

# Hidden voices

**The CBI, corporate lobbying and sustainability**



**Friends of  
the Earth**



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## **I. About this report**

This report is about business lobby groups and their influence over Government policy. It represents the findings of some preliminary research into corporate lobbying and corporate power in the UK. It raises questions about the role and influence of business lobby groups in the UK and argues that progressive business voices that support regulation for the environment are being drowned out by the conservative voices of the CBI and other broad-based corporate lobby groups who favour short-term profit over sustainable development.

In particular the report looks at the CBI – probably the best known and most influential business lobby group in the UK. It asks just who the CBI represents, what its agenda is, and whether what it says is accurate. It includes case studies of some of the claims that the CBI has made when challenging Government policies intended to protect the environment and workers' rights.

Unfortunately the Government seems to readily accept the CBI arguments at face value. We question the Government's willingness to accept the CBI's claims without sufficient scrutiny and the apparent influence of the CBI over Government policy.

We briefly identify other voices of business including those who support regulation to protect the environment but who the Government is ignoring. We highlight findings of the Environmental Audit Committee's Pre-budget Report on Tax and the Environment, and in particular the need to consider the wider social, health and environmental benefits of regulation.

Finally, we make some recommendations on what action Government and companies should take to make sure all voices are heard.

## **Methodology**

Research for this report is based on analysis of public statements, reports and research, plus interviews with current and former CBI staff, and managers in CBI member companies. Interviewees included members of key CBI committees as well as managers responsible for sustainability policy in their companies but who are not involved directly in CBI work.

## **Acknowledgements**

While we have cited individual sources wherever possible, in most cases interviewees agreed to talk on condition of anonymity. Those who can be named are: Michael Roberts, Head of Business Environment at the CBI; Aimee Bowen, Secretary to the President's Committee; Jiggy Lloyd, Director of Sustainable Development at AWG Group; and Paul Monaghan, Partnership Development Manager at the Co-operative Bank. Additional research by Roger Cowe (as freelance journalist). With additional thanks to Adrian Wilkes, Andrew Warren, Adam Bradbury, Tim Jenkins, Simon Bullock, Helen Burley, Martha Sakellariou, Craig Bennett, Phil Michaels, Seb Beloe and Joanna Collins.

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## II. Foreword

Corporate social responsibility is the buzzword in business today - that is, acting voluntarily to minimise your company's social and environmental impact. As this report illustrates, the reality is that many companies are using their influence over Government to promote public policies that are bad for communities and the environment. For example the Government, while acknowledging the seriousness of climate change, is failing to reach its targets to reduce greenhouse gases because it is promoting policies that encourage more pollution, such as significantly expanding airports following intense lobbying by big business lobby groups.<sup>1</sup>

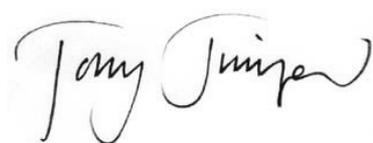
So how are corporations able to exert such a negative influence on Government policy regarding the environment and the rights of local communities? How do companies escape the blame when the Government adopts a 'business as usual' approach to tackling environmental issues? Why do increasingly more Governments believe that regulation of business is a burden rather than a necessity? The answer in many cases is the secret and influential role of business lobby groups.

In this report we examine the most influential business lobby group in the UK: the Confederation of British Industry (CBI). The CBI agenda is a simple one – to increase deregulation and reduce business taxes. It attempts to achieve this by exaggerating the perceived costs of implementing regulation while downplaying or ignoring environmental, social and health benefits. But in reality, as we see in this report, the CBI's stance is unfounded.

We believe it is time for the Government to challenge the CBI's claims about regulation and environmental policy, and to ask "Where is the evidence?" In particular we ask the Government to adopt the findings of the recent Environmental Audit Committee Pre-budget Report on Tax and the Environment. The CBI is not the only voice of business. The Government needs to seek out, and listen to, the progressive voices of business that acknowledge and support regulation that enables business to deliver on sustainable development and respect for human rights.

Also in this report we challenge UK companies to consider whether the CBI really represents their position on key environmental and social issues. If there is to be truth and transparency in lobbying, companies need to make sure their public position on environmental and social issues matches their private lobbying. They must not hide behind lobby groups such as the CBI.

The future of the planet depends on corporations using their political influence wisely to promote sustainable development and not more 'business as usual'. We hope this report will stimulate debate and ultimately persuade corporations to act socially responsibly when lobbying Government.



Tony Juniper  
Executive Director  
Friends of the Earth

### III. Executive summary

This report puts the spotlight on corporate lobbying in the UK and the influence of these lobby groups on Government policy, particularly in relation to the environment. We focus on the Confederation of British Industry (CBI) – probably the best known and most influential business lobby group in the UK.

Our preliminary research raises serious concerns about how the CBI uses the threat of potential damage to UK business and job losses to oppose regulations that would improve workers' rights, benefit the environment and deliver economic benefits. While business is important it is only one section of society. Government has an obligation to consider the impacts of its policy decisions in terms of the health and wellbeing of the whole of society.



*The UK Government risks sacrificing UK jobs on the altar of green credentials*



CBI Director General Sir Digby Jones<sup>1</sup>.

Evidence from the CBI's own surveys of its members reveals the CBI helps create a self-fulfilling culture of complaint about regulation by constantly asking members if regulation is a burden. The more it asks members whether regulation is a problem, the more likely those members are to raise regulation as an issue. The CBI then uses its members' complaints to help justify its calls for less regulation.

Case studies are presented that expose the CBI's rhetoric about the significant cost of regulations or higher environmental standards as not being backed up with hard evidence. Some of the CBI's predictions are simply inaccurate. For example, when calculating the £4 billion cost of environmental regulations to the UK the CBI includes the £1.3 billion invested in new technology to meet higher environmental standards as part of the overall cost of compliance; such expenditure is really an investment that will benefit the business through more efficient and cleaner technology.

We expose the Government's frequent failure to seriously challenge the CBI and show how it has at times accepted the CBI's claims at face value while neglecting to listen to the more progressive voices of business.. The Government must insist on an 'evidence based' approach that is accurate, relevant and objective when considering the CBI claims.

The gap between CBI rhetoric and hard evidence was best illustrated in an exchange in January 2005 between the Director General of the CBI Sir Digby Jones and the House of Commons Environmental Audit Committee, when Sir Digby was challenged to come up with hard evidence that higher environmental standards were costing jobs.

**Mr Challen (MP on Environment Audit Committee):** Which British companies have relocated abroad purely as a consequence of environmental pressures?

**Sir Digby Jones (CBI):** In terms of they have left somewhere where there is a strict environmental regime and cleared off to a place where they can pollute, I would say nil.<sup>2</sup>

Perhaps the most worrying aspect of the Government's response to the never-ending CBI mantra against higher environmental standards is that it appears more interested in deregulation than supporting better regulation. Without such regulation there is no level playing field for business. So the polluters can continue to pollute while the rest of business is penalised for improving their environmental performance.

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<sup>1</sup> House of Commons Environmental Audit Committee, Pre budget 2004 and Budget 2005: Tax, Appraisal, and the Environment, Seventh Report of Session 2004-05, London 13<sup>th</sup> April 2005

In the meantime we continue to threaten our own existence by failing to reduce toxic pollution and the unsustainable exploitation of our natural resources by corporations.

A Millennium Ecosystem Assessment Synthesis report published, in March 2005<sup>3</sup> and conducted by 1,300 experts from 95 countries, found that approximately 60 per cent of the ecosystem services that support life on Earth are being degraded or used unsustainably. It concluded that the ongoing degradation of 15 of the 24 ecosystem services examined is increasing the likelihood of potentially abrupt changes that will seriously affect human wellbeing including the emergence of new diseases, sudden changes in water quality, creation of “dead zones” along the coasts, the collapse of fisheries, and shifts in regional climate.

The Millennium Assessment board of directors, representing the contributors from UN agencies, international scientific organisations and development agencies, have warned that it will require “*radical changes in the way nature is treated at every level of decision making and new ways of working between government, business and civil society*” to reduce the unsustainable burden on the global environment.

Unfortunately the likelihood of the CBI acting on the seriousness of the threats facing the environment do not look promising when you consider the response of the CBI to issues such as climate change (see Climate change case studies, page 33), which the Prime Minister Tony Blair has described as “*probably, long-term, the single most important issue we face as a global community*”. However the CBI has effectively lobbied the Government to freeze the Climate Change Levy and increase the UK’s greenhouse emissions under the EU Emissions Trading Scheme.

We challenge the Government to question the CBI’s claims that higher environmental standards are threatening jobs and the competitiveness of UK industry. It should actively seek out the views of those progressive voices of business that support regulation to help achieve sustainable development. UK industry could be a leader in environmental services and technologies but this will require the Government to provide leadership that puts the environment and communities first.

It is critical that the Government recognises and promotes the many benefits that flow from good environmental regulation including a cleaner environment and better health. This in turn leads to the better use of resources and higher eco-efficient technologies that benefit the planet as well as the economy.

The Government should adopt the recommendations of the Environmental Audit Committee’s 2005 pre budget report on tax and the environment. In particular the Government should reject the scaremongering approach of the CBI that regulation reduces competitiveness and take a wider view of the benefits of regulation such as a cleaner environment and better health for workers and communities rather than focus on short term costs.

We challenge UK companies to recognise that they have a responsibility to act transparently when lobbying and that their private lobbying position should match their public position on key environmental and social issues such as climate change and fair labour standards. Where their trade associations, such as the CBI, misrepresent their point of view they should speak out. It’s time for business to develop a socially responsible approach to lobbying on Government policy and regulation.

## **Main findings**

### **Why does the CBI have such influence?**

From speaking to former CBI employees, journalists and people in Government it is clear that there are some obvious reasons for the CBI influence over Government policy.

- The CBI can at least claim to represent a broad - if unbalanced - section of UK business which makes it easy for the Government to go to them to get the business point of view – a kind of ‘one stop shop’ for the Government
- There is a clear ‘alignment of values’ between the CBI and many similar figures in Government that they broadly agree in minimising Government intervention in the market (ie neo-liberal economics). This then translates into reluctance within Government to robustly challenge the CBI’s claims
- The CBI is quite successful in getting critical comments on Government policy put out through the media, which obviously attracts Government attention. This is further entrenched by many business journalists who simply do not challenge the CBI claims and accept them as representing totally the views of business

### **Case studies show CBI regularly exaggerates the costs of regulation.**

Evidence from our case studies (see Table 2 ‘CBI claims versus what actually happened’, page 44) shows that the CBI exaggerates claims about the costs of implementing regulation to protect the environment and workers:

- The CBI claimed that the introduction of the minimum wage would lead to large-scale job losses when in reality it had no measurable impact on levels of employment
- The CBI opposed the introduction of a climate change Levy on the grounds of it being a tax burden, even though the Government planned to make it tax neutral for business by reducing companies’ national insurance contributions. The actual increase of the total business tax bill in the UK as a result of the introduction of the climate change Levy is only 0.3%
- The CBI often don’t differentiate between administrative and policy costs which is critical when assessing the cost of regulations or higher environmental standards. For example, when it calculated the cost to business of complying with environmental regulations it included the policy costs of new technology needed to meet these regulations, when really this should be considered an investment to meet higher environmental standards

### **The evidence from UK and abroad doesn’t support the CBI claims.**

The CBI’s claims that UK business is suffering from too much regulation are simply not borne out by international studies. Evidence shows that some of the world’s most competitive countries are those with high levels of social and environmental protection. As well independent studies show that business lobbyists regularly exaggerate costs of complying with regulation to oppose or weaken their effect:

- A report from the World Bank published in 2004 looked at regulation across 130 countries and found the UK in the top 10 least regulated countries
- A study of 60 countries by the Economist Intelligence Unit in 2004 ranked the UK third in terms of places to do business.

- An independent report prepared by Phillip Hampton for the Treasury looked at reducing the cost of regulation and was highly critical of studies that claim to estimate the costs of regulation. It concluded that none of the current estimates were reliable.
- Corporate lobbyists' exaggeration of the costs of complying with regulation that benefits the environment is consistent with recent studies (see further reading).

### **The CBI fails to see the big picture.**

The CBI consistently ignores or plays down the benefits of regulations and particularly their positive impact on the environment and people's health. Instead the CBI tends to reduce all debates about public policy down to the perceived costs and impacts on profits rather than addressing the issue at stake.

- A recent Government evaluation of the national air quality strategy found that there was an estimated 4,225 fewer deaths in the UK as a result of a reduction in air pollutants being emitted due to regulation.
- The CBI was able to get significant concessions from Government on the climate change Levy while failing to offer any practical alternatives to address climate change through taxation. It's estimated by the Government that the climate change Levy could save up to five mega tonnes of carbon emissions by 2010.
- The CBI did admit in their report on environmental regulation that £1.3 billion is invested in capital equipment in the UK each year as a result of meeting environmental regulations as well as £1 billion generated in environmental consultancies, but included the £1.3 billion invested in new equipment as part of the cost of complying with regulations.
- There is a global market for environmental goods and services worth in excess of £270 billion and growing at 10% annually. Of concern is that the UK only has a 5% share but is falling behind businesses in other countries who use regulation to support growth in environmental goods and services.

### **The Government in thrall to CBI.**

The Government, including senior Ministers as well as Government departments, has consistently failed to challenge the CBI claims about job losses or increased costs, despite the lack of hard evidence provided. As we show in this report there are many industry misconceptions concerning the cost of implementing regulations that the Government simply accepts without contest (as illustrated in Box 6: 'Key flaws with industry claims about the cost of regulation' page 28).

- The CBI successfully lobbied the UK Government to break the limits on greenhouse gases that can be emitted by UK industry, which the Government had previously agreed under the EU emissions trading directive. The UK Government now wants UK industry to be able to dump an extra 20 million tonnes of greenhouse gases into the atmosphere but the EU has challenged the UK on whether it can renege on its previous agreement<sup>4</sup>.
- The CBI successfully lobbied the DTI to water down anti-corruption and bribery guidelines to be used by their Exports Credit Guarantee Department because of concerns over how these proposed guidelines might jeopardise UK arms sales - even though this would undermine UK claims to be addressing corruption and bribery in business<sup>5</sup>.
- Despite the UK being named as one of the least-regulated countries for business in international studies, the Government has consistently responded by proposing even

more deregulation initiatives, at the rate of almost one major initiative a year over the past 10 years<sup>6</sup>.

### **Alternative voices of business**

The CBI boasts of their broad membership to demonstrate that it speaks on behalf of business as one voice. The reality is that there is often disagreement amongst the CBI's own members let alone other voices who believe regulation can drive better environmental as well as economic benefits.

