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## ADMINISTRATIVE COSTS

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**D.1** This Annex looks at the existing evidence of the burden that regulations place on business, and the opinions of business as expressed in our consultation and elsewhere. There is a large body of evidence that the UK's regulatory environment is broadly business friendly. The World Bank has placed the UK in the top 10 of over 130 countries on lightness of regulation. Businesses, however, are still concerned that burdens are too high.

### CALCULATING THE BURDEN

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**D.2** The review came across a large body of evidence that suggested regulation was a significant burden to business. A survey of the literature showed many attempts to calculate and explain the nature of the regulatory burden on business. Some of the main findings of the current research are covered in the following section.

#### Business costs

**D.3** The review has highlighted the lack of a consistent and proven business burdens methodology in Chapter 3. There have been various attempts to calculate the level of administrative burden across the UK economy as well as internationally. None, however, are very detailed.

**D.4** The British Chambers of Commerce (BCC) estimate that the cumulative cost of regulations introduced since 1998 is approximately £30 billion, of which £7 billion is a recurring annual cost.<sup>1</sup> This has been calculated using the cumulative total of Government Regulatory Impact Assessments, which calculate the costs and benefits of proposed regulations as discussed in Chapter 1. The Regulatory Impact Unit has challenged this methodology.

**D.5** The Institute of Chartered Accountants conducted a study which found that red tape costs the UK economy £7 billion a year with 69 per cent of this falling on micro businesses employing less than ten people.<sup>2</sup>

**D.6** The spread between these two estimates is large. Other estimates have suggested that the administrative burden could be as high as 10 per cent of GDP, based on estimates in other EU countries. These measures do not reflect the benefits that regulation brings, or the extent to which business would carry out measures required by regulation whether Government acted or not. More importantly, perhaps, measuring the overall cost of regulation does not give a figure for the overhead – the administrative cost.

#### Business views

**D.7** Business trade organisations have produced numerous publications suggesting that regulation is a problem for business. A study by Robert Baldwin of the London School of Economics,<sup>3</sup> makes the point that poor regulation can undermine competitiveness, capacity to grow and viability.

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<sup>1</sup> *Burdens barometer*, British Chamber of Commerce, 2004.

<sup>2</sup> *Enterprise survey 2004*, Institute of Chartered Accountants in England & Wales, November 2004.

<sup>3</sup> *Better regulation: Is it better for business?*, R. Baldwin, September 2004.

**D.8** The survey suggested that businesses acknowledge the push towards better regulation, including the work of the Better Regulation Task Force and the Ministerial Panel for Regulatory Accountability. At the same time, however, the survey revealed that as many as two-thirds of small businesses think burdens have increased in recent years, and four out of five businesses think that burdens are excessive.<sup>4</sup> Several other surveys have suggested that small businesses see regulation as a serious obstacle to success.

**D.9** The level and scope of regulation is based on innumerable expert and political decisions, and the Review is in no position to judge them all. The perception within the business community, however, is that there is too much regulation and it should be reduced. Small businesses, specifically, seem to bear a disproportionate burden.

### Limitations of the current data set

**D.10** While the current data is rich in quantitative survey data highlighting the administrative burden on business, there are limitations to the use of this type of information. The current data provides limited information regarding how regulation impacts business either positively or negatively and is mostly concerned with perceived burdens. It does not consider the position, experiences and management of the businesses and how these might affect their experience and perception of regulation. It is also vulnerable to respondent biases where firms may provide top-end estimates of costs

**D.11** Current studies also tend to focus on results with the use of compliance cost assessments that attempt to tabulate the easily quantifiable costs of regulation. This makes the surveys narrow, and can exclude broader elements such as the benefits of regulation and the areas (such as worker safety) where businesses would want to self-regulate even in the absence of external regulation. In particular, it should be remembered that the changes to business process brought about by regulation can have a positive impact on business and the way it is managed. Some regulation provides financial or management discipline that brings benefits to shareholders and employees.

**D.12** We believe that no calculation is useful or, more importantly, useable in policy formulation, without a meaningful and consistent methodology for administrative costs.

## BUSINESS PERCEPTIONS

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**D.13** The review was keen to gather the views and experiences of various businesses across the UK in order to discover what businesses expected of regulation and regulators, and their experiences with the various national and local regulators. The review also wanted to have an understanding of how the regulators were perceived by business.

