11 September 2018

The Hon Mrs Carrie Lam Cheng Yuet-ngor, GBM, GBS
Chief Executive
Hong Kong Special Administrative Region
Tamar
Hong Kong

Dear Chief Executive,

Policy Address Submission

I am pleased to submit herewith proposals from the Hong Kong General Chamber of Commerce for consideration in your forthcoming Policy Address.

We are pleased to see that the Government has made, and is continuing to make, steady progress in implementing the policy initiatives outlined in your first Policy Address. The Chamber supports all of these initiatives.

The challenges that Hong Kong is faced with still remain but we are working as a community in addressing them and the Chamber is committed to supporting the Government in this important effort. The Chief Executive's second Policy Address provides a good opportunity to prioritise the initiatives Hong Kong must address if we are to continue making progress

In the attached submission, we set out in more detail our proposals on how Hong Kong can best meet the challenges, and take advantage of the opportunities.

We hope that you find our proposals useful and stand ready to assist and support you and your Administration in creating a positive, harmonious, and prosperous Hong Kong.

Yours sincerely,

Aron Harilela
Chairman

Encl.

c.c. The Hon Matthew Cheung Kin-chung, Chief Secretary for Administration
The Hon Paul Chan Mo-po, Financial Secretary
The Hon Edward Yau Tang-wah, Secretary for Commerce and Economic Development

Hong Kong General Chamber of Commerce
2018/2019 Policy Address Submission

1. The Chief Executive's 2017/2018 Policy Address contained many positive initiatives, and we are pleased that the Government has been making steady progress in fulfilling the Chief Executive's policy agenda, which, besides enhancing the SAR's competitiveness, is also working to promote a better life for all the people of Hong Kong. The challenges that Hong Kong is faced with still remain but we are working as a community in addressing them and the Chamber is committed to supporting the Government in this important effort. The Chief Executive's second Policy Address provides a good opportunity to prioritise the initiatives Hong Kong must address if we are to continue making progress.

2. Prioritisation is vital for a number of important reasons:

- We need to continue to urgently heal all divisions that have arisen within our society to achieve the Chief Executive's vision of "*a Hong Kong of hope and happiness - a city we are all proud to call our home*". This necessitates achieving a better quality-of-life for our citizens, to promote social harmony and address inequalities.

- Hong Kong currently has a number of unique advantages and opportunities that can help us achieve the Chief Executive's vision. But to do so, we must recognize that businesses, as well as the Government, have a crucial role to play. We both want what is best for Hong Kong. However, if business is going to play its role, a number of challenges to creating economic growth must be overcome. This document outlines our thoughts on this process, and the important role that businesses can play to make this possible and in supporting government efforts to build a stronger and better Hong Kong, and remove the barriers to economic growth.

<u>Removing the Regulatory Bottleneck</u>

3. If business is going to maximise its role in helping Government to achieve its vision, the cost of doing business here must be reduced, and unnecessary restrictions eased, so that businesses can get on with promoting economic growth, for the benefit of our citizens. We believe the following actions can make this possible:

- **Implementing proper "joined-up" Government**. We support efforts to ensure that processes related to doing business in Hong Kong are fast, smooth and predictable, for example through adopting **the "one-stop shop" principle to the fullest extent possible**. This requires a strong central coordinating unit, with oversight of all of the actions needed to achieve the

Government's economic vision. This unit should be responsible for promoting and pushing forward reforms to eliminate and avoid unnecessary regulation and red tape. It would effectively serve as a project manager to preempt the possibility of each department operating in a silo. This unit would also ensure consistency of policies across departments, for example in supporting start-ups. **We believe that the newly-formed Policy Innovation and Co-ordination Office is an important step forward in this process.**

- **The Chamber believes that a proper and compulsory regulatory impact assessment (RIA) should be carried out before new regulatory interventions are made.** The RIA should weigh the pros and cons of any proposed intervention, and (if intervention is necessary) determine the different options for intervention. The RIA should quantify the costs and benefits of each option to the different stakeholders, the economy, and society in general. RIAs are compulsory in virtually all 36 member countries of the OECD, for example. In the annex to our Policy Address submission on 5 September 2017, we outlined a suggested methodology for conducting RIAs, based on international best practice. Implementing this methodology would build on the Government's existing "Be the Smart Regulator" programme. A copy of that annex is re-attached.