- The CBI Director General criticisms of the Climate Change Levy caused concern among members, including the Association for the Conservation of Energy a member of the CBI's Energy Policy Committee, because they emerged without reference to that committee.
- One of the CBI's biggest members, the Chemical Industry Association (CIA), was highly critical of a CBI report on environmental regulation and actually issued a press statement criticising the CBI.
- The CBI opposed mandatory social and environmental reporting for companies and lobbied successfully to water down the Government's Operating and Financial Review but fellow-member, the Co-operative Financial Services, supported mandatory reporting.
- The CBI opposed a UN initiative to promote human rights responsibilities for business (ie UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights) while CBI member Barclays participated in a business leaders' initiative looking at working with the UN Norms.
- The Environment Industries Commission represents over 280 companies in the UK and lobbies to support regulation that helps protect the environment. In January 2005 the EIC launched a campaign to counter the CBI deregulation lobby that ignores the many positive environmental and social benefits of regulation.
- There are a number of other business lobbyists who also support regulation that helps drive greener business such as the UK Business Council for Sustainable Energy, Association for Conservation and Energy and the British Wind Energy Association.

### **Regulation to support sustainability can drive innovation**

There are a growing number of studies and reports which show that - rather than be a burden -regulation can drive innovation that benefits the environment, health and society as well as the economy. There are also voices within the Government calling for a new approach to regulation and the environment (see Environmental Audit Committee recommendations)

- In October 2004 the **EU Environment Council** agreed a set of conclusions to work towards a Clean, Clever and Competitive Economy in Europe to ensure that EU contributes to sustainable development.
- The World Economic Forum Global Competitiveness report of 2004-05 of over 100 countries shows countries such as Finland, Sweden and Norway with traditionally high environmental protection and taxation feature in the top 10 most competitive countries.
- The **House of Commons Environment Audit Committee** produced a pre budget 2005 report on tax and the environment based on evidence presented to it by among others the CBI and EIC and Friends of the Earth. It recommended the Government take full account of the wider benefits including the environment and peoples health as a consequence of regulation (see findings in main report).

## Recommendations

### The Government needs to

- **Rigorously challenge** CBI claims on the impacts of public policy and regulation on business, in particular with regard to environmental and social issues.
- **Demand that the CBI provide** accurate, relevant and objective evidence to substantiate its claims that UK companies' competitiveness suffers from regulation to protect the environment.
- **Assess the wider costs and benefits** of regulation, not just the short-term costs to one section of the economy.
- **Fully implement** the recommendations of the Environmental Audit Committee pre-budget report on tax and the environment of April 2005.
- **Seek out a range of views** from progressive and innovative companies that will gain from comprehensive policy and legislation designed to address environmental and social challenges.
- **Champion the wider public interests** of sensible and progressive regulatory frameworks, in terms of health, safety, environment and wellbeing, innovation and investment.
- **Immediately release information** on request about company meetings with Ministers and senior officials, as a matter of public trust.

### Companies need to:

- **Consider whether the CBI can adequately represent their position**, especially on social and environmental issues, where the impact of regulation differs from one sector to the next.
- **Consider whether individual sector trade associations would represent them more effectively** than a cross-industry body.
- **Be prepared to break from the pack and speak out** when their position differs significantly from that of the CBI or other trade associations.
- **Disclose their lobbying position** on key public policy issues that affect their business (for example, climate change or human rights) in their annual sustainability report.

# 1. Unravelling the CBI

## The CBI Fact file

**Full name:** The Confederation of British Industry

**Slogan:** 'The voice of UK business'

**President:** John Sunderland, who is currently Chairman of Cadbury Schweppes

**Director General:** Sir Digby Jones, who has a background as a corporate lawyer. He began at Edge & Ellison based in Birmingham and later joined KPMG. He became Director General of the CBI in January 2000 based on a five-year term but this was extended to the end of December 2006 by CBI members.

**Deputy Director General:** John Cridland

**London:** Centrepont, 103 New Oxford Street, London WC1A 1DU

**Brussels:** Rue Weirtz 50, B-1050 Brussels, Belgium

**Washington:** 1801K St, NW Suite 1000-L, Washington DC 20006-1301 USA

**Website:** [www.cbi.org.uk](http://www.cbi.org.uk)

**Membership and organisation:** Has around 1,800 individual company members employing four million people, and a further six million people employed by companies whose trade associations are members of the CBI. Until the CBI published its first directory in 2004 it kept its membership secret from the general public, even though it is considered one of the UK's most influential business lobby groups.

The regional structure of the CBI is a legacy of its formation but is also common among other business lobby groups including the British Chamber of Commerce (see Appendix, page 51). Members are represented geographically through 12 regional councils which include Scotland, Wales and Northern Ireland. The CBI has offices in these regions and countries within the UK as well as offices in Brussels to lobby the European Union and in Washington to lobby the US Government.

The CBI was created in 1965 through the amalgamation of three employers' and industry bodies: the Federation of British Industries (FBI), the British Employers' Confederation and the National Association of British Manufacturers. Effectively a takeover by the FBI, this resulted in a single national industrial employers' body equivalent to the Trades Union Congress (TUC). The CBI was able to take part in the newly created National Economic Development Council (NEDC). The aim of the NEDC was to develop a collaborative approach to national economic management, bringing Government, unions and employers round the table.

**Annual conference:** The CBI holds an annual conference in November in the wake of the TUC and political party conferences. It is essentially a media event, designed to promote the CBI to its members and the wider public. While there are set-piece debates, there are no votes and the conference has no formal role in setting policy (see 'Formulating and promoting policy', page 13).

## 1.1 Membership

### Hybrid Membership

What the Directory reveals is that the CBI has a hybrid membership consisting of individual companies and trade associations. Company members range from small firms to large multinationals. The CBI members make up around three quarters of the top 100 companies in the UK (the FTSE 100), although less than one quarter of the 100 largest private companies are members.<sup>7</sup>

CBI membership in terms of industry coverage is patchy with a disproportionately high number of members from financial services and manufacturing relative to their representation in the UK workforce but a disproportionately low number represented in retail and distribution (the UK's second largest sector in terms of employment)<sup>8</sup>. The largest single group is consultants and then lawyers. In total, more than 500 CBI members (well over a quarter) can be classified as business services or consultancies.

The CBI membership also includes a range of professional associations, universities and other public bodies – not obvious candidates to be embraced by the organisation's boast of being "The Voice of British Business". These include several tourist boards, the British Racing Drivers Club, the Professional Cricketers Association, the Warwickshire Cricket Club, the British Library and the Birmingham Symphony Orchestra.

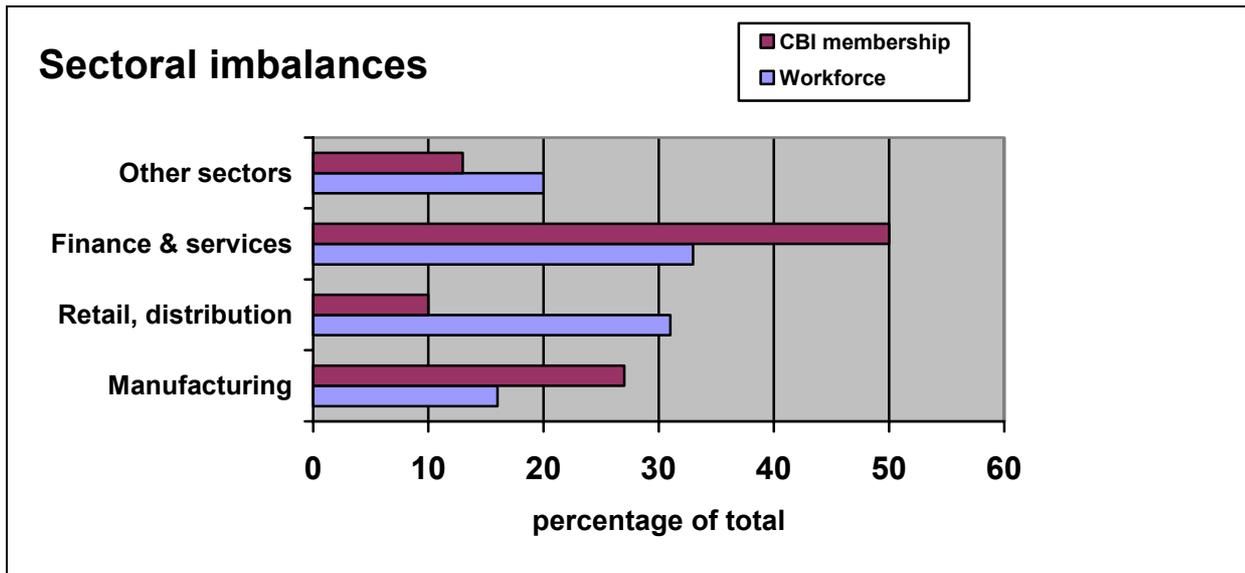


Figure 1: CBI membership by industry sector compared to total UK private-sector workforce by industry sector

What is surprising is that trade associations make up more than half of the CBI's company members. These trade association members range from substantial bodies, such as the Engineering Employers' Federation (EEF) and the Chemical Industries Association (CIA), to tiny organisations, such as the Kaolin and Ball Clay Association. If you ignore the trade associations the CBI has only around 1,800 individual company members employing around 4 million people which is similar to the British Chamber of Commerce(BCC). However, by including trade associations the CBI can then claim coverage of more than 40 per cent of the UK workforce significantly boosting its leverage over Government.

### What about representation?

The question, then, arises as to how the CBI represents fairly the views of individual company members both within and outside the many trade associations. The difficulties in terms of formulating policy to accommodate the diverse views of its membership often result in the CBI employing the lowest common denominator or the 'business as usual' position (see 'Formulating and promoting policy', page 13 and 'Environment – it's not our problem', page 21).

The problem of fair and equal representation of individual companies within trade associations is even more difficult. How do the individual company members within trade associations defer decisions to their leadership? Can the trade associations then act as 'block vote', undermining the principle of 'one member, one vote'?

A report from Green Alliance on the influence of company lobbyists commented:

*“Pan-industry bodies such as the Confederation of British Industry (CBI) and the Institute of Directors have the most severe issues when it comes to representing the full cross-section of their members. In the absence of formal practices for consulting their members, there is nothing to prevent the line they take being at odds with what parts of the membership really think.”<sup>49</sup>*

It is not clear as to how the trade associations represent their members within the CBI. As we can see from the section below on formulating policy and later on in the case studies, there are clearly problems with how the CBI seeks to represent its members in terms of policy positions. At times this can lead to open rebellion such as in the case of the CBI report on UK environmental regulations. Prominent CBI member the Chemical Industry Association published a public statement on the day of the launch of the CBI report distancing themselves from much of the CBI criticism of regulators (see case studies, page 33).

## 1.2 Formulating and promoting policy

### How is policy developed?

**Directorates and Committees:** The CBI staff are organised into **Directorates** including the Business and Environment Directorate and these are managed by the Director General and the Deputy Director General.

There are a significant number of **standing committees** and **working groups** listed in the CBI Directory that work on a broad range of issues from training and taxation to Europe and the environment. These committees and working groups help develop policy for the CBI although ultimately it is the responsibility of the Directorate within the CBI to draw up policy positions. When agreed the policy positions within the CBI are usually presented publicly through the Director General or a delegated spokesperson.

In principle the CBI develops and approves its policy along similar lines to most membership organisations. Its members of staff are primarily responsible for drawing up policy papers, which are then put out for consultation to the regions and specialist committees. Staff members take into account any responses, and draft up amendments. But the committee members are not necessarily asked to approve the final paper, and committee members have told us that, at times, official CBI pronouncements have emerged without any reference to the relevant committee. Listed below are some of the key problems with the CBI’s approach to representing the view of its members on Government policy.

### ‘Secret and unbalanced’ committees

The CBI standing committees are vital in terms of helping develop the CBI’s position in key areas of interest. More broadly, the balance of its committee membership is critical in determining its policy positions, especially on issues such as energy, which impact on different sectors to very varying degrees. The current membership of the Energy Policy Committee demonstrates how imbalanced it can be (see Box 1).

#### Box 1: CBI Energy Policy Committee

**Chair:** Alcan

**Supply industry members:** Scottish Power, Powergen, Northern Electric, RWE Energy, Centrica, National Grid, Transco, the Association of Electricity Producers, UK Coal, BNFL, BP, ExxonMobil, Combined Heat and Power Association, Stratagas

**Heavy power users:** Castle Cement, Air Products, BOC, Brunner Mond

**Other users:** Sainsbury’s, Boots

**Plus** Association for the Conservation of Energy

**Source:** Anonymous committee member

The list of members of the CBI's Energy Policy Committee demonstrates the organisation's hybrid membership, with the Association of Electricity Producers sitting alongside several electricity-generating companies. The membership is largely made up of energy producers, many of which are high greenhouse gas polluters whose main objective is to increase energy consumption to boost profits. So there is inevitably an inbuilt bias among committee members against measures to reduce energy demand (through energy conservation) or to reduce greenhouse emissions (through carbon taxes).

The Environmental Affairs Committee is similarly unrepresentative, dominated by major polluting industries, with significant representation from the water and waste sector.

#### **Box 2: CBI Environmental Affairs Committee**

**Chair:** Calor Gas

**Water and waste management members:** AWG, Northumbrian Water, Onyx, Veolia, Viridor

**Manufacturer members:** Astra Zeneca, BNFL, GE Healthcare, GlaxoSmithKline, Invista, John Heathcoat and Co, Pilkington, Pittards, Rolls-Royce, Chemical Industries Association

**Transport and energy members:** BMW, British Airways, ExxonMobil, Network Rail, Vauxhall Motors

**Other:** Barclays, Boots, RPS Group

**Source:** Head, Business Environment, CBI

Not only is the selection process secret, but committee membership is not normally divulged, although for this report the Head of Business Environment did reveal the membership of the Environmental Affairs Committee. But as a rule **even CBI members are not allowed to know who sits on committees and decides policy on their behalf**. One member – the Co-operative Bank – asked for details of members of the Environmental Affairs Committee and was astonished when the CBI would not disclose the information.

As company boards are increasingly required to disclose everything from selection to remuneration, and even attendance, it seems fitting that their representative trade body should be subject to the same requirements.<sup>10</sup>

### **Conflicts between members**

It is obviously difficult to reconcile the views of such a diverse membership and in some cases, if not many, this will not be possible. This is particularly relevant when debating environmental policy as there are clear winners and losers in terms of opportunities for business. While there is no attempt to put policies to a vote at conferences, the CBI does undertake broad consultations from time to time. But these appear to be designed to provide support for an existing position rather than to genuinely discover members' opinions, as we describe in the next chapter under 'The regulatory burden – perception or reality?' page 24.

We were told by a member of the Energy Policy Committee that CBI attacks on the climate change Levy by the Director General had emerged without any reference to that Committee. The Head of Business Environment confirmed that the controversial paper on environmental regulation was not a product of the Environment Affairs Committee, although it did have a significant input into the report.

Even where policy has emerged from the formal committee process, the public position and statement is determined by the Director General and senior communications staff, and can be at odds with the views of the committee that developed the policy position, as we show in the case study on environmental regulation, page 39.

The obvious question, then, is why do so many disgruntled companies choose to remain within the CBI when it does not represent their views. The simple answer is that the CBI is

the only voice of business that Government appears willing to listen to. It is also convenient for a company wanting to protect its reputation to hide behind the CBI when it has a controversial view on public policy with which it does not wish to be associated.