**D.14** The review's engagement with the business community was extensive. It consisted of several components, listed below:

- business questionnaires were distributed to hundreds of businesses across the UK through business umbrella groups such as the Small Business Service, the Confederation of British Industry and the British Chambers of Commerce. The questionnaire was also available on the Internet. In addition to individual responses to this questionnaire, various trade groups and associations responded with consolidated sector or industry specific views;

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<sup>4</sup> Ibid.

- focus groups were held in seven regions including Manchester, Dorset, South Staffordshire, North East, West Wales, Renfrewshire and Sheffield, where a number of local businesses shared their views and experiences on regulation with the Review, in an open discussion moderated by an external facilitator;
- case studies were conducted in order for the Review to get an in-depth understanding of what an average business has to do in order to comply with the various regulatory agencies. Ten case studies were conducted covering a range of businesses from small start-up companies to established multi-national organisations; and
- meetings were held with numerous trade group representatives, business umbrella groups and business leaders as well as with representatives from national and local regulators.

**D.15** Receiving input from different sizes and types of businesses was extremely helpful in developing an understanding of the regulatory concerns affecting businesses. Each segment of the business community had its own unique concerns. Smaller businesses were interested in better advice and less paperwork. Larger organisations highlighted inconsistencies in inspection across regions and regulators, and looked for more expert advice to be readily available. Highly regulated industries observed that in most cases, they had good relationships with regulators but wanted to improve this and were keen to engage with regulators in a more meaningful and positive manner.

**D.16** We have included both graphical representations and some anecdotes that illustrate the concerns expressed to the Review by the business community. The review acknowledges the limitations of this type of information. References in the rest of this chapter are to the review's consultation exercise, unless otherwise stated.

**D.17** It should be noted that the review's data-gathering exercise was just as prone to respondent bias and self-selection as the surveys described above. We have no way of backing up the comments and anecdotes reported here. That said, the results of our consultation with individual businesses largely backed up the concerns expressed by business groups.

## Inspection

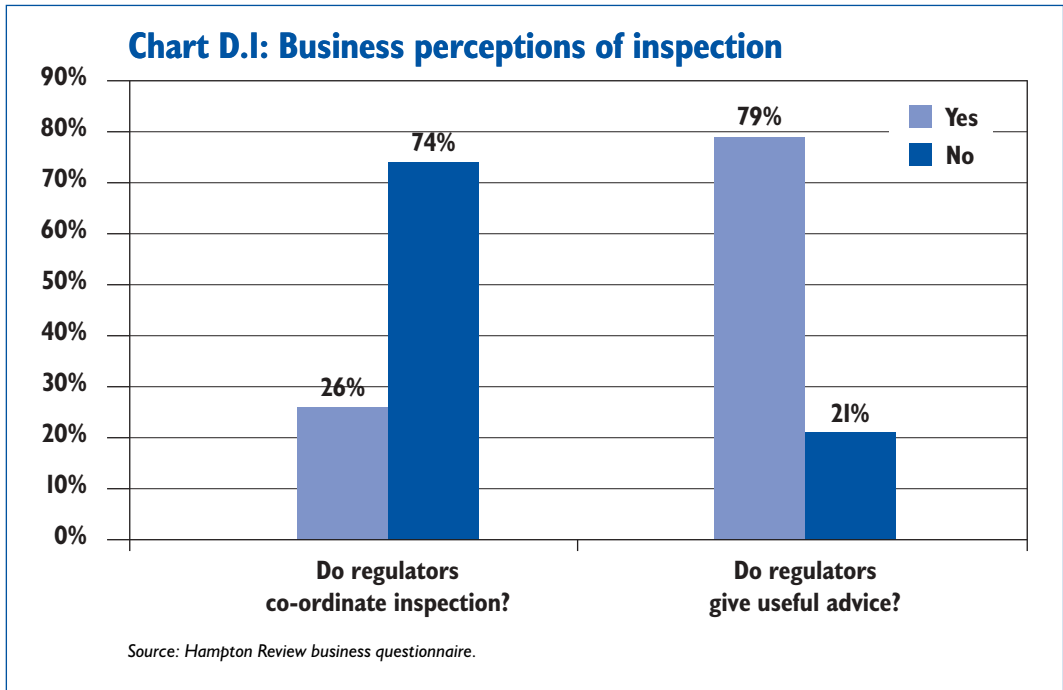
**Frequency D.18** Overall, direct physical inspection was not seen as a major regulatory burden for businesses. However, in highly regulated industries such as waste management or chemicals, the inspection burden is heavy and some saw it as being problematic. According to the Chemicals Industry Association, on average, some chemicals facilities can expect to see at least two inspectors per week from various regulators.