- At the same time, we would encourage a thorough review of current regulations impacting business to ensure that they are updated to take account of market circumstances, or removed if deemed no longer necessary. As is the case in Mainland China and Singapore, a systemic, universal and compulsory part of government processes should be a review of **legislation and regulations at regular intervals to ensure that they are still fit for purpose. If the suitability of regulations is called into question, they should be updated or removed**.

- **The statutory minimum wage, MPF offsetting, and other employment-related issues should be carefully managed to ensure that they do not hamper economic growth especially under the climate of volatility in global markets**.

<u>Removing the Land Bottleneck</u>

4. It is well recognised that there is a chronic shortage of land being made available for housing and commercial use in Hong Kong. There is sufficient land, but our existing land is not being put to the most effective or efficient use. As the Task Force on Land Supply said in its April 2018 Consultation Document, "*land development has virtually come to a halt since 2005*."

5. The result is that prices for housing and commercial properties in Hong Kong are the highest in the world. This has a major impact on the cost of living

and the quality of life of our citizens, in addition to the costs of doing business. Not only is it increasingly difficult for our citizens to find decent accommodation, and for businesses to find premises at an affordable price, there is also a serious risk of Hong Kong losing the young people who are so important to our future success as they move overseas to find better and less expensive life. In addition to defusing potential social challenges, making land available for commercial use is essential to maintaining Hong Kong's competitiveness.

6. Accordingly, the Chamber recommends the following steps:

- When the public engagement exercise on land supply is completed in September this year, the **Chamber stands ready to support the Government in the drafting of an implementation plan, with action points and timeframes, to do what is possible to expand the availability of land to support achievement of our shared vision for Hong Kong.** The Chamber recommends simultaneously expanding the availability of land, given that all the options will necessarily take time. **We support as priorities land reclamation, re-developing "brownfield" sites, developing unused agricultural land and re-zoning industrial sites which are not being used efficiently.** Non-renewal of long term leases or developing Hong Kong's country parks should be an absolute last resort.

- **We support a review and updating of the town planning process. Such a review should include updating building codes.** To that end, we welcome efforts by the Development Bureau to review, as soon as possible, the standards and definitions adopted by the Planning, Lands and Buildings Departments with a view to consolidating and rationalizing any existing or overlapping development control procedures.

<u>Removing the Labour Bottleneck</u>

7. It is not only land in Hong Kong that is in short supply: manpower is also becoming a scarce commodity. In May-July this year, unemployment stood at 2.8 per cent - the lowest rate in 20 years. While it is impressive that Hong Kong has virtually full employment, there is a downside: the available pool of talent to meet the demand linked to our continued competitiveness is extremely limited. Labour shortages can also challenge plans to provide more housing and other important infrastructure projects that are critical to the well-being of Hong Kong and its people. These problems are likely to become even more acute with Hong Kong's aging population, according to the projections of the Census and Statistics Department. With this in mind, the Government should give priority to the following measures:

- Equip our young people with the skills that will be in demand in the future, such as in IT and AI. We support all efforts to **prepare our future workforce to adapt to the changing employment landscape brought on by advances**

in technology. Recruiting, attracting and retaining people with these skills will be crucial for our future economic success. The Chamber believes that **the Technology Talent Admission Scheme should be opened up to businesses from outside Cyberport and the Science Park.** In addition, the Chamber supports all **efforts to place greater emphasis on vocational training, and in engaging the support of business enterprises throughout Hong Kong.**

- **The Chamber supports a government review of Hong Kong's immigration processes to ensure that they are as efficient as possible to ensure** that businesses can meet their human resources needs – especially those that are linked to new initiatives like the Greater Bay Area development.

- **The Chamber supports the creation of a special labour importation scheme for the elderly care, healthcare, construction, technology, retail and other industries suffering from acute labour shortages**. Related to this, there should be efforts to make better use of our older working population and early retirees, as Hong Kong citizens are becoming increasingly healthy and living longer.

<u>Making Hong Kong a Smarter and More Liveable City</u>

8. A healthy and comfortable outdoor living environment is an important component in the quality of life of our citizens, and therefore in achieving our vision for Hong Kong. Technology can also do so, by implementing the Government's proposal to make Hong Kong a "Smart City". In this regard, we:

- Support the Government's efforts to **roll out projects and proposals in its Smart City Blueprint. At the same time, we support the adoption of an aspirational and therefore bolder and less risk-averse approach to ensure that the benefits arising from a Smart City regime are fully harnessed.** As part of these efforts, we support government efforts to **take the lead in going "paperless" and delivering more public services online, as is the case in many other jurisdictions.**

- **Support all government initiatives to tackle the challenges of air and marine pollution.** While we recognize the need for construction and renovation as part of our dynamic and rapidly changing city, **more can be done to keep noise pollution to a minimum**.