So despite these conflicting views the CBI continues to insist to the Government that there is a unified voice from business on key policy issues when clearly there is not. These conflicts tend to become more visible when discussing environmental policy where it's more likely to be clear winners and losers among companies (see 'The environment – 'not our problem'', page 21).

Table 1: Differences between CBI position and members' positions

Issue	CBI position	Members' position
Climate Change Levy(CCL)	Initially didn't oppose Levy but since it was introduced current Director General has been highly critical of CCL. Have since lobbied successfully to have CCL frozen <sup>ii</sup>	Association for the Conservation of Energy (ACE) supported Levy <sup>iii</sup>
Operating and Financial Review (corporate, social and environmental reporting)	Opposed mandatory reporting of social and environmental impacts	Co-operative Financial Services (CFS), which includes the Co-operative Bank, supported mandatory report <sup>iv</sup>
Environmental regulation	CBI report complained about burden on business	Chemical Industry Association (CIA) critical of CBI report and believed Government making progress <sup>v</sup>
UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (corporate accountability)	Critical of UN Norms in submission to UN High Commission for Human Rights, insisting they had no legal standing and that they should not be monitored	At the time of publication, Barclays Bank, through the Business Leaders Initiative on Human Rights, was looking at ways of working with the UN Norms <sup>vi</sup>

<sup>ii</sup> 'UK's Brown freezes Climate Change Levy, buys into sequestration' taken from [www.pointcarbon.com](http://www.pointcarbon.com) , 24<sup>th</sup> May 2005

<sup>iii</sup> Association for the Conservation of Energy, Submission to Royal Society Enquiry into the use of economic instruments for the mitigation of Climate Change, May 2002 taken from [www.ukace.org](http://www.ukace.org)

<sup>iv</sup> Co-operative Financial Services Sustainability Report 2003

<sup>v</sup> Chemical Industry Association press statement, Time for action not more analysis of regulatory impact, 5<sup>th</sup> July 2004

<sup>vi</sup> Business Leaders Initiative on Human Rights press release, Defining a role for business in human rights: leaders announce a three-year initiative, 9<sup>th</sup> December, 2003

### 1.3 Influence on Government policy

The CBI is widely regarded as the main voice of the UK business world. It has a strong media presence, close connections in Whitehall, and a significant influence on Government policy. The CBI claims a high standard of legitimacy and representation by referring to itself at 'The Voice of Business'. On its website the CBI makes no secret of its power to influence Government policy:

*"The CBI is business' most powerful lobbying force in the UK. Our lobbying in Europe and across the world is also highly effective for members with global interests..."*

*"Such is the strength of the CBI's reputation that Government frequently approaches the CBI for advice and opinion..."*

*"No other business organisation has such an extensive network of contacts with Government ministers, MPs, civil servants, opinion formers and the media."<sup>11</sup>*

The CBI consistently attracts powerful representatives of Government such as the Prime Minister, the Chancellor of the Exchequer and, more recently, EU Commissioner for Trade Peter Mandelson, to its conferences and dinners. Its influence on the Government is clearly visible in our case studies of particular Government policies (see Chapter 3, page 33).

#### Why does the CBI have such influence?

From speaking to former CBI employees, journalists and people in Government it is clear that there are some obvious reasons for the CBI influence over Government policy.

- The CBI can at least claim to represent a broad - if unbalanced - representation of UK business which makes it easy for the Government to go to them to get the business point of view – a kind of 'one stop shop' for the Government.
- There is a clear 'alignment of values' between the CBI and many in the Government in that they broadly agree in minimising Government intervention in the market (ie neo-liberal economics). This in turn then translates into reluctance within Government to challenge the CBI's claims.
- The CBI is quite successful in getting critical comments on Government policy put out through the media, which obviously attracts Government attention. This is further entrenched by many business journalists who do not robustly challenge the CBI claims and accept them as being totally representative of business.

#### Allies and enemies within Government

The CBI has been careful to cultivate good relations with senior ministers in Government including the Prime Minister and the Chancellor of the Exchequer. However, possibly the most targeted Minister is that of Trade and Industry whose brief it is to promote UK business. The CBI demonstrated its influence over the DTI when they successfully lobbied the DTI Minister in 2004 over anti-bribery measures for UK companies seeking export credit from Government.

The then Secretary of State for Trade and Industry, Patricia Hewitt, responded to CBI lobbying by watering down proposed anti-bribery and corruption measures for UK companies seeking export credit from the Government<sup>12</sup>. The companies, who were mainly involved in the defence industry selling arms and equipment, had argued along with the CBI that the proposed new rules were "...endangering a number of valuable contracts". The Minister subsequently agreed with the CBI and removed a particular demand for companies to disclose the middlemen involved in arms trade even though this could have helped deter corruption<sup>13</sup>.

Earlier this year the CBI was able to successfully lobby the Prime Minister to increase the UK allocation of greenhouse emissions allowed under the EU emissions trading scheme despite the Prime Minister's pledge to make tackling climate change a key theme of the UK's EU presidency which began on July 1<sup>st</sup> 2005<sup>14</sup>.

More recently, following Labour's election victory in May 2005, the Chancellor of the Exchequer announced yet another initiative to cut regulation<sup>15</sup> despite the fact that the Government's own Environment Agency has acknowledged that international studies show UK regulation to be among the world's least burdensome<sup>16</sup>.

Former Environment Minister, The Rt. Hon. Michael Meacher MP told Friends of the Earth:

“ *Far too much notice is taken of the CBI within Government compared with other legitimate voices such as NGOs, unions and environment industries supportive of good regulation. Good Government is about considering the environmental and social issues facing people and not just about the needs of big business.* ”

Michael Meacher (UK Minister for Environment 1997-2003)

It is also clear from the CBI report on environmental regulations (see case studies) and its attack on DEFRA and the Environment Agency that it recognises that there are departments and agencies within Government who are willing to challenge the CBI agenda. The quick response of the Environment Agency to the attack on them by the CBI shows that at least some Government agencies will not be intimidated by the CBI.

Even the pro business Department Trade and Industry (DTI) do not always follow the lead of the CBI and support what ever they demand. For example the DTI have been supportive of the **UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights** at the UN Human Rights Commission. This is despite the CBI resistance to the UN Norms<sup>17</sup> but unfortunately this is seems more the exception than the rule.

Friends of the Earth recognises that the Government should talk to business. But it also has an obligation to investigate and challenge the claims being made by lobby groups such as the CBI, rather than accept them at face value. It should end the convenient assumption that the CBI is the only voice of business.

There is no doubt the CBI has influence over Government policy. But just whose voice it is promoting is not always clear.

## 2. How the CBI operates

In this chapter we look at the ideological agenda of the CBI, in particular its fixation with attacking regulation, as well as their attitude to the environment. We expose the limitations of the voluntary approach of self-regulation. We highlight common corporate lobbying tactics used to oppose policies to protect the environment. Finally we briefly examine the influence of the CBI on Government policy.

### 2.1 Profit and the free market

The CBI supports free market theory and neo-liberal economics, and routinely opposes measures such as regulation and taxation, which it believes constrains their members' freedom to operate. This has evolved into a mantra focusing on regulation (dismissed as 'red tape') and taxation (dismissed as 'burden on business'). This attitude is reinforced by reference to the competitiveness of UK businesses in international markets – the issue that tends to be at the heart of the CBI's opposition to progressive legislation and policy.

#### Neo-liberalism – what's it all about?

Neo-liberalism refers to a broad political philosophy based on the belief that individuals should be liberated from all avoidable interference from Government. When used in the context of economics it is probably better known as 'free market' economics.

The key elements of typical neo-liberal policies are:

- Creating free markets by encouraging de-regulation and cutting red tape
- Reducing the size of government by privatising state-owned public services
- Resisting calls to 'manage' the economy by reducing the government's role in it
- Making people more 'self reliant' by cutting state benefits or assistance

### 2.2 Red tape and taxes

Society places rules on economic activity to make sure it does not breach acceptable standards in terms of, for example, exploitation or discrimination at work, putting people's health and safety at risk, or damaging the environment. Firms are also required to pay a fair share of the taxes raised to invest in education, health and infrastructure. It is vital that these policies are as effective and efficient as possible, and that they are developed to address new and pressing concerns. The CBI, however, routinely characterises regulation as a burden on business that constrains its ability to operate. CBI policy papers, speeches and press releases are littered with references to the encumbrance of regulation.

*"The anti-profit brigade who run down business success might like to remember that when delivering the next anti- business tirade. Weak profitability is not all the Government's fault. But it is certainly the Government's responsibility to do nothing to add to business costs with more regulation and taxation."*<sup>vii</sup>

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<sup>vii</sup> CBI press release, 'CBI issues profit warning for UK PLC', November 8<sup>th</sup> 2004

*“But the Government must avoid forcing firms to offshore through an increase in policies unfriendly to business. The rising cost of compliance with regulation is now starting to drive firms abroad.”<sup>viii</sup>*

*“...the UK Government risks sacrificing UK jobs on the altar of green credentials”<sup>ix</sup>*

### **Box 3: UK corporations and tax**

Although most companies accept that the Government needs to raise taxes to pay for health, education, transport etc they also believe that minimising the amount of tax they pay is a legitimate part of doing business. The Tax Justice Network estimates that large corporations and wealthy individuals in the UK through clever accountancy avoid paying taxes worth in excess of £25 billion each year.<sup>18</sup>

According to Trade Union Congress (TUC) report on modern labour markets, the UK corporate tax rate of 30 per cent is below EU and OECD averages, and considerably below that of the United States (45.2 per cent), Germany (38.9 per cent) and Japan (at 40.9 per cent).<sup>19</sup>

## **2.3 Common business lobby tactics**

The hostility to regulation or ‘red tape’ is common among pan-industry lobby groups such as the CBI. The CBI has been able to drown out intelligent debate about good regulations by consistently shouting about the burden of red tape while failing to address the issues at hand. The claims made by corporate lobby groups against red tape or regulation have been challenged vigorously, including in a report published by the Corporate Responsibility Coalition (CORE coalition) in 2004.<sup>20</sup> The CORE coalition is made up of over 100 charities, faith-based groups, community organisations, unions, businesses and academic institutions (including Action Aid, Amnesty, CAFOD, Christian Aid, Friends of the Earth, New Economics Foundation, Traidcraft and Unison), campaigning for reform of company law so that companies are required to take account of the environment and local communities where ever they operate.

The CORE Coalition report follows on from a number of reports about corporate lobbying by identifying common lobbying tactics. The Green Alliance, which is an independent NGO that works with senior people in Government, parliament, business and the environmental movement to encourage new ideas, dialogue and constructive solutions to support sustainable development, published a report in 2003 which sets out the typical tactics used by business when lobbying Government. Some of these are outlined in the box below.

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<sup>viii</sup> CBI press release, ‘CBI sees growing pressure to off shore as emerging economies compete for jobs’, November 8<sup>th</sup> 2004

<sup>ix</sup> House of Commons Environmental Audit Committee, Pre budget 2004 and Budget 2005: Tax, Appraisal, and the Environment, Seventh Report of Session 2004-05, London 13<sup>th</sup> April 2005

#### **Box 4: The business lobbyist toolkit**

In its report *The Private Lives of Public Affairs*,<sup>21</sup> the Green Alliance identifies a number of arguments used by business lobby groups to campaign against environmental regulation:

**“It is excessively costly”**. Lobbyists routinely exaggerate predicted costs, partly because they assume that after the regulation, business will carry on as before. This is known as the ‘static business model’ because it ignores all future successes, such as increasing the efficiency of the business, or innovations that increase productivity or reduce costs. In practice, businesses innovate. They respond to regulations that increase their costs by changing the way they operate (for example, redesigning production processes in response to energy cost increases). Their innovation reduces their costs and can deliver other benefits as well. To assist this the Government launched the Envirowise programme in 1994 that encourages the sharing of best practice between UK industry to help boost their competitiveness through improved environmental performance and more efficient use of resources.<sup>22</sup>

**“It is against the national interest”**. In this argument the lobbyist assumes the national interest to be the same as that of the business lobby, so that any action seen as detrimental to that particular sector of the business community is considered to have a negative impact on the nation.

**“It kills innovation”**. This argument has become the business world’s knee-jerk response to most regulation – let alone environmental regulation – yet it has been shown that creative, market-based regulation *stimulates* innovation. A World Wildlife Fund report on the effect of proposed EU chemicals regulations on innovation<sup>23</sup> found that the regulations were likely to promote innovation by encouraging the replacement of risky and less sustainable chemicals with safer alternatives.

**“Voluntary self-regulation is all that is required”**. This is a popular argument used by business to avoid binding regulation, and to supposedly minimise compliance costs. But the claims by business that self-regulation works is simply not supported by the evidence. In 2003, a report by the OECD concluded that voluntary agreements on environmental policy tend to weaken steps towards sustainability and some even harm it (see further comments under ‘Self-regulation – limits of the voluntary approach’, page 22).<sup>24</sup>

Corporate lobby groups such as the CBI claim that voluntary initiatives give them the flexibility to implement policies while avoiding constraining business into a ‘one size fits all’ scenario under a regulatory approach. The voluntary approach, though, ignores the fact that having minimum standards through regulation provides a common baseline for companies to be compared with their peers. This does not constrain business from building on these minimum standards, or from creating innovative responses. It also allows investors, customers, NGOs and other stakeholders to make meaningful comparisons of the performances of different companies.

## **2.4 The environment – ‘not our problem’**

It would be unfair to categorise the CBI as being particularly anti-environmental or anti-human rights but it is fair to say that it sees these issues as the responsibility of Government rather than business. On the question of the private sector tackling pressing environmental and social issues, a CBI briefing states that “...*if such demands are taken too far they may serve to distract companies from their core operational responsibilities.*”<sup>25</sup>

The CBI has argued that regulation can play a role in delivering environmental objectives as can be seen from their report on environmental regulations published last year. “*Business recognises that regulation is an important part of the mix of policies used by Government to achieve environmental goals.*”<sup>26</sup>

While in theory the CBI does not oppose action on serious environmental issues, in practice it tends to oppose any action that may compel business to make changes, such as new environmental regulations or green taxes. It argues that companies “...can best meet the diverse challenges of being socially responsible by retaining the flexibility to make decisions that reflect a realistic assessment of their own situation”<sup>27</sup> – in other words self-regulation.

However, the interests of the CBI members are much more diverse when it comes to environmental issues than they are in relation to the main economic and employment issues with which the CBI has traditionally been concerned. This means there is often the potential for conflict. Whereas a change in general taxation or employment law broadly affects all companies similarly, environmental taxes and regulations tend to benefit some sectors at the expense of others. Despite the CBI’s attempts to find a common position on such issues, it is inevitable that some sectors are not represented.

Within the CBI some individual sector trade bodies have particularly strong voices which can influence decision-making on environmental regulations. For example, the Engineering Employees Federation (EEF) worked closely with the CBI to criticise the effectiveness of the climate change Levy (see ‘Climate change Levy’, page 36). Conversely, the Chemical Industries Association (CIA) was highly critical of the CBI’s negative stance on environmental regulations and challenged it about it publicly.