**D.19** One waste management company described their experiences with Environment Agency inspections in 2003:

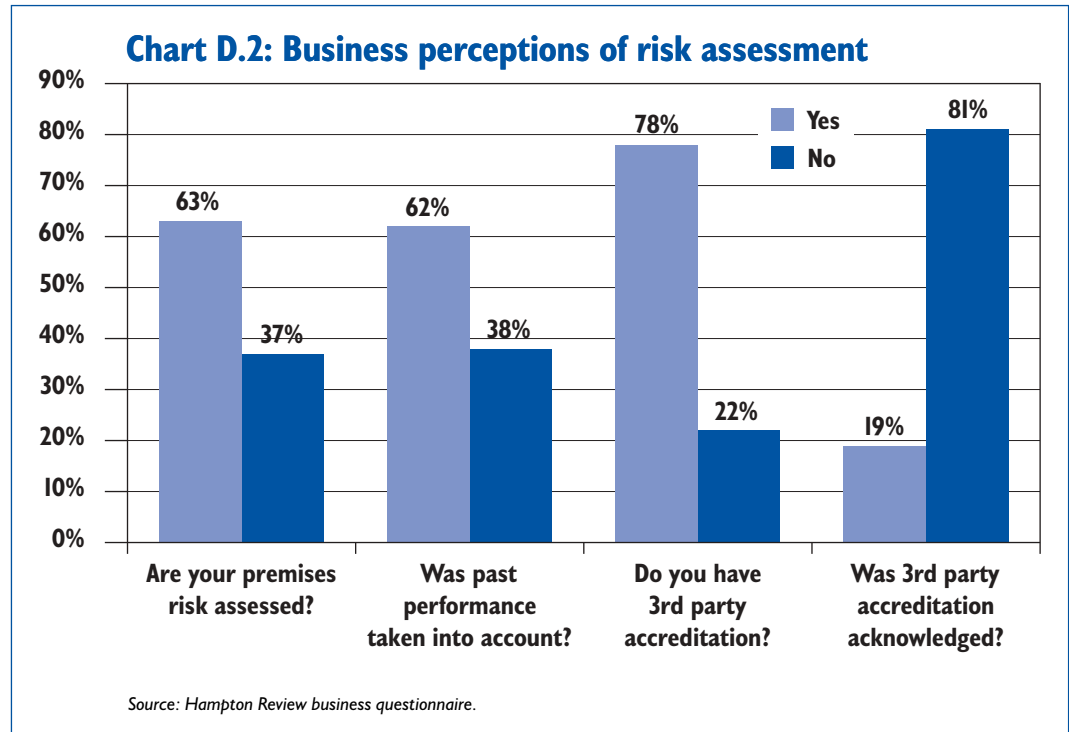
“In 2003, the Environment Agency (EA) made 987 visits and inspections to [our] sites. In one week, 17 officers visited one landfill looking for flies, although there were almost no flies on the site. Risk does not appear to be the criteria for visits.”<sup>5</sup>

<sup>5</sup> Hampton Review business questionnaire.

**D.20** Chart D.1 below illustrates some other general features of current inspection regimes in Britain.



**Risk Assessment D.21** Businesses complained that regulators were conducting many routine inspections, and visiting compliant businesses on a regular basis. They were also concerned that good business systems were not acknowledged in current risk assessment schemes. Many organisations had pursued external accreditation systems such as ISO accreditation and complained that their achievement did not alter risk assessments or inspection levels. In the Review's research, approximately 80 per cent of firms had achieved some form of external accreditation and only 20 per cent of this group stated that the accreditation was acknowledged by regulators in any risk assessment process. Business perceptions of risk assessment are shown in Chart D.2 below.



**D.22** Businesses also said that the overall risk assessment framework was counter-intuitive across regulators. One major UK company commented on their regulatory experience at one manufacturing site, where several hundred people were employed. The site experienced five Health and Safety Executive (HSE) inspections in six years, two of which were investigations into specific accidents. In contrast, the local council’s food hygiene inspector made a visit at least once every six months to the site’s canteen during the same period despite no problems ever having been identified, and with no change of company or kitchen management. Food hygiene is, of course, an important element of public health and safety, but it is interesting to compare the inspection activity of the two organisations – both of which use risk profiling to draw up their inspection programmes.

