EU) Regulatory Cooperation Forum (RCF) (Canada-European Union Comprehensive Economic and Trade Agreement-Regulatory Cooperation Forum). These tables work together to reduce or eliminate regulatory misalignment and barriers to trade. • The Cabinet Directive on Regulation encourages the use of international standards and incorporation by reference where feasible as a means of increasing the harmonization of standards across jurisdictions. • An examination of strategic opportunities to better incorporate international standards in regulation and increase the participation of

	regulators in the development of international standards is occurring under Targeted Regulatory Reviews (2nd round).
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2. Provide the stakeholder submissions that informed the “ii) Environmental Assessment” portion of the 2018 regulatory reviews and modernization stakeholder consultations report.

Mrs. Kelly Block: Thank you very much, Mr. Chair. I'm hoping to go quickly enough to share my time with my colleague Mr. McCauley. Perhaps this is a good segue to something you mentioned about your upcoming “What We Heard Report”. I want to reference something from the last report that was made public. From the report on the 2018 consultations, under the environmental assessment subsection of the “Additional Sectoral Issues” section, I'll read a quote:

Stakeholders noted that a lack of coordination between environmental regulations and sector-specific regulations leads to duplicative approval processes, delays, and increased administrative burden. They noted that an inconsistent approach to enforcing these regulations is creating an uneven playing field both nationally and internationally.

I'm wondering if you could provide this committee with copies of the stakeholder submissions—with the appropriate redactions, of course—of those who contributed to the environmental assessment subsection.

Mr. James van Raalte: I will commit, Mr. Chair, to tracking those down if I can. I'll need references to the specific materials. They may not be held by my department.

Mrs. Kelly Block: Okay.

Mr. James van Raalte: They may be held by another department. We'll go through the hoops to try to secure those for the committee.

Mrs. Kelly Block: Thank you.

Response:

Please find the requested stakeholder submissions enclosed. In most cases, feedback on environmental regulations was but one of several issues stakeholders raised. Issues highlighted within the report are generally aggregated from several, related stakeholder submissions. The stakeholder submissions were prepared in one language only, but have been translated for the purpose of submission to OGGO. Translations are identified in the document file names. In case of any discrepancy, the original submissions will prevail.

For context: Budget 2018 announced that the Government would conduct targeted reviews of regulatory requirements and practices that are bottlenecks to economic growth, competitiveness, and innovation. The first round of targeted Regulatory Reviews focused on three high-growth sectors: agri-food and aquaculture, health and biosciences, and transportation and infrastructure.

A central feature of the targeted Regulatory Reviews is stakeholder engagement. For instance, the Treasury Board of Canada Secretariat (TBS) led national stakeholder consultations through *Canada Gazette*, Part 1 from July to September 2018. TBS received, over 140 stakeholder responses from businesses, industry associations, academia and Canadians.

The 'What We Heard Report' provides a high-level summary of stakeholder responses to consultations conducted as part of the first round of Regulatory Reviews. The majority of stakeholder comments focused on the three key sectors identified for the first round of Regulatory Reviews: agri-food and aquaculture, health and biosciences, and transportation and infrastructure. However, stakeholders also took the opportunity to comment on additional areas or topics outside these three sectors. For instance, some stakeholders identified considerations with environmental regulations and environmental assessments, and a summary of these comments was noted in the 'Additional Sectoral issues' portion of the report.

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3. Is the current scope of the *Red Tape Reduction Act* prohibitive to more aggressively pursuing the reduction of regulatory burden on businesses?

Mr. Kelly McCauley: Great. Just really quickly, my original question was about how much you are able to do. How much is guided by the legislation? How much is guided by the desire to get regulations cut or reduced? Originally, you said it comes from the department, but I think in an answer to Mr. Green—and I may have heard wrong—you said that it seems to be limited by legislative scope. Could you just clarify what's holding us back from delivering better services or delivering fewer regulations to businesses? Is it the legislative side or is it just inertia within the government services?

The Chair: Once again, while that is a good and legitimate question, I will have to advise the witnesses—

Mr. Kelly McCauley: In the time you took to say that, he could have just simply told us.

The Chair: —to perhaps respond in writing, through the clerk, because we're completely out of time at this juncture.

Response:

The one-for-one rule aims to control the administrative burden that regulations impose on businesses. Since 2012, a total of 144 net regulations have been removed under the rule. In the same timeframe the rule has also produced a \$24.33M net reduction in annualized administrative costs. For every dollar of administrative costs increased, approximately 2.2 dollars were decreased.

The one-for-one rule is entrenched in legislation, though federal regulators are not prohibited from going beyond the requirements as set out in the legislation.

The one-for-one rule is one part of a larger scheme of policies and measures that make up Canada's regulatory framework. Cost benefit analysis, the application of the small business lens, regulatory cooperation and regulatory stock review all aim, among other objectives, to minimize burden on business and maximize efficiencies. Following the implementation of the Cabinet Directive on Regulation in September 2018, the government committed to a regulatory reform agenda and announced the review of this Act alongside a number of modernization initiatives that aim to strengthen transparency, cooperation across jurisdictions, innovation, and competitiveness within the regulatory system. These initiatives include targeted regulatory reviews, the development of an online consultation platform, the establishment of a Centre for Regulatory Innovation, an annual regulatory modernization bill, and an external advisory committee on regulatory competitiveness and ongoing support for international and interprovincial regulatory cooperation.

The amendments made in the first Annual Regulatory Modernization Bill addressed regulatory irritants embedded in legislation, identified by Canadian businesses, and areas for improvement identified by departments and agencies. The Bill has also created space for innovation and increased transparency and efficiency.

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 environmental protections.

The next phase of the targeted regulatory reviews are focusing on clean growth, digitalization and technology-neutral regulations; and international standards. These areas of focus were recommended by the External Advisory Committee for Regulatory Competitiveness (EACRC), a multi-disciplinary group representing industry, consumers, 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.