In most cases those trade bodies that are supportive of regulation to protect the environment and are themselves CBI members, such as the Combined Heat and Power Association or the Environmental Services Association, are often not powerful enough to influence policy within the CBI. There are, however, trade associations both within and outside the CBI that are beginning to speak up and challenge the anti-regulation rants of the business lobbyists (see Box below).

#### **Box 5: Dissenting voices within business**

There are a number of business organisations that disagree with the stance of the CBI in opposing regulation to protect the environment, although their voices do not seem to be heard by Government. One example is the Environmental Industries Commission (EIC), which represents almost 280 companies that hope to gain from environmental regulation. The EIC is not a CBI member.

The EIC has become increasingly concerned about the anti-regulation lobbying of the CBI and other business groups, which threatens to undermine environmental protection. In January 2005 the organisation launched a campaign to counter the CBI de-regulation lobby which, it said, overlooks the positive economic benefits of environmental regulation, including a healthy environment and improved health and air quality. The EIC urged the Government to pursue an ‘evidence-based’ policy framework to challenge the exaggerated claims made by industry rather than one based on the rhetoric of lobby groups.



*This is a vitally important campaign because the scaremongering de-regulation lobby from polluting industries, led by the CBI, has captured the policy debate in Downing Street to the huge detriment of British citizens and to the UK economy.<sup>i</sup>*



EIC Chairman Adrian Wilkes

The EIC highlighted a recent independent study commissioned by the Department for the Environment, Food and Rural Affairs (DEFRA) and published in 2004, which concluded that the actual costs of implementing the National Air Quality Strategy cost seven times less than business claimed. In fact it estimated the resulting total benefits at more than £18 billion over 10 years, including 4,225 fewer pollution-related deaths.

## 2.5 Self-regulation – limits of the voluntary approach

The CBI's central premise is that social and environmental progress can be delivered most effectively by businesses responding to market pressures, with the freedom to innovate and pursue approaches that are best suited to their particular circumstances, rather than by being constrained by regulations.

Operating in a global economy means that businesses must be careful not to damage their reputation. A company with a poor reputation could have trouble with community relations, customer loyalty, investor support and the ability to attract new staff. One way of addressing what is seen as 'poor corporate behaviour' is for companies to sign up to a voluntary set of principles or corporate code of conduct, such as the OECD Guidelines for Multinationals or the UN Global Compact.

The Government has endorsed the way that the corporate sector has embraced the voluntary approach to managing environmental and social threats. When New Labour came into power they were determined not to upset the business world, so they have avoided regulation as far as possible – hence their enthusiasm for the voluntary approach of 'corporate social responsibility'.

In March 2005 the Government published its International strategic framework for corporate social responsibility which encourages companies to address their social, economic and environmental impacts<sup>28</sup>. Through various voluntary initiatives the Government is urging companies to do the right thing by raising awareness of these issues, encouraging best practice (e.g. by using OECD Guidelines for Multinationals) and improving on existing practices. There is no mention of the use of regulatory measures to address the social and environmental impacts of companies.

The voluntary approach has many short-term benefits for companies, including:

- initially lower costs
- the ability to slow down their speed of response because of the lack of enforceable deadlines
- no penalties for non-compliance, so they can breach commitments at anytime

### Too many carrots and not enough sticks

There is an obvious hole at the heart of the position taken by advocates of the voluntary approach: if businesses had already been voluntarily improving health and safety, employment protection, environmental impacts and so on, there would be no need for regulation. The reality is that need for external regulation is often driven by the failure of business to voluntarily regulate itself satisfactorily.

For example, the aggregates industry attempted to devise a voluntary scheme to achieve the environmental benefits targeted by the Aggregates Levy – a policy proposal that aimed to address some of the negative impacts of quarrying, such as noise and damage to biodiversity. However, industry members were unable to agree on a proposal that they would all sign up to, and which would achieve the desired outcomes. Eventually, the Aggregates Levy was introduced.

Even where suitable agreements can be made, voluntarism suffers from other serious deficiencies. The biggest problem is central to the fact that it *is* voluntary: there are no sanctions on companies that fail to live up to their commitments, and no powers to enforce compliance for those who decide not to volunteer.

The inability to enforce these voluntary initiatives is one major flaw. But further problems exist where companies sign up to such initiatives to make themselves appear socially responsible without taking substantive action. The CBI was clearly reluctant for companies to be accountable under these voluntary codes when it commented on the revision of the OECD Guidelines in 2000.<sup>29</sup> It claimed that any move to imposing tougher enforcement of the guidelines “... *such as publicly identifying companies believed in breach of the provisions*”, would erode the “*voluntary character*” of the guidelines.

Further, when commenting on expanding the guidelines to non-OECD countries, the CBI threatened to withdraw corporate support for the Guidelines, stating that the “...*net effect of any unwelcome changes might be to deter companies from engaging positively in making the Guidelines a success.*”

### **International evidence highlights limits of voluntary approach**

The industrial nations’ club known as the Organisation for Economic Co-operation and Development (OECD) identified this failure of voluntarism on a large scale in its 2003 report.<sup>30</sup> After examining cases in the United States, Canada, Denmark and Japan, as well as a wide body of literature, the study concluded that voluntarism had failed on both environmental and economic criteria. It found that:

- Voluntary environmental improvements are not significantly different from what would have happened anyway.
- Voluntary approaches fail to affect demand for the products whose environmental impacts are being addressed.
- Voluntary approaches are economically inefficient because they fail to achieve the environmental benefit at the lowest marginal cost.
- Voluntary approaches work best when there is a credible threat of mandatory action following any failure to achieve the environmental objectives.

The report concluded that if too few resources are spent in designing and enforcing the agreements, environmental impacts are likely to be modest. It also argued that combining a voluntary approach with a tax or a tradable permit system can result in significant additional costs while weakening the environmental impact of the economic instrument.

Similarly in 2002, prior to the World Summit on Sustainable Development in Johannesburg, the United Nations Environment Programme (UNEP) published a detailed study of the sustainability performance of industry over the previous 10 years since the original Earth Summit held in Rio de Janeiro in 1992.<sup>31</sup> The report found that in terms of progress, industry had an increased awareness of environmental and social issues, but this did not always translate into improved environmental performance. In fact the increase in economic activity and the associated rise in consumption meant that more waste was being generated per person, with little or no consideration of sustainable development beyond short-term economic gain.

The report concluded that the trend was negative, with the gap growing between what industry is doing to reduce its impact on the environment and the worsening state of the planet:

“ Today, we are still confronted with worsening global trends related to environmental problems like global warming, loss of biodiversity, land degradation, air and water pollution. Some companies have risen to the challenge... However... we have found that the majority of companies are still doing business as usual. ”

Klaus Toepfer, Executive Director, UNEP, May 2002<sup>x</sup>

Significantly, the UNEP sustainability assessment found that companies cited the main reasons for improving environmental performance as new legislation and regulation, along with rising public concern and the need to reduce costs.

## 2.6 The regulatory burden – perception or reality?

For its anti-regulation and anti-tax strategy to ‘win over’ members and Government alike, the CBI has had to demonstrate that regulation and taxation really are damaging British business. It set out to do this with a research programme comparing the UK with several ‘competitor’ countries:

*“The CBI is publishing a series of reports on Britain as a place to do business, together forming the most comprehensive assessment of UK business credentials the CBI has undertaken. The move follows widespread concern about declining UK competitiveness, sparked by increases in regulation and taxation, plus slow progress on transport and basic skills.”<sup>32</sup>*

The CBI’s controversial environmental regulation report (see page 33) was part of this research programme. It referred to research carried out in 2003 by the polling organisation MORI, which supposedly found that *“Many businesses believe it [regulation] is damaging the UK’s attraction as a place to do business.”*

But the CBI drew conclusions that were not justified by the MORI poll, as we see in the following sections.

### A self-fulfilling prophecy

A critical point is that the CBI’s MORI poll reported people’s perceptions rather than facts, which invites over-reporting of concerns. Just as people perceive crime to be a bigger problem in their neighbourhood than it actually is, business people are almost certain to perceive regulation to be more significant than it is in practice.

In addition, the nature of these polls and the wording of the questions invited over-reporting. In the survey people were asked if they expected to spend more time complying with regulations over the coming five years. Unsurprisingly, the vast majority (91 per cent) said ‘yes’. They were then invited to say how damaging this would be for their businesses, rather than whether it *would* be damaging, with a choice of ‘very’, ‘fairly’, ‘not very’ or ‘not at all’.

One prominent CBI member of the energy committee, Andrew Warren, found this approach so unsatisfactory that he wrote to MORI chairman Bob Worcester complaining about it. Despite the questionable wording of the poll, 28 per cent said the extra time on regulations would not really damage their businesses.

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<sup>x</sup> UNEP press release, “The state of the planet is getting worse but for many it’s still “business as usual”, 15<sup>th</sup> May 2002

The evidence above suggests the CBI obsession with regulation is not necessarily the number one issue on the minds of UK business. This is very much reinforced by the following comment:



*It's bollocks. Digby Jones is the classic example of 'Let's find something to moan about.'*



Alan Sugar, chairman of Amstrad.

His response when asked about the CBI's campaign to reduce red tape.

In 2004 the tendency of the CBI, and in particular Digby Jones, to raise frequent concerns about regulation without providing the evidence to back the claims came under fire from UK MPs. Jones claimed that MPs were *"asleep on the job"* when dealing with EU legislation, and that and this was *"not acceptable"* and affected millions of jobs in the UK.

This brought an angry response from one member of the House of Commons European Scrutiny Committee, who said: *"I have been a member of this committee for three years and not once has the CBI contacted us about their concerns. Mr Jones is talking through his hat. There are reforms going through the House that address all of his apparent concerns."*<sup>33</sup>

### **Downplaying benefits and highlighting negatives**

Looking specifically at responses on environmental regulation, the CBI's claims are similarly overblown. Below is an extract of an exchange between the CBI Director General Sir Digby Jones and MP Paul Flynn from the House of Commons Environmental Audit Committee in January 2005 when debating the impact of the high standards of environmental regulation<sup>xi</sup>.

Sir Digby Jones: *"...can I just ask you, do you think it is the job of government domestically to cause huge loss of production and mass unemployment through the prosecution of extremely strict environmental rules and regulations?"*

Paul Flynn: *The job of the government is to save the planet initially.*

Sir Digby Jones: *Even if that is sacrificed?"*

Contrast this with the opinion of CBI members when asked in 2002 to rate various areas of regulation, one in five respondents said that environmental regulation was actually positive for their business competitiveness; they were outnumbered by two to one by those who said it was negative. This significant positive response should have been reflected by the CBI's position.

When pressed on what caused most difficulty in the area of environment, health and safety, only around one in five cited increased regulations or legislation. That's one fifth of the 68 people for whom this area was one of their top three concerns – just 15 directors. Only four people specifically mentioned the Climate Change Levy. This level of response can hardly justify the CBI's subsequent attack on regulation in general, and the Climate Change Levy and the Environment Agency in particular.

In fact between 2002 and 2003, the proportion of CBI members saying the UK was an attractive place to invest shot up. In 2002 54 per cent said the UK was 'very' or 'fairly' attractive, and the following year the figure rose to 78 per cent.

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<sup>xi</sup> House of Commons Environmental Audit Committee, Pre budget 2004 and Budget 2005: Tax, Appraisal, and the Environment, Seventh Report of Session 2004-05, London 13<sup>th</sup> April 2005

The responses in the CBI's 2003 poll, the second in its annual series, undermine the CBI's claims.<sup>34</sup> **So, while the CBI claims that the 'burden' of regulation has grown, its own figures show that business people think that things are getting better.**

#### **Box 6: Key flaws of industry claims on the cost of regulation**

In 2004 the World Wildlife Fund sponsored a study<sup>35</sup> of the predicted costs to industry of implementing various forms of environmental regulation. It found that business lobbyists and trade associations systematically inflate costs to oppose regulations while underestimating the benefits and innovation potential.

The regulations analysed included the Montreal Protocol on substances that deplete the ozone layer, the US Clean Air Act and various EU directives and initiatives. Some of the key themes which emerged from the study were:

**Static business models.** When calculating the costs of implementing regulation business lobbyists often assume a 'static' business model, which greatly inflates the cost of implementation. This ignores the fact that businesses are not static and will innovate to meet the challenges of regulation, so helping keep costs down.

**Asymmetrical correction of errors.** Industry tends to successfully challenge any perceived underestimation of costs by regulators, which then pushes cost estimates higher. However, there is rarely any corresponding pressure to challenge industry when it overestimates costs that would drive cost estimates down. This creates an asymmetrical correction of errors that leads to an upward bias when estimating costs. In other words the eventual costs to business tend to be overestimated.

**Vague claims.** Often, claims about compliance costs and the perceived threat to industry are general and vague. They tend to over-exaggerate the impacts on industry, such as asserting that the proposed regulation will drive a specific industry sector out of work. While these claims are difficult to quantify, they are often accepted by politicians.

**Homogenous industry.** Business is not homogenous, and there can be great differences between the positions of individual companies on issues that in turn affect their stance on regulations. For example, an oil company and a wind turbine manufacturer will have different opinions on how to deal with climate. Similarly, market leaders often oppose regulation, as initially regulation can lead to the loss of their market advantage, forcing them to change in order to keep ahead, but newer companies may see an opportunity to *innovate* and grab more of the market share. These important differences in opinion among business are downplayed by lobbyists and so subsequently not picked up by Government policy makers and regulators.

### **What is really happening?**

Despite the CBI's claims about the regulation burden on UK business, the evidence is far from conclusive. It is also at odds with better-researched independent assessments. For example, the Economist Intelligence Unit has studied business regimes in 60 different countries and placed Britain in third place overall.

“ *Economic and administrative regulations inhibiting competition and barriers to trade are amongst the lowest in the OECD.*<sup>36</sup> ”

OECD conclusions in the OECD 2004 economic survey of the UK

The reason for the gaps between the findings of the CBI and those of other assessors may lie in the nature of its research, which is based on the perceptions of company directors and senior executives. Most evidence-based approaches to measuring competitiveness show no

direct correlation between a country with high levels of social and environmental protection and their so-called ability to compete.

The World Economic Forum Global Competitiveness Report for 2004-2005 surveyed over 100 countries and found Denmark, Sweden and Norway rank in the top ten, and yet all are considered to have high levels of taxation and environmental regulation.<sup>37</sup>

Despite the CBI's focus on rhetoric rather than evidence, the Government has certainly been responsive – indeed, it has practically fallen over itself – to accommodate the CBI de-regulation agenda.