**Quality of inspection D.23** Businesses had a range of experiences with inspectors, particularly in respect of their level of experience and industry knowledge. One Chamber of Commerce commented that Environmental Health Officers “[are] cited as having a relatively poor level of business knowledge, specialist manufacturer knowledge and food safety practice. The Environment Agency were seen as much more progressive in their approach to business, displaying higher technical and business knowledge than Environmental Health Officers”.

**Turnover of staff D.24** The Review also found that many businesses experience a high level of turnover in regulatory officers. One company mentioned that in the last two years they had three different home authority trading standards officers.<sup>6</sup> This made it difficult for the business to build and maintain a good relationship with regulators. The current system of recruitment and retention in some areas of regulatory services was highlighted as a concern. High turnover results in a capacity leakage within regulators that diminishes their abilities and does little to help sustain good long-term relationships with business.

<sup>6</sup> Home Authority Principle explained in Annex C.

**D.25** One manufacturer said: “Our premises are subject to very frequent inspection, on average at least weekly, by Environment Agency personnel. These visits are rarely planned. Occasionally we receive useful advice from our inspectors; most often they are looking to find fault. The quality of inspectors is poor, with only a basic understanding of the process and little knowledge of the real effect of emission levels upon the environment or the practicalities of operating process plants”.

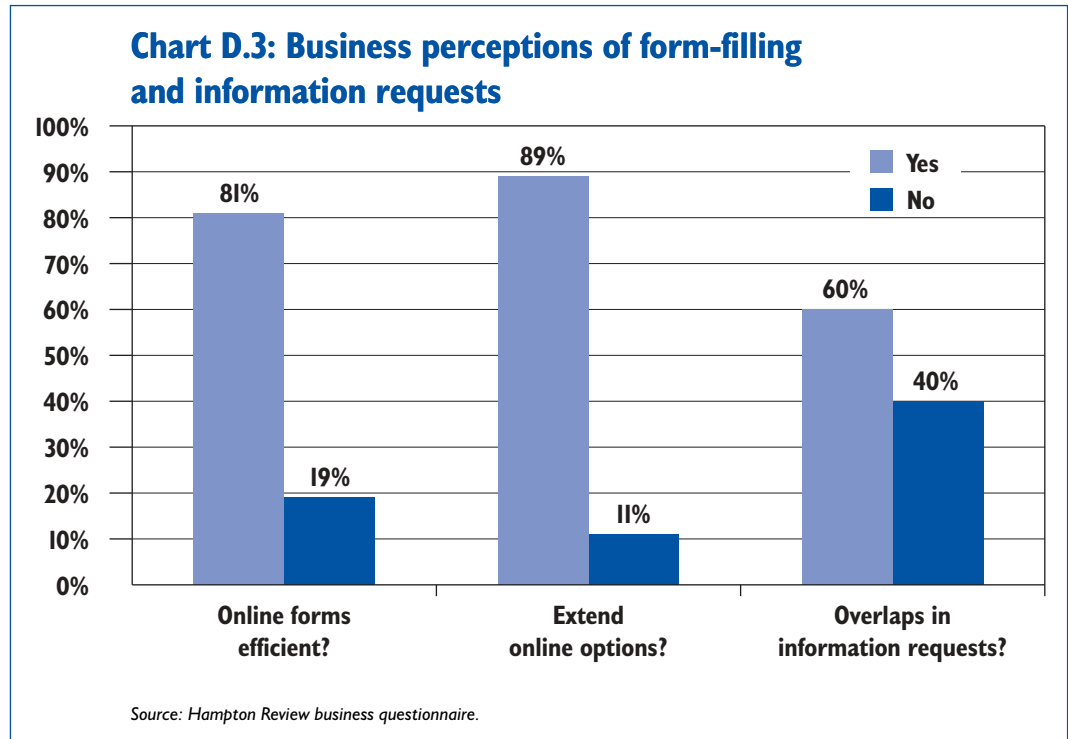
### Joining up

**D.26** The Review found that businesses did not bring forward evidence of joining up within or between regulators. Many regulators inspect the same businesses but with different perspectives resulting in ‘inspection fatigue’ for firms. Businesses did report increased co-ordination within some local authorities, usually between trading standards and environmental health in unitary authorities. Approximately 75 per cent of respondents to the Review’s questionnaire believed that regulators did not co-ordinate their inspections.