- **Support government efforts to make Hong Kong a more "walkable" city, by giving priority to creating pedestrianised areas wherever possible.**

- Endorse further **efforts to promote the role of the arts in making Hong Kong a more vibrant and liveable city**, through (for example) public

sculptures, murals, public and open music performances, and further investment in world-class museums.

- Call for further measures to **increase the level of waste recycling in Hong Kong and encourage consumers to purchase recycled materials**. As part of that focus, we believe that there should be efforts to address the throwaway culture that is currently so endemic in Hong Kong by finding alternatives to single-use products, especially those made from plastic such as plastic straws and bottles.

- Support efforts to determine **whether more landfill sites can be used to produce landfill gas for the generation of electricity or gas.**

9. All of these measures, carried out by both the private and public sectors, are important, not only to improve the quality of life of our citizens, but also to attract and retain talent we need to fill skills gaps, and promote our valuable tourism industry.

<u>Greater Bay Area and "Belt and Road" Initiatives</u>

10. Hong Kong's geographical position, strong expertise in legal and financial services, and other strengths (including trusted and respected courts, rule of law, intellectual property rights protection, leading dispute resolution centre and freedom of information) make it perfectly positioned not only to act as the gateway to the expanding Chinese economy generally, but also to take advantages of the opportunities provided by the Greater Bay Area (GBA) and Belt and Road Initiatives in particular.

- **The Chief Executive's recent appointment as a member of the leading group for the development of the Guangdong-Hong Kong-Macao Greater Bay Area chaired by Vice Premier Han Zheng is a welcome and encouraging development as this will enable Hong Kong to have input at the highest level in strategizing for and coordinating of the Bay Area's development**.

- We will join the Government in continuing to **emphasise to overseas markets Hong Kong's unique advantages of being a bridge between the Mainland and overseas, and acting as a facilitator of, or intermediary for, business transactions between the two.**

- In particular, we will join the Government in continuing efforts to promote Hong Kong's reputation as a well-established and highly developed international financial hub that also serves as the preferred gateway for meeting the Mainland's ongoing funding requirements.

- **In order to tap into the opportunities that the region holds, it is essential that there ultimately be free and unfettered movement of capital, people, goods and services within the GBA, and we will support Government efforts to make that happen.**

- The ability of individuals to move freely is particularly important, and to achieve this, the Chamber will work with Government to promote ease of access to Hong Kong and to the Mainland. In this regard, we would like to reiterate our recommendation **of a visa system, based more or less on the APEC Business Travel Card Scheme, for selected categories of GBA residents to enter Hong Kong and vice versa for work and business purposes**. We suggest carrying out a pilot scheme at the Lok Ma Chau Loop before the Government makes a final decision on implementation throughout the GBA.

- The Chamber believes Hong Kong has a unique opportunity to serve as **a data centre hub utilizing our strategic advantages to serve the GBA**.

Conclusion

11. Hong Kong has been described as a place that is endowed with rich blessings (福地) and has continued to enjoy a high level of growth and prosperity. We have managed to go from strength to strength because of the ability of all sectors of our community to work together towards the common goal of a better Hong Kong. It is of even greater importance today that this ability to overcome differences and willingness to collaborate be maintained and further cultivated. To that end, we all have a part to play and, as a major representative of Hong Kong's business community, the Chamber looks forward to maintaining our close working partnership with the wider community and with the Government.

HKGCC Secretariat
11 September 2018

Enhancing the "Be the Smart Regulator" Programme

The Government launched the "Be the Smart Regulator" Programme ("Programme") in 2007 with the aim of promoting Hong Kong's reputation as a business-friendly city[1]. Although the Programme appears to have adopted basic elements of good regulatory practices ("GRP") found in many developed countries, it is, however, of a non-binding nature and is not applied consistently to the regulatory process. Indeed, there has been a notable decline in the practice of the Programme, which is aimed at streamlining licensing processes and reducing business compliance costs.