**Over the past 10 years, the Government has proposed de-regulation reforms almost every year.** These include the introduction of the De-regulation and Contracting Out Act, the requirement for Regulatory Impact Assessments be carried out on all proposed regulation, and the setting up of the Better Regulation Task Force.<sup>38</sup>

The Government has also drastically reduced the number of regulators. The 1995 Environment Act created the Environment Agency, bringing under one agency HM Inspectorate of Pollution, the Rivers Authority and the waste regulation function of 83 local authorities.<sup>39</sup> In 2000 the introduction of the Financial Services and Marketing Act set up the Financial Services Authority, which took over the responsibilities of at least nine separate bodies responsible for regulating financial services and placed them under one financial regulator: the Financial Services Authority.<sup>40</sup>

## 2.7 Why the anti-regulatory stance is flawed

**It fails to see the big picture.** Too often the CBI reduces the debate to a narrow discussion about the costs of implementing policies rather than responding to the issue being addressed. There is little or virtually no discussion about the significant environmental, health and safety benefits that can result from legislation to protect the environment and our health.

It fails to acknowledge the positive benefits of policies in the public interest for quality of life. Health and safety legislation reduces accident rates and provides workers and consumers with greater peace of mind. Environmental regulations such as pollution controls have cut the release of toxic chemicals into the environment and strive to keep our air and water clean. These wider benefits for people's quality of life and the environment also bring economic benefits – for example, through reduced accidents and healthier and happier people.

There are also important benefits in terms of sustainable development, as strong environmental policies and regulation encourage more sustainable use of resources and the development of more eco-efficient technology.

**It is imbalanced and biased.** As with most public policies, environmental and health regulations will benefit some firms while representing a cost to others. For example, policies to cut CO<sub>2</sub> emissions to prevent climate change may require big emitters to spend money to comply. But firms offering a wide range of low-carbon solutions, from renewable energy to energy efficiency, will receive a boost. In short, tackling environmental challenges also creates new business opportunities.

The world market for environmental goods and services is estimated at US\$515 billion (around £270 billion) – a figure comparable with those for the aerospace and pharmaceutical industries – and is forecast to grow to \$688 billion by 2010 (around £360 billion). In this way environmental policies are stimulating innovation both in the firms selling low-carbon solutions and in those having to comply – a point made firmly by competitiveness guru Professor Michael Porter of Harvard University.<sup>41</sup> Despite the fact that it is its own members stand to gain from them, the CBI usually fails to reflect these crucial benefits in its statements on regulation and economic instruments.

**It is prone to exaggeration.** There is a clear tendency of industry lobby groups to exaggerate the potential costs of proposed public interest policies (see Box 7 'Key flaws of industry claims on the cost of regulation', page 42). This was confirmed in our case studies of CBI lobbying in Chapter 3 (see Table 2 'CBI claims versus what actually happened', page 44) where in every case from the minimum wage to environmental regulations the CBI claims were found to be unsubstantiated.



*That is no doubt a widely held view. It is dead wrong. In fact a review of some of the major regulatory initiatives overseen by the EPA since its creation in 1970 reveals a pattern of consistent, often substantial overestimates of the economic costs.*



The former Head of the US EPA, William Reilly  
Response to industry accusations that the EPA underestimates the costs of regulations

The tendency to exaggerate was also highlighted in a Government-sponsored review of regulation<sup>42</sup> and this finding is repeated in other studies, including those published by the International Chemical Secretariat in April 2004<sup>43</sup> and by Eban Goodstein, a Professor of Economics at Lewis and Clark College and a Research Associate at the Economic Policy Institute,<sup>44</sup> who concluded that:

*"In every case, we have found that where researchers have calculated actual regulatory costs and then compared them to predicted estimates, the estimates exceeded the actual cost. We have uncovered a dozen such efforts... In all cases but one, the initial estimates were at least double the actual costs."*

### **Higher standards don't destroy competitiveness.**

Report after report from respected organisations, including the World Bank in their report 'Competitiveness and the Environment' and from the OECD in their 1997 report 'Environment policies and employment' have concluded that higher environmental standards do not lower competitiveness. Indeed, most go on to say that establishing policies early to stimulate investment and innovation can even create economic advantage<sup>45</sup>.

Even more perversely, the CBI knows this. Its 1994 report 'Environment costs' stated:

*"We found no strong evidence that environmental regulation destroys jobs and businesses... with compliance costs averaging one per cent to two per cent of business turnover... environmental factors do not suggest that promoting lower standards at home would be to the competitive advantage of British business."<sup>46</sup>*

Instead of scaremongering with figures that are often partial and exaggerated, with the aim of stopping regulation in the public interest, the CBI could make sure that the Government's policies were designed not only to be effective at protecting the environment and increasing quality of life, but that they are also efficient at providing business opportunities through innovation and investment.

In October 2004 the Environment Council of the European Union, under the Dutch presidency, drew conclusions about a 'Clean, Clever and Competitive' economy and requested these be adopted as part of the EU Lisbon Strategy of building a competitive and dynamic economy<sup>47</sup>. The Environment Council agreed that eco-efficient innovations make a positive contribution to competitiveness by lowering business costs through improved energy and resource use and contributing to employment growth.

**Contrary to the claims of the CBI, some of the world's most competitive countries are those with high levels of social and environmental protection such as Finland, Sweden and Denmark.<sup>48</sup>**

## 2.8 Regulation to support environment can drive innovation

There is a growing awareness among more progressive businesses that rather than being a barrier to business, the environment can bring opportunities. The most recent World Economic Forum Global Competitiveness Report 2004-2005 included a paper on the 'Competitive Edge in Environmental Responsibility'. The paper concluded that a review of global environmental problems reveals not only challenges and risks for the private sector that cannot be ignored, but also opportunities for business. The paper highlighted the significant potential for business leadership in the field of environmental and sustainable development.

Similarly the European Union Environment Council In November 2004 adopted a number of conclusions to support a **Clean, Clever and Competitive Europe**<sup>49</sup> including a highly eco-efficient economy that respects the carrying capacity of the environment and that generates jobs and builds greater social cohesion. They acknowledged that eco-efficient innovation can support innovation, lower business costs and help the environment through higher energy efficiency and reduced resource costs as well as create new markets.

The **House of Commons Environment Committee published in a pre-budget report on tax and the environment published in April 2005**. The Committee, which listened to evidence from the CBI as well as from NGOs and the EIC, concluded that the Government is failing to challenge the claims made by corporate lobby groups about regulation nor is it properly considering the benefits.

The report concludes that *"We are sceptical about the extent to which environmental regulations damage competitiveness, and we reject the scaremongering approach which the Confederation of British Industry has adopted in this respect."*<sup>50</sup>

The House of Commons report conclusions include:

- Regulatory Impact Assessments must take full account of the wider benefits of high environmental standards, for example health and tourism.
- Regulatory Impact Assessments must recognise the economic benefits that the creation of a thriving UK environmental industry can bring.
- A new Strategic Impact Assessment is needed to fully identify all economic, social and environmental impacts of new policy measures.
- The Cabinet Office Regulatory Impact Unit, which conducts policy appraisals, should be supplemented with a "Sustainable Development Unit".

## 2.9 The real crisis – the state of the environment

The real crisis facing UK business is not the threat of being swamped by a deluge of regulation but the failure of business to address the declining state of the environment - and the impact on sustainable development.

The declining state of the planet was highlighted in the Millennium Ecosystem Assessment Synthesis report published in March 2005<sup>51</sup> with the help of the UN. This revealed that 60 percent of the ecosystem services that support life on Earth – such as fresh water, fisheries, air and water regulation, and the regulation of regional climate, natural hazards and pests – are being degraded or used unsustainably.

The report concluded that the ongoing degradation of 15 of the 24 ecosystem services examined is increasing the likelihood of potentially abrupt changes that will seriously affect human wellbeing, including the emergence of new diseases, sudden changes in water

quality, creation of “dead zones” along the coasts, the collapse of fisheries, and shifts in regional climate. Only four ecosystem services have been enhanced in the past 50 years, primarily crop, livestock and aquaculture production.

The degradation of these ecosystem services is not only a threat to the environment, it is also a clear barrier to achieving the Millennium Development Goals agreed by the UN in 2000. These include eradicating poverty, ensuring all children receive a primary education and combating HIV/Aids, malaria and other infectious diseases. The report reveals that the world’s poorest people, many of whom live in equatorial regions like sub Saharan Africa and Central and South East Asia, will suffer the most from the degradation of these ecosystems.

The Millennium Assessment board of directors, representing the contributors from UK agencies, international scientific organisations and development agencies have warned of living beyond our means and the need to reduce the burden we are putting on the planet

“ *Achieving this, however, will require radical changes in the way nature is treated at every level of decision-making and new ways of cooperation between government, business and civil society. The warning signs are there for all of us to see. The future now lies in our hands.* ”

A warning by the Millennium Assessment board of directors.

The Prime Minister Tony Blair has described climate change as “*probably, long-term, the single most important issue we face as a global community*”<sup>52</sup>. Further, he made climate change one of the priorities for the UK presidency of the G8<sup>53</sup>.

The UK’s Chief Scientific Advisor Sir David King warns that “*16 of the 19 biggest cities in the world are all sitting on coastlines and are very much at risk as sea levels rise, and as storms increase. By 2050 we may see something in the region of 50-250 million people displaced from their homes. Unfortunately, many of the worst impacts will occur in countries that can least afford to protect themselves. For example, Africa is very likely to suffer from a radical increase in desertification.*”<sup>54</sup>

The effects of climate change are likely to be profound if we are not successful in dramatically reducing human-generated greenhouse gas emissions. Along with the increasing frequency of extreme weather events there are likely to be changes in regional climate which will impact on our ability to grow crops to provide food. There is also the growing threat to human health as a changing climate can create the conditions needed for the spread of infectious diseases such as malaria and yellow fever.

The costs to business of dealing with climate change even in terms of insurance claims alone is likely to be substantial. The Association of British Insurers published a report on climate change in 2004 stating that insurance claims for storm and flood damage between 1998-2003 in the UK alone reached £6 billion, and that this could triple by 2050<sup>55</sup>. The challenge is getting business to take advantage of the opportunities in tackling climate change through reducing energy demand and conversion to renewable energy rather than protecting existing fossil fuel based energy suppliers.

## 2.10 Political responsibility

Business lobby groups such as the CBI have considerable power and as this report demonstrates they use this power to influence Government policy that affects business. It is disingenuous of the CBI to argue that it is the role of Government alone to resolve challenging environmental and social issues. Companies and their lobby groups have a political responsibility to work with Governments to support new policy and regulatory measures to address social and environmental problems. Unfortunately, too many lobby groups, including the CBI, feel that this is not their responsibility, as the CBI expresses in one of its briefings below :

*“Despite the superficial attraction of enlisting corporate support for political objectives – such as pressing authoritarian regimes to improve their human rights performance – the repercussions of such assertiveness could prove commercially damaging without achieving the desired ends... business will prove a more productive agent of social change if it continues to focus on its core mission of creating prosperity.”<sup>56</sup>*

However not only do the CBI argue that Government not business should be responsible for tackling human rights and environmental challenges; it has actually intervened to prevent business having to take on such responsibilities. For example, the CBI has been highly critical of and lobbied against the UN Norms on Human Rights Responsibilities for Companies and other Businesses (the ‘UN Norms’), which have been widely applauded by human rights, development and environmental NGOs for setting human rights standards for companies to operate by.

*“Draft norms have no legal standing [and] no monitoring of them should be performed. It is right that they should not constitute the starting point for the High Commissioner’s work.”<sup>57</sup>*

So it seems that the CBI wants so have it both ways in terms of political responsibility. But is this really in the best interests of their members and – more importantly – society as a whole and the environment?

## 2.11 Socially responsible lobbying

There is growing pressure on companies to be more transparent about their lobbying activities – particularly around major public policy issues such as climate change. In its 2003 sustainability report, the Co-operative Financial Services group published its lobbying on the issues of sustainable development and social and environmental reporting. This is to be welcomed. But there is much more to be done.

One of the key needs is to make sure that companies’ public positions on public policy matters are in line with what they do when they are privately lobbying, whether as an individual company or through a lobby group or trade association. The Green Alliance, WWF and Sustainability have all produced useful studies on how corporations influence public policy (see Further Reading, page XX).

Sustainability has proposed a framework based on promoting corporate social responsibility. It considers how a company influences public policy by addressing the following themes:

- **Legitimacy** Are the company’s methods of political engagement broadly acceptable?
- **Transparency** Are the company’s public policy positions open to public scrutiny?
- **Consistency** Are policy positions and actions aligned across the organisation and with sustainable development commitments?
- **Accountability** Are policy positions aligned with external expectations about corporate responsibility?
- **Opportunity** Do the company’s public policy positions and actions build the foundations for it to become a more sustainable enterprise?

This framework is a useful reference point for companies to measure where they stand in terms of socially responsible lobbying.

Most corporate lobby groups and trade associations tend to take a fairly hostile view to any new proposed regulation. Even some of the most progressive companies will remain members of lobby groups or trade associations, as they can hide behind them if they want to

take a position on a particular policy or regulation initiative with which they do not wish to be publicly associated, or that may damage their reputation.

For corporate lobbying to be socially responsible it must be transparent and politically responsible. This means that companies must disclose their political lobbying on key public policy issues in their annual reports. It means they need to speak out and, if necessary, withdraw from trade associations or lobby groups that misrepresent their point of view on public policy issues.

Socially responsible lobbying is about companies using their political influence to support public policies that promote sustainable development in an open and transparent way.

The Government also has a responsibility to seek out other voices of business in order to help develop policies and regulations to take on the social and environmental challenges facing us.

### 3. Case studies

In this section we examine several specific cases that demonstrate the CBI's lobbying tactics across a range of issues. They illustrate typical CBI tactics of exaggerating costs, pandering to members' prejudices and not addressing the issue itself. These particular cases have been chosen because they represent significant Government policy initiatives and, in the case of the environmental regulations report, an example of a significant broad-based attack on regulation by the CBI.

The case studies below are based primarily around regulatory initiatives that benefit the environment with the exception of the minimum wage.

#### 3.1 Minimum wage

##### Reducing poverty

The minimum wage has been a central component of the Government's efforts to attack poverty and to increase the incentive to move from welfare to work, by improving the earnings of the lowest-paid employees. A report by the Low Pay Commission showed that over 15 years from 1983 to 1997 high-income earners' pay rose by more than twice the rate of that of those on low incomes, increasing the inequality between rich and poor. The Low Pay Commission estimated that up to two million low-paid workers could benefit from the minimum wage.<sup>58</sup>

##### CBI claims

Initially the employers were implacably opposed to the concept of a minimum wage. In 1995 the CBI argued, "Even a low minimum wage would reduce job opportunities and create major problems for wages structures in a wide range of companies."<sup>59</sup> By the time Labour was elected in 1997, with a clear commitment to the concept, the CBI was campaigning for as low a minimum as possible, warning of the terrible consequences for the economy that would result from a rate high enough to make any significant impact on low pay.