**D.27** An example of the fragmentation within the current system is a chemicals facility, subject of separate and uncoordinated HSE and EA inspections of a tank storage area, under the Control of Major Accident Hazards regulations (COMAH). Both inspections were conducted independently, and both regulators wanted to be satisfied as to the integrity of the tanks, given that the storage of these materials is hazardous to people and the environment. The HSE’s additional concern was that, in the event of chemicals escaping from the tank and catching fire, other materials should be moved away from the tank as soon as possible for safety reasons. By contrast, the EA approach was that other materials should be kept in close proximity to the tank to avoid the potential contamination of the wider environment. In this case, therefore, the company had two separate inspections of its tanks leading to conflicting advice.

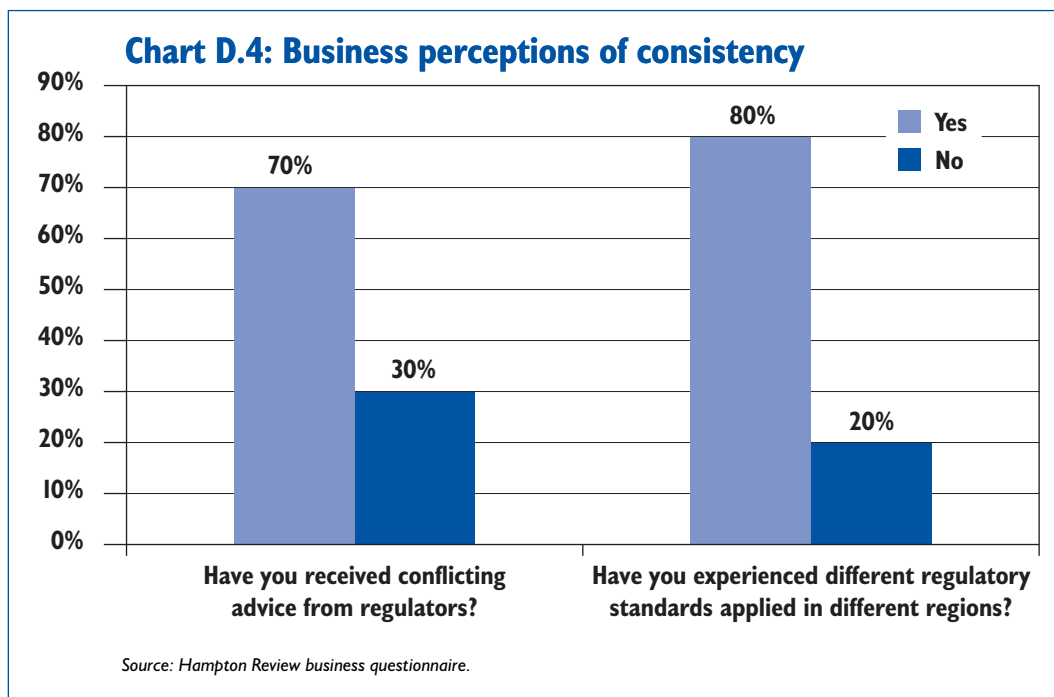
### Paperwork and form-filling

**D.28** The psychological and real burden of paperwork is a significant area of concern for business. Businesses often receive requests for similar information from various regulators, both inside and outside the remit of the Review. Firms were also expected to submit several copies of paperwork to regulators even though the forms were initially provided electronically. Over 80 per cent of the respondents to the Review’s questionnaire believed on-line forms were efficient and approximately 90 per cent wanted online options to be extended. A further 60 per cent of respondents found that overlaps in information requests existed. This data is illustrated in Chart D.3 below.