The trend towards gradual marginalization of the Programme is a worrying development especially against the backdrop of perceived regulatory creep and a corresponding rise in compliance burden to local businesses. A 2005 report for the UK Prime Minister[2] made the following observations, which are relevant in many jurisdictions, including Hong Kong:

> *"Regulation, as well as providing us with necessary protection and safeguarding our rights, also represents a significant cost for the economy. This cost is borne by government, regulators and those being regulated, including businesses, public sector organisations, the voluntary sector and ultimately tax-paying citizens. However, the OECD (1997) reported that, "*Today, regulatory costs are the least controlled and least accountable amongst government costs. Many governments have no idea how much of their national wealth they are spending through regulation.*" Information from the United States and the Netherlands suggests that the total cost of regulation is 10% - 12% of GDP. It is unlikely to be much different in the UK, so regulation here is probably costing us around £100 billion per year."*

In the interest of maintaining and strengthening Hong Kong's reputation and competitive edge as a business-friendly city, the Chamber strongly urges the Government to carry out a critical and systemic review of the Programme for the purpose of putting in place a proper and effective Regulatory Impact Assessment (RIA) mechanism. As Hong Kong enjoys the advantage of a partial RIA already in place through the Programme, a fully-fledged RIA should therefore be the logical next step. In this regard, we suggest referring to APEC's 2011 Regulatory Report on perceived gaps with the Programme. These shortcomings include:-

- Deficiency in information on potential regulatory costs;
- Failure to take into account information on cost and effectiveness in regulatory reviews;
- Absence of trade and competition principles from regulatory reviews and analyses;
- No definition of problems;
- Omission of clear principles on options for problem solving in the conduct of impact analysis;
- Exclusion of trade impacts;
- Imprecise accounting of benefits as a result of not quantifying measurable impacts; and
- Lack of a systematic comparison for benefits and costs impacts.

[1] The cover page of the Be the Smart Regulator: https://www.gov.hk/en/theme/bf/smart/
[2] See: http://www.regulation.org.uk/library/2005_less_is_more.pdf

As such, we propose that the Government gives serious consideration to the following GRP as a means to bringing about a formal and effective framework for introducing and reviewing legislations in Hong Kong:

1. Adopt the principles and some of the pre-conditions as provided in the UK's Legislative and Regulatory Reform Act 2006 – many of which are based on the Common Law requirements as provided in the recent Court of Final Appeal's decision on *Hysan Development Limited v Town Planning*[3];
2. Provide concrete guidance and requirements for each of the 4 stages of the law-making process as given under the existing Programme; and
3. Promote or make mandatory the application of the enhanced Programme.

The following sets out in detail the enhancements we would like to see incorporated into each cycle of the 4-stage approach based upon the existing Programme. We have also included an appendix of the experiences in two other jurisdictions, namely, the United Kingdom and Australia, as references and contrasts on the approach to GRP.

Principles & Preconditions	• The proposal must comply with the principles of: (a) transparency (b) accountability (c) proportionality (d) consistency • The proposal must satisfy the preconditions that: (a) the objective could not be satisfactorily secured by non-legislative means, (b) the effect of the proposal is proportionate to the objective, (c) the proposal strikes a fair balance between the public interest and the interests of any person being adversely affected, and (d) the proposal does not remove any necessary protection.
Stage 1 - Plan	• Appraisal (a) Establish a case for action. (b) Identify a range of feasible policy options including self-regulatory, co-regulatory and non-regulatory approaches. o The objective and all feasible options should be considered. o The "status quo" and effectiveness of existing regulation should be considered as an option for meeting the objective. (c) Generic issues to be considered o strategic impact on organization including the relevant trade/business, o economic rationale which should include a cost/benefit analysis, o financial arrangements and affordability, o achievability, o commercial and partnering arrangement,

