

The United Kingdom's Guiding Principles for EU Legislation

Julian Farrel
Deputy Director
Better Regulation Executive

In the Beginning.....Commitments

- **Coalition Agreement May 2010:**

“We will end the so-called ‘gold-plating’ of EU rules, so that British businesses are not disadvantaged relative to their European competitors”
- **Guiding Principles for EU legislation** published in December 2010
 - Completed July 2011 – include operating principles for **Early Engagement and Influencing**
- **Transposition Guidance** revised and published April 2011

The Coalition:
our programme
for government

HM Government



HM Government

Transposition Guidance:
How to implement European
Directives effectively

April 2011

So what does this mean?

- Guiding Principles comprise:
 - **General Principles**
 - **Operating Principles**
- From Early Engagement, via EU influencing, to Transposition
- The Principles establish how we **tackle the flow** of EU legislation from conception to implementation
 - **Concept**
 - **Proposal**
 - **Negotiation**
 - **Adoption**
 - **Publication**
 - **Transposition**
 - **Implementation**
 - **Review**

General Principles: Government's Approach

- The **Government's approach** is:
 - to look at the **cumulative impact** of new EU measures
 - wherever possible, argue for **alternatives to regulation at European level**
 - to **engage with the European Commission before it has adopted proposals** to increase UK influence
 - to **build alliances** with other MSs, MEPs and other EU-level stakeholders to increase the UK's effectiveness in negotiation

General Principles: Ministerial Commitments

- **Ministers must ensure that:**
 - They are **sighted on all EU measures** in their Department from proposal to transposition/implementation
 - Their Departments assess **from the outset**
 - the impact on the UK, and
 - effectively project manage from **negotiation to transposition**

Guiding Principles: Early Influencing and Engagement

- **Twice a year**, Ministers report to the Foreign Secretary on their Department's early influencing priorities and engagement strategies:
 - to **influence the Commission's policy agenda** and ensure future EU measures are justified;
 - to ensure that proposals which cannot be achieved through non-regulatory means are **drafted to maximise benefits and minimise risks to the UK.**
- Cabinet Committee can then **agree cross-Government early influencing priorities**

Guiding Principles: Early Influencing and Engagement

- Departments will seek clearance for their proposed UK **negotiating position promptly**
 - analysing the **order of magnitude** of likely impacts of options to help Ministers make evidence-based decisions;
 - analysis should be **proportionate to the proposal** and time available, and presented succinctly.
- The Government will work with EU partners to **hold the EU institutions to account** on the commitments made on
 - **consultation**
 - **impact assessment**
 - the **‘think small first’** principle
 - reviews in order to **improve the quality** of EU regulation

Guiding Principles: Approach to Transposition

Ministers must inform Cabinet Committee of their **approach to transposition/implementation within two weeks** of an EU measure appearing in the Official Journal of the European Union – satisfy the Committee:

- that they have **identified the aims of the EU law** and the relevant policies of the UK Government
- how the two will be **brought into harmony** so that transposition neither has **unintended consequences** in the UK **nor risks infraction**

Guiding Principles: Approach to Transposition

Transposition Principles addressed twice during policy development cycle:

- ‘**Pre-consultation**’ Cabinet Committee Clearance
- ‘**Final Stage**’ Cabinet Committee Clearance

Principle 5 – When transposing EU law, the Government will:

- a) wherever possible, seek to implement through the use of **alternatives to regulation**
- b) endeavour to ensure that UK businesses are **not put at a competitive disadvantage compared with their European counterparts**
- c) use **copy out** for transposition where it is available, except where doing so would adversely affect UK interests – if not used, **need to explain to Cabinet Committee** the reasons for their choice
- d) necessary implementing measures **come into force on (not before)** the transposition deadline, unless there are compelling reasons
- e) include a **statutory duty for Ministerial review** every five years

‘Gold-plating’

What is ‘gold-plating’?

Principle 5 b) “endeavour to ensure that UK businesses are **not put at a competitive disadvantage compared with their European counterparts**”



So what is 'Gold-plating'?

- 'Gold-plating' is when **implementation goes beyond the minimum** necessary to comply with a Directive:
 - extending the scope
 - **adding in some way** to the substantive requirement, or
 - **substituting wider UK legal terms** for those used in the Directive
 - **not taking full advantage of any derogations** which keep requirements to a minimum
 - **retaining pre-existing UK standards** where they are higher than those required by the Directive
 - **implementing early**, before the date given in the Directive

Source: UK Government Transposition Guidance

Sources of Guidance

- **Guiding Principles for EU legislation**

www.bis.gov.uk/policies/bre/improving-eu-regulation/guiding-principles-eu-legislation

- **Transposition Guidance**

www.bis.gov.uk/assets/biscore/better-regulation/docs/t/11-775-transposition-guidance.pdf

- **Better Regulation Executive (BRE) website**

www.bis.gov.uk/bre

- **Red Tape Challenge**

www.redtapechallenge.cabinetoffice.gov.uk

Contact Details

Julian Farrel

Deputy Director

Better Regulation Executive

Department for Business, Innovation and Skills

julian.farrel@bis.gsi.gov.uk