## Conflicting regulations and interpretations

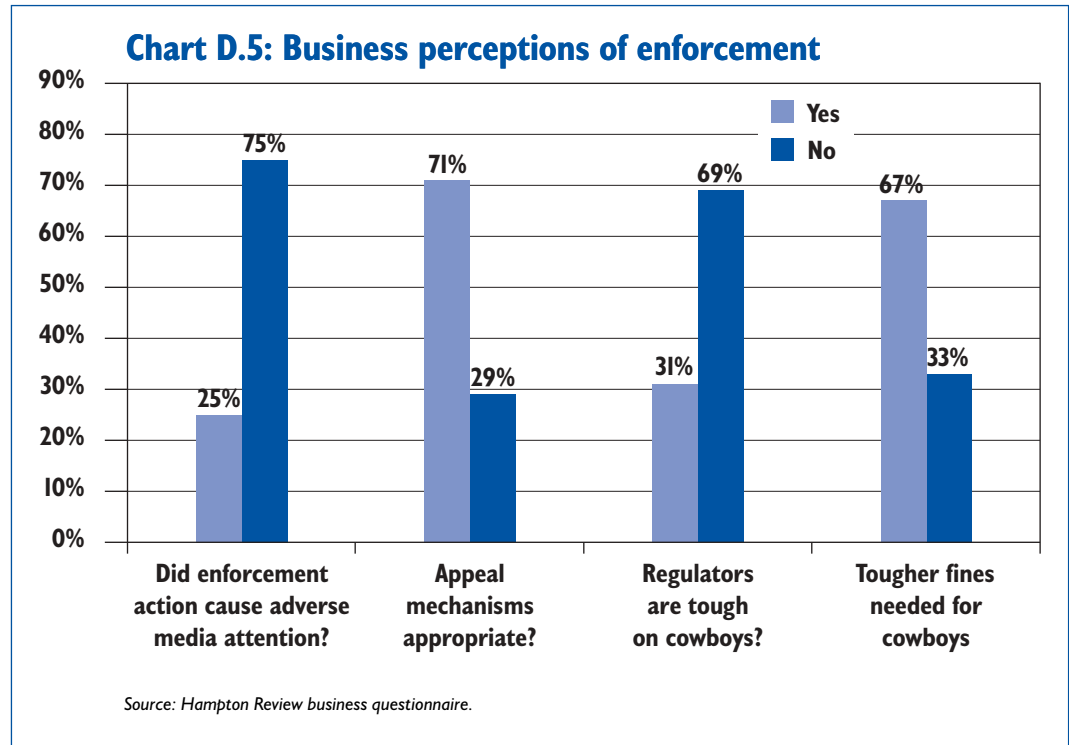
**D.29** The voluntary and common-law tradition of the UK, while flexible and innovative, has led to instances of variation in the application and interpretation of legislation. Conflicting advice can emerge as a result of differing policies on similar issues between regulators. A water company complained that during one drought, the Environment Agency had asked them to impose a hosepipe ban, at the same time as Ofwat was threatening to fine water companies that introduced one. Chart D.4 below highlights that 70 per cent of the respondents to our questionnaire suggested they had received conflicting advice from regulators and 80 per cent of respondents had experienced variations in regulatory standards across regions.



**D.30** Conflicting advice can also be evident when regulators are implementing new regulations with which they are not yet familiar. Examples of this are evident with regards to the implementation of the COMAH regulations. Businesses suggested that HSE policy was evolving as sites submitted safety cases. The specialist inspectors involved did not have a common interpretation of the requirements, so different requirements were imposed on different sites. This can be problematic for organisations with multiple locations.

## Enforcement

**D.31** Adverse publicity following enforcement actions by regulators was another issue that the Review identified. From a regulatory perspective, this is a desirable outcome as reputational sanctions can be an important element of the enforcement toolkit. It is problematic for business, however, if there is disagreement on whether the enforcement action was appropriate. If the enforcement action is subsequently found to be based on an error or misunderstanding, the business has already suffered the negative consequence of the action. 75 per cent of respondents to the Review’s questionnaire had suffered adverse media attention as a result of an enforcement action. Only 30 per cent of businesses believed regulators were tough on cowboys, and approximately 67 per cent of businesses believed tougher fines were needed in order to stop cowboys. This is illustrated graphically in chart D.5 below.



**D.32** Businesses complained that enforcement notices were served without proper prior notification or discussion, even though such events are taken very seriously by companies and managers. Businesses also complained that individual inspectors were unclear as to what they regarded as good compliance or satisfactory performance.

## Reprimination

**D.33** In the current regulatory system, the review found that some businesses are afraid of complaining about the regulators with whom they interact for fear of reprimination. They are also wary of seeking advice from some regulators in areas where they could be non-compliant and prefer to use external consultants who add to the organisations compliance costs. In some instances, the existing appeals mechanisms can be costly, time-consuming and the delayed resolution has adverse impacts on business.

**D.34** Some regulators are seen to provide good advice, and other regulators are acknowledged as having improved their relationship with the business community. One chemicals company said “The HSE are a good source of advice and guidance and all mechanisms for obtaining information have been successfully used with websites becoming increasingly useful.... We have asked HSE for advice in situations where we might be non-compliant and will continue to do so with few reservations”.<sup>7</sup>

<sup>7</sup> Hampton Review business questionnaire.