In its 1997 evidence to the Low Pay Commission, the CBI warned of the danger of "rising prices, business closures and unemployment" as workers were "priced out of jobs". It suggested that even a minimum of £3 an hour could lead to job losses.<sup>60</sup> "There can be little doubt that businesses will close in clothing and textiles if the rate is as high as £3.50 an hour," it said.<sup>61</sup> The TUC was arguing for £4.40 an hour, which employers predicted would lead to 250,000 job losses within two years, as well as pushing up prices, as better-paid workers sought to maintain their pay differentials with those rising to the new minimum.

##### Eventual outcome

The rate for the minimum wage was set at £3.60 an hour, beginning on 1 April 1999. The CBI soon had to admit that its scaremongering had been misplaced. It admitted to the Low Pay Commission six months later that there was little evidence of an adverse impact on jobs or prices.<sup>62</sup> Now the CBI had to switch tack again, taking credit for ensuring that the minimum was set sufficiently low as to have no serious impact.

In a detailed review of the impact of the minimum wage for its third report, the Low Pay Commission concluded that the impact on employers' wage bills was 0.35 per cent at the most (lower than its previous estimate). As a result, there has been no measurable impact on prices even in the sectors most affected by the minimum, because they have more low-paid workers.



*All the evidence suggests that the introduction of the minimum wage has helped low-paid workers, businesses have coped and there has been no discernible adverse effect on employment.*<sup>63</sup>



The Low Pay Commission.

## More scaremongering

Despite its credibility having been compromised by this evidence, the CBI has continued to issue dire warnings about the dangers of increasing the minimum wage. Beginning a battle over the proposed eventual rise to £5, Digby Jones warned in August 2004 that such an increase would lead to job losses. His evidence, apparently, was one employer in Doncaster who said he would move production to China if the minimum wage ever hit £5 an hour.<sup>64</sup>

By September 2004 the CBI Deputy Director John Cridland was warning that up to 25 per cent of businesses surveyed were claiming a rise in the minimum wage would have a 'significant' effect on costs and he warned the Government it may have "*overdone it*". The unions responded to the CBI claims by arguing that the minimum wage had not cost jobs, and accused the CBI of double standards in relation to its excessive boardroom pay rises in recent years, stating: "*Too many CBI members already practise boardroom excess; now it seems they want to keep the poor in their place too.*"<sup>65</sup>

It appears that the evidence the CBI gathered for the Low Pay Commission on increases to the minimum wage for 2005/06 may well be biased. During August 2004 it solicited evidence from smaller firms stating that more firms were being affected than they were when the minimum was first introduced, and stressing that "*recent rises have put increased pressure on wage levels and differentials, and forced employers to consider how else they can reduce other elements of their cost base.*" Firms were asked to submit examples of such impacts and predictions of future impacts to be used in the CBI's submission.<sup>66</sup> There was no attempt to identify positive impacts, such as easier recruitment, lower labour turnover, or improved employee morale.

## 3.2 Climate Change

### Addressing climate change

The Labour Government has acknowledged that climate change is a serious threat and set a relatively ambitious target of a 20% cut in greenhouse gas emissions in their 1997 election manifesto. Since then two of the main policy initiatives the Government has supported to tackle climate change is through taxation or levies (eg. the Climate Change Levy) and through the trading of carbon (eg. EU Emissions Trading Scheme).

### Government seek industry support for Climate Change Levy (CCL)

The Climate Change Levy was designed to reduce the UK's greenhouse gas emissions through the use of a Levy applied to carbon dioxide emissions from industry. The Levy is a tax on greenhouse gases generated by industrial energy use.

The CBI under Adair Turner (former Director General of CBI) initially didn't oppose the Climate Change Levy (CCL) although it was hardly an enthusiastic supporter of it. The CBI was further constrained in terms of criticising the CCL when the Government-appointed taskforce led by the CBI President, Lord Marshall, recommended that both taxes (ie CCL and emissions trading) would be needed to combat climate change. Lord Marshall was appointed to head a taskforce investigating the potential for using economic instruments such as taxes to reduce greenhouse gas emissions. Business was generally in favour of an emissions trading scheme and opposed to a tax. But in November 1998 Lord Marshall concluded that both would be needed.

Lord Marshall said that it would not be possible to bring in a trading scheme in the short term, and that in any case it would not be practicable for most smaller firms – which are responsible for 60 per cent of carbon dioxide emissions – to participate. His report concluded that a tax would be needed to encourage these firms to cut energy use:

*“There probably is a role for a tax if businesses of all sizes and from all sectors are to contribute to improved energy efficiency and help meet the UK’s emission targets.”<sup>67</sup>*

Critically though the report also provided some reassurances for the CBI in terms of reducing the cost on business by attempting to make any Levy ‘revenue neutral’. The Levy was designed to raise no net revenue for the Government because the money raised is offset by a reduction in employers’ National Insurance charges. This means that employers with low energy costs (typically in service industries) gain from the National Insurance reduction while heavy energy users lose out. The key concessions are listed below.

- recycling the revenues to business so there would be no overall increase in business taxation
- using some revenues to directly promote energy efficiency
- making some concessions for energy-intensive industries

These recommendations were eventually incorporated into the Climate Change Levy when it was introduced in April 2001. The impact on heavy energy users was mitigated, however, through a discount of up to 80 per cent for sectors with agreed energy efficiency targets. These concessions of course make it easier for business to digest the Levy as for most businesses they will have a negligible impact in terms of costs.

### **The CBI launches attack on green taxes**

A year after the Climate Change Levy was introduced, the CBI launched a broad assault on all environmental taxes. In a briefing entitled *Green taxes: rhetoric and reality*<sup>68</sup>, the employers’ body attacked the very concept of green taxes claiming that the “*economic theory of ‘green’ taxes doesn’t always translate well into practice*”.

The main focus of the briefing however was to highlight the contribution of green taxes in the context of the ‘tax burden’ on business. The CBI claimed that business paid half of all environmental taxes in the UK and that this ‘burden’ had risen by 15 per cent since the 1997–88 period. They also claimed the UK paid a higher proportion of environmental taxes in terms of its overall tax burden than any other EU country. So is there any substance to the CBI’s arguments?

Firstly there is some scepticism over what the CBI has categorised as being ‘green’ taxes. Its figures included fuel duties and vehicle excise duties in the environmental category. While the annual fuel duty accelerator could have been described as environmentally driven, it was abandoned in 1999 following the fuel protests. The bulk of fuel duties, as well as vehicle excise duty, can hardly be described as ‘environmental taxes’, since they existed long before Governments became concerned with the environmental impacts of transport. There were also potential green taxes such as the air passenger duty which the CBI ignored.

In its *Green Taxes* briefing, the CBI accused the Government of paying “*inadequate attention to the needs of competitiveness*”. But at the same time it admitted that it did not know what the impact had been, saying “*The actual impact of various UK environmental taxes on business competitiveness is hard to assess.*”

### **CBI analysis of Levy fails to show tax burden**

In 2002, in conjunction with the Engineering Employers Federation (EEF), the CBI attempted a more thorough assessment of the Climate Change Levy’s performance in its first 12 months.<sup>69</sup> Extrapolating figures from just over 500 companies, the CBI estimated that the Levy was costing manufacturers £143 million a year even after allowing for the National Insurance rebate. The service sector, on the other hand – even according to the CBI’s

figures – was £62 million better off, including mining and utilities, the net cost to business was put at just over £100 million.

These figures can be put in context by comparing them with total annual corporation tax payments of more than £30 billion, or with the total costs of just one manufacturer, such as Rolls-Royce, of about £5 billion a year. In other words, the CBI's estimate of the net cost of the Climate Change Levy across the private sector (£100 million) amounted to only 0.3 per cent of business' total corporation tax bill – or less than two per cent of the total costs for just one manufacturing company.

In fact genuinely 'green' taxes – the Climate Change Levy, landfill tax and air passenger duty – raised just £1.9 billion. The Climate Change Levy was also recycled through lower National Insurance payments, so the actual green burden amounted to just £1.3 billion, or 0.4 per cent of net tax revenues to the Exchequer.<sup>70</sup>

In terms of environmental benefits, DEFRA estimates that the Climate Change Levy will save up to 5 mega tonnes of carbon emissions by 2010, and the Government sees it as an important part of its climate change strategy.<sup>71</sup>

But this is not the end of the story as the CBI has since successfully lobbied the Government to apply a freeze on the CCL in the most recent budget (2005/6)<sup>72</sup>

### **CBI fails to address climate change**

The joint CBI/EEF assessment highlighted an opportunity for the CBI to help its members, but the CBI has seemed reluctant to act on it. The report noted that companies that were not covered by a climate change agreement were less likely to take action to improve energy efficiency. Less than half of these firms had done anything to reduce energy use or was planning to do so. The same applied to smaller firms. Here was an opportunity for the CBI to help its members save money by encouraging them to improve energy use. Yet the organisation took these statistics as an argument against the Levy, encouraging members to continue ignoring the issue of energy waste.

Most significantly, nowhere in this assessment of the Levy by the CBI is there an attempt to gauge the impact on greenhouse gas emissions – the sole purpose of introducing the Climate Change Levy, endorsed by the former CBI President, Lord Marshall. While in theory supporting efforts to address climate change, the CBI appears unable to deal with those efforts in practice. Similarly, its success in getting an increase in the UK greenhouse allocation under the EU emissions trading scheme was based not on addressing climate change but on allowing UK business to continue to pollute.

The CBI's approach flies in the face of mounting evidence that climate change is a serious threat to the business world. For example, financial analysts from leading investment banks such as Deutsche Bank, Goldman Sachs and UBS have warned that climate change threatens shareholder value in sectors ranging from aviation to pharmaceuticals.<sup>73</sup> There is also ample evidence that companies can save substantial amounts of money by addressing energy efficiency: the Carbon Trust estimates that most businesses can save 20 per cent of current energy use – equivalent to a five per cent increase in sales.<sup>74</sup>

### **EU Emissions trading – CBI still exaggerating**

Under the EU greenhouse emissions trading scheme participating companies are allocated an allowance representing a tonne of the relevant greenhouse gas emission, which in this case is carbon dioxide. Under this scheme companies who exceed their allocation of allowances (eg. carbon dioxide) can purchase more allowances from the market. Similarly, a company that emits less than its allocation of allowances can sell its surplus allowances<sup>75</sup>.

The CBI has tried to portray itself as being more supportive of emissions trading as a solution for business to reduce their greenhouse gas emissions and helped set up a voluntary scheme in the UK prior to the EU scheme becoming law<sup>76</sup>. However, as with the CCL, there have been the usual caveats about being concerned about the impact on business competitiveness and how the UK maybe setting itself too ambitious targets relative to fellow EU member states<sup>77</sup>.

The real objective of the CBI approach appears to be to promote a 'business as usual' approach by attempting to get as many concessions as possible from the Government before the scheme is even launched. This had lead to the Director General making some exaggerated claims about the impact of emissions trading which have not been welcomed by those in business trying to address climate change.

“ *I think it is enough to say that there were a number of well quoted – because he is very quotable – statements about how this Emissions Trading Scheme is going to damage British industry for 40 years – that was the time frame he offered – and that we would be put at a competitive disadvantage to our European allies, and that essentially we are taking on board too much pain here as compared to others in Europe. All three of those statements are inaccurate.* ”

James Cameron of Climate Change Capital giving evidence to the House of Commons Environment Audit Committee inquiry on International Leadership on climate change talking about Sir Digby Jones.

Eventually the Government caved into CBI lobbying and, despite pledges by the Prime Minister concerning the importance of tackling climate change, UK greenhouse gas allocation was increased by 20 million tonnes per year. The EU has argued that the UK must respect the original national allocation targets and has warned that it may take the Government to court at the European Court of Justice. The response of the CBI was to warn of increased threats to UK jobs<sup>78</sup>.

### 3.3 Operating and Financial Review

#### Company social and environmental reporting

From April 2005 regulations came into force that requires UK-listed companies to disclose details of their past performance and future prospects, although they will not be required to report until 2006. Significantly, these details include information on employees, environmental matters, and community and social issues as part of a new Operating and Financial Review (OFR)<sup>79</sup>.

The OFR will also enable UK companies to comply with the new EU Modernisation Directive which requires Directors to look more broadly at the risks and opportunities they face. In particular is the consideration of non-financial information relating to the environment and community matters<sup>80</sup>. The aim is to tell shareholders more about the companies they own, including social and environmental risks and opportunities.

This new reporting requirement emerged from a major review of company law launched by Margaret Beckett when she was Secretary of State for Trade and Industry in 1998.

The first report of the Company Law Review Group<sup>81</sup> identified the need for broader company reporting, including the existing OFR and company's sustainability reports. Its second report in March 2000<sup>82</sup> proposed an OFR broadly in the form that will now be required by law. It suggested the review should include policies and performance in social and environmental areas - unless the company's directors felt that readers did not need to know these details in order to gain a balanced view of the company.

The review group emphasised that it wanted the decision of what information to include to be at the discretion of the directors, to avoid “*the dangers of rigidity and ‘boiler-plate’*”. ‘Boiler plating’ refers to the use of minimum standards for a ‘one size fits all’ approach which corporate lobbyists argue restricts what companies can do. Conversely, by having minimum standards stakeholders can more accurately compare between different companies as there is an agreed baseline to compare performance<sup>83</sup>.

Despite having won this freedom through fierce lobbying against mandatory reporting items, four years later the CBI was still warning about the dangers of “*creating a bureaucratic straitjacket*”<sup>84</sup>.

## **CBI concerns**

The CBI was involved from the beginning in the consultation over the need to broaden company reporting. The Chair of the CBI’s Small to Medium Enterprise (SME) Council was a member of the initial steering group for the project. The Company Secretary of the chemical company ICI also represented the CBI on the consultative committee.

At the beginning of August 2004, as the consultation period for the OFR was drawing to a close, the CBI went public with its final rearguard lobbying action against the new element of company law.<sup>85</sup> The CBI made clear that it was in favour of better company reporting but stated that it found fault with the detail. It wanted the measure delayed, and then phased in, and wanted protection for directors who made statements in the OFR that turned out to be inaccurate.

The comments of CBI Deputy Director-General John Cridland suggest that the OFR had come out of nowhere, leaving companies with no time to set up their reporting processes. He talked about companies “*not having enough time to make the changes work properly*” and the danger of losing the opportunity “*to achieve genuine and meaningful reporting.*”

Yet the CBI has been involved in developing the OFR for no less than six years. If its members do not have enough time to achieve decent reporting, they should blame the CBI for failing to ensure that they are prepared.

In October 2000 Prime Minister Tony Blair had issued a challenge to the top 350 UK companies (the FTSE 350) at the Green Alliance conference to voluntarily issue their own environment reports by the end of 2001. According to the Government’s own figures, by December 2001 only 79 companies (23 per cent) were able to do so.<sup>86</sup>

## **CBI last-gasp victories**

In 2000, when the new OFR was first specified, the CBI said that only the headings should be set in law, with the detail left to the Accounting Standards Board.<sup>87</sup> In fact even the broad headings are not mandatory, which perhaps explains why in 2002, when the Company Law Review’s final report was published, a CBI spokeswoman said that the plan for an OFR was “*mainly common sense*”<sup>88</sup> and more or less comprised existing best practice.