[3] FACV 21/2015

	o RIA, o legislation consideration such as human rights and data protection, o information management and control, o environmental impact, and/or o equality impact assessment. • RIA (a) Assist canvassing the regulatory options under consideration, in order to determine the relative costs and benefits of those options. (b) A final RIA should draw conclusion on whether a regulation is necessary, and if so, on what the most efficient and effective regulatory approach might be. (c) Approaches as part of the RIA may include: o Risk analysis, o Cost-benefit analysis, o Measuring business compliance costs, o Assessing effects on competition, and o RIA contents should include: ▪ Statement of the problem, ▪ Objectives, ▪ Statement of options, ▪ Impact analysis, ▪ Consultation, ▪ Evaluation and conclusion, and ▪ Implementation and review. (d) One-in, Two-out approach o IN: the direct incremental economic cost to business of a measure exceeds the direct incremental economic benefit to business. o OUT: the change is deregulatory and the direct incremental economic benefit to business exceeds the direct incremental economic cost to business. o Zero Net Cost - a measure should be classified as Zero Net Cost if: ▪ Value of INs, OUTs are calculated using the Equivalent Annual Net Cost to Business (EANCB). o EANCB of a measure = the annualized value of the present value of net costs to business, calculated with reference to the counterfactual (Estimating the counterfactual usually means comparing outcomes with a different group of people with similar characteristics who have not received the intervention). o The EANCB is calculated as part of the impact assessment. o The Net Present Value (NPV) of direct costs to business is used to calculate the EANCB with the following calculation. o The NPV is the primary criterion for deciding whether government action can be justified. • Regulatory Policy Committee (see page 4 of Annexure 1)

Stage 2 - Consultation	• Consulting effectively with affected key stakeholders at all stages of the regulatory cycle. Affected key stakeholders should include the relevant trade or business. (a) Consultation should occur when the options for regulatory action are being considered (before contemplating the policy) and a draft RIA has been produced. (b) Further consultation is required if the government considers appropriate to change the proposal. (c) Proposal that has more widespread effects should have consultation earlier and on a wide range of options and alternative. • Adopting the option that generates the greatest net benefit for the community subject to: (a) the Competition Ordinance that the proposal should not restrict competition unless it can be demonstrated that:- o the benefits of the restriction to the community as a whole outweigh the costs; and, o the objective of the regulation can only be achieved by restricting competition. (b) that the proposal should be effective and proportional to the issue being addressed. o Effectiveness should be judged solely in terms of meeting the specified objective. Consideration should be given to the effectiveness of implementation and administration and an assessment of likely compliance rates should be made. o Proportionality involves ensuring that government action does not overreach or extend beyond addressing a specific problem or achieving the identified objective. The principle of proportionality applies equally to the implementation or regulation, including the development of framework for ensuring compliance.
Stage 3 - Implementation	• Providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear. • Performance is tracked and measured, and data captured for later analysis. This involves: (a) the systematic collection of data relating to the financial management and outcomes of the policy, program or project during implementation, (b) tracking all categories of benefit, (c) a monitoring system, (d) regular financial reporting, (e) benefits realization management, and (f) contract management.

Stage 4 - Review	• Ensuring that regulation remains relevant and effective over time: (a) The result should be summarized and led to recommendations for the future. (b) The results and recommendation should be fed into future decision making. (c) Reports and research should be placed in the public domain unless there are good reason otherwise. (d) All regulations should be reviewed annually with a view to encourage competition and efficiency, streamlining the regulatory environment, and reducing the regulatory burden on business arising from the stock of regulation. (e) Consideration should be given to insert sunset provision or review requirement in the regulation.

Annexure 1
Comparison of Good Regulatory Practices
in Hong Kong, the UK and Australia

		HK[1]	UK[2]	Australia[3]
Historical Timeline		Be the Smart Regulator • Launched in 2007 • Reviewed in 2010 • Focus shifted in 2013 to BIA	• Better regulation imposed in 2003 • Legislation enacted in 2006 – **in blue below**	• Best Practice Regulation imposed in October 2007
Principles & Preconditions			Minister must not make regulation unless it: • complies with the principles of: (a) transparency (b) accountability (c) proportionality (d) consistency • Satisfies the preconditions that: (a) the objective could not be satisfactorily secured by non-legislative means. (b) the effect of the regulation is proportionate to the objective. (c) the regulation strikes a fair balance between the public interest and the interests of any person being adversely affected.	

[1] Be the Smart Regulator from the Financial Secretary's Office: https://www.gov.hk/en/theme/bf/smart/
[2] Legislative and Regulatory Reform Act 2006
[3] Best Practice Regulation, A Guide for Ministerial Councils and National Standard Setting Bodes, October 2007: https://www.pmc.gov.au/resource-centre/regulation/best-practice-regulation-guide-ministerial-councils-and-national-standard-setting-bodies