The CBI was also able to reduce drastically the number of companies that would be covered by the OFR. Initially, the Company Law Review had proposed that the threshold for companies would be at least a £5 million turnover, or 50 employees. After the review was finished, the CBI lobbied the Government and persuaded it to reduce the coverage of the OFR to only the largest UK public companies.<sup>89</sup>

Yet this was not the final act in the gutting of the OFR. In November 2004 the Government conceded to the CBI yet again by agreeing to replace the requirement for company directors to make ‘due and careful inquiry’ when considering what is relevant for the OFR with the less legally onerous ‘consistency with the company’s accounts’. The implementation of the OFR was delayed until May 2006, with enforcement scheduled for May 2007.<sup>90</sup>

### 3.4 Environmental regulation

In 2004 the CBI published a report<sup>91</sup> analysing the UK's record on environmental regulation, as part of a series examining "the UK as a place to do business". The report was touted as proof that UK regulation is poorly designed and badly enforced. Deputy Director-General John Cridland tried to paint a picture of an open-minded CBI that simply wanted better regulation: "*We are not anti-regulation or against rigorous enforcement but we make no apology for complaining about sloppy laws that are implemented poorly and enforced in an ill-considered fashion.*"<sup>92</sup>

#### Invalid comparisons

As with others in the series examining "the UK as a place to do business", the report identifies five key characteristics of regulation which are each given a score ranging from 1 (very poor) to 5 (very good):

- proportionality (defined by the CBI as the extent to which standards are 'rational')
- costs
- options (the extent to which different approaches are considered to provide the best regulatory solution)
- implementation
- enforcement

The report then compares the UK to five other key competitor countries as identified by the CBI – France, Germany, Netherlands, Italy and the United States.

Based on the five characteristics above, the UK scored 11 out of 25 which is below the average score of approximately 13 but ahead of the US at 9. The main factor behind the UK's total is its low score for implementation. However, this needs to be taken in the context of how the UK performed across all characteristics.

While the CBI's emphasis was negative in terms of environmental regulation, the report actually ranks the UK about average or just below average compared to other countries, in all categories apart from 'implementation'. In the areas such as 'cost of compliance', and 'alternatives to regulation' such as voluntary initiatives, the report praises the UK, stating: "*UK business has experienced relatively low direct costs of regulatory compliance,*" and "*The UK's record in considering alternative regulatory options is on a par with that of other countries.*"

But is this really a worthy comparison? It is difficult to compare the costs of implementing regulation in different countries because of the differences in their legal systems.



*The fact our legal system is different from the rest of Europe's often leads to differences in implementation of regulation*



Press statement by the Chemical Industry Association (CIA) criticising the CBI's attack on regulations

The CIA also stated that the best way to resolve this was for Government, business and regulators to work together as early as possible in the process, and not only in translating EU regulation into UK law.<sup>93</sup>

Despite its many positive findings (see Box 7 'The benefits of environmental regulation', page 42), the CBI seems determined to prove that the UK is making it hard for business to meet environmental obligations. However, in doing so, it struggles to find the evidence.

For example, under ‘proportionality’, the report complains that the UK has a higher Kyoto target for greenhouse gas reductions than most other countries. This is taken to imply a bigger “burden” on business. However, it ignores the fact that the “dash for gas” in UK power stations in the 1990s, when closure of coal mines led to a switch to gas for power, has made it easier for the UK to achieve its Kyoto target because of the reduced greenhouse emissions.

Probably the most contentious claim made by the CBI - and the one that generated the most headlines - is that environmental regulations were costing UK business some £4 billion annually. This figure is, of course, completely misleading as at least one third of that amount is invested in new equipment and technology to meet higher environmental standards. The CBI is deliberately mixing up policy costs such as investment in new technology with administrative costs of complying with new regulations.

## **Design and delay – problems with implementation**

The CBI’s 2004 report is overtly critical of the ‘design’ and ‘timing’ of how regulation is implemented. The CBI report focuses on the implementation of EU directives and, in particular, the Landfill Directive. While there may be some grounds for the CBI’s complaint there have also been plenty of situations in which the CBI has been happy to delay or block the implementation of environmental directives.

For example, the CBI has campaigned against the Environmental Liability Directive, which would make corporations and individuals liable for any damage they have caused to the environment. Lobbying by the CBI and other business groups has seen the design and implementation of this directive delayed for more than 10 years. Further, as a result of such lobbying, the directive will now cover only 15 per cent of EU land area (based on nature-protected areas only). It also now contains a number of exemptions and will not require businesses to take out insurance against causing such damage.

The CBI claimed that the Environmental Liability Directive “*the final nail in the coffin of manufacturing*” and that it would cost UK business £1.8 billion.<sup>94</sup> Meanwhile the Government estimates the figure at around £18–52 million – nearly 40 times lower.<sup>95</sup>

## **The evidence does not stand up**

The gap between the CBI rhetoric and hard evidence was illustrated in an extract taken from the UK House of Commons Environmental Audit Committee hearings on the ‘International challenge of climate change: UK leadership in the G8 and EU’ on 18<sup>th</sup> January 2005. The quotes are from Mr Collin Challen who is a member of the Environment Audit Committee and Sir Digby Jones representing the CBI.

**Mr Challen (MP):** *Which British companies have relocated abroad purely as a consequence of environmental pressures?*

**Sir Digby Jones (CBI):** *In terms of they have left somewhere where there is a strict environmental regime and cleared off to a place where they can pollute, I would say nil.*<sup>96</sup>

The key question is: do the CBI’s claims that environmental regulations are costing UK business some £4 billion annually actually stand up?

A report by Phillip Hampton for the Treasury on reducing the cost to business of regulation found that current methods used to assess administrative costs associated with implementing regulation are not credible and inconsistent. This means that the different methods of assessing and extrapolating data from samples results in estimates on the total regulatory burden on business varying widely - from £7 billion to £30 billion.<sup>97</sup>

The report also highlights the fact that the benefits that regulation can bring to business and society are generally ignored. It concludes that “... *none of the current figures for regulatory burden can be relied upon.*”

The CBI report on environmental regulation highlights the fact that the Environment Agency carries out more site visits for enforcing waste regulations than in the other countries considered. However, it fails to acknowledge the broad range of activities that the Environment Agency is required to regulate and monitor as part of a more holistic approach to the environmental impacts of business.

Firstly the CBI report fails to acknowledge the differences in collecting data when comparing the number of inspections. For example the CBI only compared the Environment Agency with inspections carried out at a federal level where as in France, the United States and Italy most inspections are actually done at a state level<sup>98</sup>.

Secondly for example, the data for the equivalent Netherlands authority VROM, which is taken from an OECD report,<sup>99</sup> grossly underestimates the number of inspections carried out by VROM, putting the figure at less than 5,000 (see Table 5.11 Enforcement by VROM). In fact if all the activities for which the Environment Agency is responsible for<sup>xii</sup> are compared with the activities carried out by the equivalent Dutch authorities (see Table 5.10 Enforcement of environmental legislation outside VROM), the true figure is closer to 100,000 for the Netherlands.

The irony of the CBI attack is that the Environment Agency was actually formed to reduce the large number of different regulators dealing with the environment.

The reality is that the CBI's thesis on anti-competitive regulation is simply not borne out by the evidence in the report. It also runs contrary to independent assessments by international organisations, such as the OECD and the World Bank.<sup>100</sup>

For example, a 2003 World Bank report comparing regulation across 130 countries<sup>101</sup> places the UK in the top 10 countries with the least regulation (see Table 7.2, page 89, 2003 World Bank report). Furthermore, it claimed that the UK was among best practice in terms of business regulation. Similarly, the World Economic Forum Global Competitiveness Report 2004-2005 ranked the UK in the top 10 most competitive countries from a survey of more than 100 countries<sup>102</sup>.

### **Splits among CBI members**

The report's conclusions, and especially the way it was spun, alarmed several CBI members, including some members of the Environmental Affairs Committee. had primary responsibility for the report but had not been given the opportunity to formally approve it.

The Chemical Industries Association came out with an immediate denunciation, calling for “*an end to yet more analysis of the effect of regulation on UK industry*”.<sup>103</sup> This criticism underlines the CBI's lack of credibility because the chemical industry is one of the most highly regulated industries in the UK and is under further pressure from the EU's chemical testing plan. Furthermore, it is a member of the CBI's Environmental Affairs Committee - the committee ostensibly responsible for the report.

The Chemical Industries Association pointed out that the Environment Agency was already implementing many of the changes that the CBI report called for, such as a risk-based,

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<sup>xii</sup> The Environment Agency website lists five key areas regulated by the Agency including industrial pollution, land quality, radioactive substances, waste management and water quality. The website also identifies other areas of interest including air quality, flood and recreational fisheries management.

proportional approach under which responsible companies are charged less and polluters pay more. In a press statement responding to the CBI report, the Association said, “*We acknowledge the need for our stakeholders to be able to see that industry is being properly regulated and that non-compliance should be dealt with effectively by regulators.*”

This suggests a scenario in which the CBI played to the gallery in a bid to shore up membership, undermining Britain’s environmental performance and ‘talking down’ the UK as a place in which to do business.

### **Box 7: The benefits of UK environmental regulation**

Despite the negative rhetoric of its press release supporting the launch of the CBI’s 2004 report ‘UK Environmental Regulation: The UK as a place to do business’ it does acknowledge that sustainable development is important for business and that regulation is necessary to improve environmental performance.

#### **Economic benefits**

For example, it acknowledges that there is:

- £1.3 billion capital spending a year in the UK on environmental investment
- £1 billion a year generated in environmental consultancies
- a global market worth more than £270 billion for environmental goods and services growing at 10 per cent annually. The UK has only a five per cent share, and is falling behind its competitors such as Germany and France, which have used regulation to support this growth sector
- a range of compliance benefits, such as cost savings and lower employee absence, through improved health

#### **Health benefits**

It is not only financial benefits that flow from environmental regulation. There are benefits to the environment itself as well for human health and wellbeing. For example, a 2004 DEFRA evaluation of the National Air Quality Strategy<sup>104</sup> found an estimated 4,225 fewer air-pollution-related deaths, as well as significant reductions in the level of pollutants such as sulphur dioxide, nitrous oxide and small particulates.

### **Attacking the referee**

The CBI struggles to make the case that environmental regulation in the UK is a burden on business compared to other countries. This is because the real target of the CBI report is the environmental regulators themselves: the Environment Agency and DEFRA.

Publicly attacking the regulators in this way produces a number of obvious benefits for the CBI – particularly in terms of making members feel as though the CBI is doing something to tackle ‘red tape’. A key tactical benefit, however, is to create an impression within Government that the regulators are not business-friendly, and that they are somehow operating against the interests of the economy. The CBI can then use this preconception against the regulators to weaken their influence when developing related public policy and associated regulations.

The CBI report criticises DEFRA for failing to use its influence effectively during the EU policy-making process to help UK business. However, in the Government’s defence, while the UK is an influential voice in Europe, it is only one of 25 member countries. Conversely, it could be argued that the CBI may simply have failed to convince the Government of the

merits of its case. The report also criticises the Environment Agency for being insensitive to the competitive business environment and having an inconsistent, risk-based approach to enforcement.

The Environment Agency immediately challenged the CBI's claims. In its response the Chief Executive Barbara Young pointed out that the Environment Agency had radically overhauled its approach to regulation in the past few years to become more focused on a risk basis, arguing that "*companies which demonstrate good performance and low environmental risk are now beginning to benefit from a lighter touch and lower regulatory fees.*" She also noted that the CBI had been supportive of the changes that the Environment Agency had been making, but had not mentioned this in the report.<sup>105</sup>

**“** *The report is based on perception with little sound underpinning data or relevant international comparisons... The assertion that regulation is making the UK a less attractive place to invest is simply not true.*<sup>106</sup> **”**

Barbara Young, Chief Executive of the Environment Agency.

The CBI was also critical of what it saw as the confrontational approach of the Environment Agency in its 2004 annual report 'Spotlight on business', when describing the environmental performance of business. However, the CBI was guilty of selectively quoting from the 2004 report to emphasise a point. The Environment Agency states up front in the overview the positive news from business, including that serious pollution incidents are down 15 per cent – especially in the waste management and farming sectors, that waste recovery is improving, and that more sites are being well managed.<sup>107</sup>

Unlike the CBI report on environmental regulation, the Environment Agency report on the environment performance of UK businesses gives credit where it is due, as well as being critical in some areas. But the CBI wants the Environment Agency to acknowledge only the good news about business but this prevents the Environment Agency using 'name and shame' to influence business behaviour.

In fact the Environment Agency's 'name and shame' approach is an important tool in influencing business to change its attitude. This is partly because the fines for environmental offences are so small. At an average of £8,412 – often only a fraction of the companies' turnover – they are unlikely to be an effective deterrent, a fact that the Environment Agency itself acknowledges in its report.<sup>108</sup>

Similarly, in his report on reducing the cost of regulation for UK business, Hampton acknowledges that the fines and penalties for large firms for breaching environment and health and safety laws are trivial.

### 3.5 Summing up

Table 2: CBI claims versus what actually happened

Issue	CBI claim	What really happened
Minimum wage	Would lead to job losses and business closures	Minimum wage helped low-paid workers  Businesses coped  No discernible adverse effect on employment
Climate Change Levy	Claimed it would add to tax burden on business while making little impact on climate change	Minimal impact on company tax bills overall  Some industries gained while others lost out  Levy due to save up to five mega tonnes of carbon emissions by 2010, according to Government estimates
Environmental regulation	Would be burden on business, and Government implementation would be poor  Claimed it will cost UK business £4 billion to comply with regulations	UK has comparatively low levels of regulation according to international studies  Claims of poor implementation attacked by prominent CBI member  CBI included £1.3 billion invested in new technology to inflate cost of compliance to £4 billion and ignored environmental and health benefits in their analysis
Environmental Liability Directive	Would cost industry £1.8 billion	Likely cost to business £18–52 million, according to Government estimates

#### The message from the Case Studies

The message that emerges from these case studies seems to be that the CBI is implacably opposed to progressive Government action. It supports this opposition with inadequate research, and ignores research results when they fail to fit its anti-regulatory prejudices.

The scenarios of the minimum wage and the Climate Change Levy both showed the CBI to be exaggerating the negative impact of regulations on business. Even after its claims were shown to be wrong, the CBI continued to cry wolf. In the case of the Climate Change Levy, the CBI has continued its opposition, despite winning all the major concessions it originally demanded. This suggests that its opposition is a state of mind rather than a rational judgement. This behaviour could also be seen in the case of the Operating and Financial Review (OFR), where the CBI continues to claim that business needs more time, despite having been involved in developing the review for six years.

Despite this obstructive mindset, the CBI has typically presented its opposition as practical rather than principled. It presents itself as being in favour of climate change action using

economic instruments, and in favour of the principle of environmental regulation, but it objects in terms of supposed 'practical consequences'. These practical consequences typically ignore:

- specific financial gains, such as the National Insurance rebate in relation to the Climate Change Levy
- broader business benefits, such as easier recruitment and lower labour turnover with a higher minimum wage
- benefits to specific sectors of industry, such as environmental technology
- the wider benefits to society of higher environmental standards

The Climate Change Levy case also demonstrates that the CBI is happy to put the interests of a minority of members (in other words, the big manufacturers) first, at the expense of its broader membership.