			(d) the regulation does not remove any necessary protection (e) The regulation does not prevent any person from continuing to exercise any right or freedom. (f) The regulation is not of constitutional significance.	
Overview of Framework	1.	Plan: • All direct and indirect costs fully understood (a) analyse the burden of regulations such as admin and compliance costs, pricing and regulator's costs; and (b) investigate the costs of alternatives to regulation • Alternatives to regulation meticulously evaluated (a) consider industry self- regulation, code of practice, etc. before prescriptive regulation	Appraisal:[4] • Research to identify the scope of the issues involved. • Determine the rationale for the proposal. • State the objectives of the proposal clearly so as to identify the full range of options. • Further appraisal. The "do minimum" option should always be carried forward. • Generic issues include: (a) strategic impact on organization. (b) economic rationale which should include a cost benefit analysis. (c) financial arrangements and affordability. (d) achievability. (e) commercial and partnering arrangement. (f) RIA*.	• Principle 1: Establishing a case for action before addressing a problem • Principle 2: A range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs considered. (a) The objective and all feasible options should be considered. (b) The "status quo" and effectiveness of existing regulation should be considered as an option for meeting the objectives.

[4] The Green Book – Appraisal and Evaluation in Central Government – HM Treasury: https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-governent

			(g) legislation consideration such as human rights and data protection. (h) information management and control. (i) environmental impact. (j) equality impact assessment. * RIA[5] • It summarises the rationale for the proposal, the options considered and the expected costs and benefit. It also sets out the net costs to business, as required under One-in, Two-out. • The content varies depending on the stage at which it is produced but should generally set out: the problem being addressed, the rationale for intervention, policy objectives and the options considered. • It should be published at the 4 stages in the process: (a) consultation (b) final proposal stage (c) enactment (d) review after enactment • It should be uploaded to the government website at the same time as of the relevant legislation or consultation document is published.	

[5] Better Regulation Framework Manual – Practical Guidance for UK Government Official, July 2013 (which has been officially withdrawn on 17 January 2017).

			• Its analysis should be accessible to those without a technical background or in depth knowledge of the policy area. One-in, Two-out: • IN: the direct incremental economic cost to business of a measure exceeds the direct incremental economic benefit to business. • OUT: the change is deregulatory and the direct incremental economic benefit to business exceeds the direct incremental economic cost to business. • Zero Net Cost - a measure should be classified as Zero Net Cost if: • Value of INs, OUTs are calculated using the Equivalent Annual Net Cost to Business (EANCB). o EANCB of a measure = the annualized value of the present value of net costs to business, calculated with reference to the counterfactual (Estimating the counterfactual usually means comparing outcomes with a different group of people with similar characteristics who have not received the intervention). o The EANCB is calculated as part of the impact assessment	

			o The Net Present Value (NPV) of direct costs to business is used to calculate the EANCB with the following calculation o The NPV is the primary criterion for deciding whether government action can be justified • Regulatory Policy Committee (RPC) (a) An independent body, sponsored by the Department for Business, Innovation & Skills. (b) Established in 2009 and became an independent advisory Non-Departmental Public Body in 2012. (c) First body in the UK set up to provide independent scrutiny of proposed regulatory measures put forward by government. (d) "body which has a role in the processes of national government, but is not a government department or part of one, and which accordingly operates to a greater or lesser extent at arm's length from ministers". (e) Composition/Structure. (f) RPC Committee.	

			(g) Comprises eight independent experts from a range of backgrounds, including business, the voluntary sector and academia.	
	2.	Consult: • Open and inclusive consultation (a) Start before proposals are developed. (b) Consult widely. (c) Use quantitative and qualitative techniques to gain a full understanding of different views. (d) Provide easy access to consultation paper, RIA, etc. (e) Explain rationale for positive and negative decisions before they are taken. • RIA undertaken (a) Publish the intended outcome of proposed regulation. (b) Describe alternatives and the result of consultation.	Consultation: • Consult such organization which is representative of interests substantially affected by the proposal. • Such other person as the Minister considers appropriate. • Further consultation is required if the Minister considers appropriate to change the proposal. • Proposal that have more widespread effects should have consultation earlier and on a wide range of options and alternative.	• Principle 7: Consulting effectively with affected key stakeholders at all stages of the regulatory cycle. (a) Public consultation is an important part of any regulatory development process. (b) Consultation should occur when the options for regulatory action are being considered and a draft RIA has been produced. (c) Consultation can: o help regulators assessing competing interests; o provide a check on the regulator's assessment of costs and benefits, and whether/how the proposed option will work in practice so as to reduce the risk of unintended consequence. o identify interaction between different types of regulations (d) Possibly enhancing voluntary compliance through greater understanding and acceptance. • Principle 3: Adopting the option that generates the greatest net benefit for the community (a) The requires rigorous Regulatory Impact Statement ("RIS") of all the feasible policy options available

		(c) Analyse potential costs and benefits to all stakeholder groups. (d) Prioritise preferred courses of action and detail how they will be implemented, monitored and reviewed.		(b) RIA o The purpose of a draft RIA for consultation is to canvass the regulatory options under consideration, in order to determine the relative costs and benefits of those options. o The purpose of a final RIA for decision makers is to draw conclusion on whether a regulation is necessary, and if so, on what the most efficient and effective regulatory approach might be. o A number of approaches exists as part of the RIA: ✓ Risk analysis ✓ Cost-benefit analysis ✓ Measuring business compliance costs ✓ Assessing effects on competition ✓ RIS contents should include: ▪ Statement of the problem ▪ Objectives ▪ Statement of options ▪ Impact analysis ▪ Consultation ▪ Evaluation and conclusion ▪ Implementation and review • Principle 4: In accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that (a) The benefits of the restriction to the community as a whole outweigh the costs; and (b) The objective of the regulation can only be achieved by restricting competition

				• Principle 8: Government action should be effective and proportional to the issue being addressed. (a) Effectiveness should be judged solely in terms of meeting the specified objective. Consideration should be given to the effectiveness of implementation and administration and an assessment of likely compliance rates should be made. (b) Proportionality involves ensuring that government action does not overreach or extend beyond addressing a specific problem or achieving the identified objective. The principle of proportionality applies equally to the implementation or regulation, including the development of framework for ensuring compliance.
			Parliamentary procedure: • After consultation, the Minister must lay before the Parliament a draft order and an explanatory document with specific details. • The explanatory document must recommend which parliamentary procedure should apply: (a) negative resolution procedure (b) affirmative resolution procedure (c) super-affirmative resolution procedure	

	3.	Implement: • Clear, transparent and accessible rules and regulations (a) Use simple and unambiguous language. (b) Apply rules openly and consistently. (c) Issue guidance together with regulation. (d) Make guidance readily available. • Proportionate and effective enforcement (a) Ensure enforcement to achieve desired outcomes. (b) Encourage compliance, rather than merely penalizing offenders. (c) Target limited resources on areas of greater risk.	Implementation: • Performance is tracked and measured, and data captured for later analysis. This involves: (a) the systematic collection of data relating to the financial management and outcomes of the policy, program or project during implementation. (b) tracking all categories of benefit. (c) a monitoring system. (d) regular financial reporting. (e) benefits realization management. (f) contract management.	• Principle 5: Providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear (a) Good regulation should attempt to standardize the exercise of bureaucratic discretion, so as to reduce discrepancies between government regulators, reduce uncertainty and lower compliance costs. (b) Regulatory instrument should be drafted in plain language to improve clarity and simplicity, reduce uncertainty and enable the public to understand better the implication of regulatory measure.

	4.	Review: • Streamlined processes (a) Review processing time and carry out process audits to identify inefficiencies. (b) Streamline process. (c) Review internal and external guidelines periodically. (d) Ensure performance pledges regularly reviewed for continuous improvement. • Timetabled reviews (a) Schedule periodic reviews of regulation.	Evaluation:[6] • It examines the outturn of a proposal against what was expected, and is designed to ensure that the lessons learned are fed back into the decision-making process. (a) The result should be summarized and led to recommendations for the future. (b) The results and recommendation should be fed into future decision making. (c) Reports and research should be placed in the public domain unless there are good reason otherwise.	• Principle 6: Ensuring that regulation remains relevant and effective over time (a) All regulation should be reviewed annually with a view to encourage competition and efficiency, streamlining the regulatory environment, and reducing the regulatory burden on business arising from the stock of regulation. (b) Consideration should be given to insert sunset provision or review requirement in the regulation. • Principle 8: Government action should be effective and proportional to the issue being addressed. (a) The principle of proportionality applies equally to the implementation or regulation, including the development of framework for ensuring compliance.
Consequence for Non-compliance		• Non-binding but could lead to loss of competitive edge, divided society and/or judicial review.	• Breach of the binding Legislative and Regulatory Reform Act would lead to nullification of the regulation enacted. • Breach of the non-binding Better Regulation Guidance may lead to election loss.	• Breach of the non-binding Better Regulation Guidance may lead to election loss.

[6] Ibid 3