In summary, this evidence shows that the CBI is prepared to be selective in its use of research to try and prove its case, that it lacks a sense of proportion about the potential costs of social and environmental progress, and that it moulds the results of its research to fit its anti-regulatory prejudices. It is also significant that the CBI fails to offer any credible alternatives to regulation that will result in business making changes in order to meet social and environmental challenges.

## 4. Conclusions and recommendations

The CBI claims to be “The Voice of Business”, and this is why it carries weight with the Government. Certainly the CBI has influence over the Government in terms of regulating business, but is also evident from our research that it can also distort the voice of business to promote its own reductionist agenda of low taxes and deregulation.

The CBI influence over Government policy occurs for a number of reasons:

- The CBI can at least claim to represent a broad- if unbalanced- representation of UK business which makes it easy for the Government to go to them to get the business point of view – a kind of ‘one stop shop’ for the Government.
- There is a clear ‘alignment of values’ between the CBI and many in the Government in that they broadly agree in minimising Government intervention in the market (ie neo-liberal economics). This in turn then translates into reluctance within Government to challenge the CBI’s claims.
- The CBI is quite successful in getting critical comments about Government policy put out through the media, which obviously attracts Government attention. This is further entrenched by many business journalists who simply do not challenge the CBI claims and accept them as being representative of business.

The CBI claims to support progressive social and environmental legislation in principle but seems more than willing to oppose it in practice, as the evidence for our case studies shows. Its opposition to regulation is often couched in terms of competitiveness, essentially arguing that British companies will lose out if they have to operate to higher standards than their international competitors.

The CBI’s strategy seems to be driven by two needs: firstly, to convince CBI members and subsequently the Government that regulation is a serious burden on business; secondly, to persuade members that the CBI is doing something about it. This is a self-reinforcing process: the more Sir Digby Jones complains about regulation, the more companies will be convinced that it is a serious problem. This makes it easier for the CBI to present evidence to the Government stating that companies believe regulation is a serious problem, which in turn reinforces the CBI’s position even further.

However, many international studies, carried out by reliable institutions that tend to be very favourable to business, such as the World Bank, consistently demonstrate the UK is one of the best places in the world in which to do business. As well the World Economic Forum Global Competitiveness Report 2004-05 shows that countries such as Finland, Sweden and Norway with traditionally high environmental protection and taxation feature in the top 10 most competitive countries.

In addition, further serious research, by organisations such as the OECD, has shown that the CBI’s preferred approach of regulation – voluntarism – is economically inefficient and does not deliver the desired environmental outcomes.

In the case studies examined in Chapter 3, the CBI’s evidence does not seem sufficiently strong to support its position. Its research is unconvincing, lacking hard evidence and based on perception rather than fact. These case studies show how the CBI repeatedly overestimates potential costs. The case of environmental regulation demonstrates the readiness of the CBI’s leadership to try to mould the evidence to fit its anti-regulatory stance.

The CBI appears to be stuck in an anti-regulatory groove, focusing on opposition rather than co-operation, and when it comes to measures to tackle social and environmental challenges,

it seems more strident than ever in its opposition. This has been evident in its opposition to a range of initiatives, from the minimum wage to environmental regulation.

What is worrying is that the Government is so often willing to accept the CBI position without asking for hard evidence to support it. Despite the rhetoric about better regulation the Government has responded by proposing even more deregulation initiatives – currently averaging around one a year for the past 10 years.

As well not providing hard evidence the CBI also tends to ignore or downplay the many benefits that flow from good environmental regulation, including a cleaner environment and better health. These benefits in turn lead to the better use of resources and higher eco-efficient technologies which help the economy as well as the planet.

**“** *We are sceptical about the extent to which environmental regulations damage competitiveness, and we reject the scaremongering approach which the Confederation of British Industry has adopted in this respect.* <sup>109</sup> **”**

House of Commons Environment Committee conclusions in Pre-budget Report on Tax and the Environment published in April 2005.

The House of Commons report went on to recommend that Regulatory Impact Assessments be overhauled to fully take into account the social and environmental impacts when assessing policy options. It also recommends the establishment of a Sustainable Development Unit within the Cabinet Office.

We believe the evidence in this report supports the view that the CBI should not be seen as speaking for business as a whole. In fact, by the very nature of the diversity of its members, the CBI cannot hope to speak on behalf of all of UK business. It is also easier for the Government to accept the CBI position if prominent members of the CBI who don't agree with the position of the CBI are unwilling to speak up.

In addition to large organisations such as the CBI, there are a number of progressive business lobby groups that support the use of regulation to protect the environment. The Government needs to seek out and listen to these other voices of business, while UK businesses must ask themselves whether the CBI is really representing their interests.

## 4.1 Giving business a real voice

### The Government needs to

- Rigorously challenge CBI claims on the impacts on business of public policy and regulation, in particular with regards to environmental and social issues.
- Demand hard evidence from the CBI that is accurate, relevant and objective as to how the competitiveness of UK companies suffers from regulation to protect the environment; and require the CBI to include the benefits of such regulation in terms of health, safety, environment and wellbeing.
- Seek out a range of views from progressive companies that will gain from legislation designed to address environmental and social challenges. There is more than one voice within business – especially when it comes to environmental issues, as regulation is likely to have different impacts on different sectors.
- Immediately release information on request about company meetings with ministers and senior officials, as a matter of public trust.
- Adopt the recommendations of the Environmental Audit Committee 2005 pre budget report on tax and the environment and in particular to fully consider the wider benefits to

the environment, peoples health and the community when assessing the costs of regulation.

### **Companies need to**

- Consider whether the CBI can adequately represent their position, especially on social and environmental issues, where impact differs from one sector to the next.
- Consider whether individual sector trade associations would represent them more effectively than a cross-industry body, or indeed whether they would be better off representing themselves.
- Be prepared to break from the pack and speak out when their position differs significantly from that of the CBI or their trade association.
- Disclose their lobbying position on key public policy issues that affect their business (for example, climate change or human rights) in their annual sustainability report.

## **4.2 Further reading**

### **Further information on corporate lobbying and social responsibility:**

Green Alliance, *Private Lives of Public Affairs*, 2003

International Chemical Secretariat, *Cry Wolf: predicted costs by industry in the face of new regulations*, for WWF, April 2004

Corporate Responsibility Coalition, *From Red Tape to Road Signs*, 2004

Sustainability and GPC, *Politics and Persuasion: Corporate Influence on Sustainable Development Policy*, 2001

## 5. Appendix: The voices of business

There are a multitude of organisations representing the business lobby. Business has an incredible capacity – both financial and of other types – for making sure its voice is heard. From Whitehall to Brussels a day does not go by without a media story hitting the headlines about the supposedly negative impact of Government policy on British business. Often the views of business are represented by a range of organisations to ensure that its arguments are given the most weight.

### 5.1 Other traditional business lobbyists

The Confederation of British Industry (CBI) is the best known of the traditional corporate lobbyists in the UK. It claims to be the voice of business because of its broad membership, high public profile and success in lobbying Government. But can one single lobby group claim to represent the broad diversity of the UK's industries and companies, whatever their size? Of course not. But this is what the CBI and others claim to do. There are of course other business lobby groups claiming to represent the voice of UK business who are competing for members with the CBI. In this section we look at who some of these voices are, how they work and what they stand for.

#### Institute of Directors

**Web link:** [www.iod.co.uk](http://www.iod.co.uk)

**President:** Miles Templeman

**Membership:** 55,473 company directors

**Membership and organisation:** The Institute of Directors (IoD) recruits its members from individual company directors. At the end of 2003 its membership was 53,473.<sup>110</sup> The IoD says that its members represent most of the top 100 public companies, but in fact more than two thirds (70 per cent) of its members are from smaller companies.<sup>111</sup> Membership is organised into geographic branches, including some outside the UK.

The institute's governing body is its council. Under a new constitution adopted in 2004 half the council members are elected directly by members at the annual meeting, the other half are appointed by the existing council. The council appoints a board modelled on public company boards, consisting of executive directors (who run the day-to-day operations) but with a majority of non-executives (in other words, members) in line with the latest corporate governance requirements for public companies.

**Policy stance:** The institute aims to represent the views of its members by lobbying on public policy. Since the majority of its members are directors of smaller companies, it is typically concerned primarily with policy that impacts on companies of this size rather than major multinationals, but also addresses policy that impacts on affairs of the directors themselves (such as personal taxes). As with other business organisations, the institute is preoccupied with what it calls 'red tape' – regulation, which it says damages business efficiency.

The IoD has argued against EU directives designed to strengthen employee rights. A survey of members found an overwhelming majority agreeing that "issues such as flexible working, maternity arrangements and employment tribunals were a 'major' or 'significant' distraction from the central task of running the company."<sup>112</sup> The institute has not tended to take a strong position on environmental issues as distinct from its general opposition to taxes and regulation.

On the issue of the proposed Operating and Financial Review (OFR), the institute said that it would impose an excessive standard of care on directors, would not achieve clear reporting, and would unfairly expose directors to potential liability for missing forecasts. The IoD's focus is clearly on shareholders rather than other users of company reports, and it said, "*There is little evidence that shareholders will want the additional information*".<sup>113</sup>

The IoD's stance has tended to be influenced significantly by its director general – the full-time leader of the organisation. Until recently, the holder of this post tended to be openly supportive of Tory policies and opposed to Labour. The immediate predecessor to the current Director General was George Cox who adopted a more moderate and co-operative stance, but this was unpopular with many members.<sup>114</sup> He was replaced in September 2004 by former brewing executive Miles Templeman.

## **British Chambers of Commerce**

**Web link:** [www.chamberonline.co.uk](http://www.chamberonline.co.uk)

**President:** Bill Midgley

**Director General:** David Frost

**Membership:** 135,000 businesses employing four million people

**Slogan:** The only truly representative voice for UK business

**Membership and organisation:** The British Chambers of Commerce (BCC) is a network of more than 100 local chambers of commerce whose members are mainly smaller local businesses but also include the local branches of larger companies. It claims to represent more than 135,000 businesses employing four million people. Multiple large-company representation allows BCC to claim that it has more big company members than the CBI and is "the only truly representative voice for UK business".<sup>115</sup> BCC is also linked to the International Chamber of Commerce global network.

**Policy stance:** BCC shares the concern of other business groups with regards to regulation, and compiles a "*burdens barometer*", which claims that regulations introduced by Labour have cost business more than £30 billion. It is particularly opposed to employment regulation, especially the EU Working Time Directive, and says that the minimum wage should be frozen.

BCC contemplated a merger with the CBI a few years ago, and has been through a period of upheaval. Under new leadership it has put renewed effort into lobbying, explicitly competing with the CBI but adopting a conciliatory stance with the Labour Government.<sup>116</sup>

## **Federation of Small Businesses**

**Web link:** [www.fsb.org.uk](http://www.fsb.org.uk)

**Chairman:** Carol Undy

**Membership:** 185,000 – mostly small businesses

**Membership and organisation:** The Federation of Small Businesses (FSB) was formed in 1974 for self-employed people, in protest at the introduction of a special self-employed National Insurance 'tax'. Its membership is still drawn from the smallest businesses.

**Policy stance:** The Federation remains preoccupied with tax and other financial issues, including opposition to fuel price increases. It also joins other organisations in opposing regulation of business – especially employment regulation. It does not explicitly address

environmental issues, although responses to specific developments such as the end-of-life vehicles directive are couched in terms of the burden on small firms.

## 5.2 Pro-environment business lobbyists

These are corporate lobbyists and trade associations who recognise and support the need for regulation to protect the environment. Unlike the traditional corporate lobbyists they see opportunities rather than obstacles for business in sustainable development.

### Environment Industries Commission

**Web link:** [www.eic-uk.co.uk](http://www.eic-uk.co.uk)

**Chairman:** Adrian Wilkes

**Membership:** More than 280 companies

**Membership and organisation:** The Environment Industries Commission (EIC) was launched in 1995 to provide environmental technology equipment and service suppliers with a strong and effective voice to influence the debate on the future of the industry among policymakers in Westminster, Whitehall and Brussels.

**Policy stance:** The Commission has been supportive of legislation and fiscal measures that ensure that the UK is an international leader on the environmental issues, thereby creating competitive advantage for the UK in environmental technology and services. Its membership comes from industries working in areas such as land contamination remediation, sustainable waste management (eg recycling), air pollution control, water pollution control etc. In January 2005 it launched a campaign to counter the CBI anti-regulation lobby against regulations that benefit the environment.

### Association for Conservation and Energy

**Web link:** [www.ukace.org](http://www.ukace.org)

**Director:** Andrew Warren

**Membership:** 24 UK-based companies with substantial interest in energy conservation equipment and services

**Membership and organisation:** The Association for Conservation and Energy (ACE) was formed in 1981 by a number of major companies active within the energy conservation industry. Its current members include controls manufacturers, energy service companies and manufacturers and distributors of insulation materials. Its aim is to encourage a positive national awareness of the need for, and benefits of, energy conservation, to help establish a sensible and consistent national policy and programme, and to increase investment in all appropriate energy saving measures.

ACE is separated into two core operations: a parliamentary campaigns unit, with an interest in developing and promoting sound UK energy policy, and a research department investigating many aspects of energy efficiency both in the UK and Europe.

### British Wind Energy Association

**Web link:** [www.bwea.com](http://www.bwea.com)

**President:** Marcus Rand

**Membership:** 310 members

**Membership and organisation:** The British Wind Energy Association (BWEA) was formed more than 26 years ago. As the trade and professional body for the UK wind industry, it is the largest renewable energy trade association in the UK.

**Policy stance:** Its main focus is to promote the use of wind power in and around the UK, both onshore and offshore, acting as a lobby group to promote wind energy to Government. It also undertakes research, finds solutions to current problems, and generally acts as the forum for the UK wind industry.

## **UK Business Council for Sustainable Energy**

**Web link:** [www.bcse.org.uk](http://www.bcse.org.uk)

**Chief Executive:** David Green

**Chairman:** John Roberts (CEO United Utilities)

**Membership and organisation:** The UKBCSE was formally launched in January 2002. It was set up at the suggestion of Government and leading NGOs to create a framework for high-level policy engagement across the energy sector on climate change, sustainable development and the transition to the wider use of sustainable energy. The UKBCSE consists of the Chief Executives of Centrica, EDF Energy, National Grid Transco, Powergen UK, RWE NPower, Scottish and Southern Energy, Scottish Power, and United Utilities, as well as senior executives from Shell and BP.

**Policy stance:** Promotes sustainable energy and renewables by providing a forum for the energy industry, Government and stakeholders. It promotes policies and investment and highlights technological and market innovations that deliver on sustainable energy. The UKBCSE also plays an active part in the Climate Change negotiations.

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