

LINK Briefing

LINK/CBI/SEPA Meeting to discuss Better Regulation

27th June, 2012 – Scottish Whisky Association, Atholl Crescent, Edinburgh

With the assistance of SEPA staff this meeting has been arranged to discuss the joint Scottish Government/SEPA consultation on Better Regulation with the CBI Scotland. It appears to be the case that CBI Scotland are attaching real importance to the discussion (and suggesting as many as 8 possible attendees on their side).

Our negotiating position

Our response to the joint consultation is in preparation (to be ready for 4th August) and needs quite some work on it. We have, however, our Feb 2011 response to the SEPA initial consultation as a base for our position at this meeting. On this base, it is suggested that it would be advisable to argue that:

- (1) we emphasise that we are not opposed to streamlined regulation *per se* so long as it still effectively protects the public and the environment;
- (2) we have serious fears that moving to **better regulation** might be perceived by small numbers of businesses as **de-regulation** or a move to **light touch regulation** - and that this creates the possibility of corners being cut on environmental safety;
- (3) we don't want the years after the recalibration of the regulatory regime to be dominated by unnecessary conflict between local communities and the environmental community on the one and businesses on the other – in either the media or the courts;
- (4) we think the best way of avoiding this scenario is to ensure that the lightening of the regulatory burden in the area of inspections should be balanced by two initiatives to add weight to the areas of (a) penalties – where Scotland has lagged significantly behind the rest of the UK and deterrence could, without doubt be improved; and (b) the efficacy of the courts - where Scotland has a poor record of expertise and consistency in the very limited number of cases.

In relation to (3) we can tell the CBI that the development of the use of protective cost orders in the Scottish increases the likelihood of conflicts which would be best avoided at source.

In relation to (4) it would be for the Scottish Government to apply the tools for increase penalties – and to take forward the idea of an Environmental Court, as per the SNP manifesto commitment.

Attendees

At present, LINK will be represented by **Lisa Webb**, Convener of the Freshwater Taskforce and **Andy Myles**, Parliamentary Officer. We need to give consideration to widening this delegation.

From the CBI side we know that their delegation will be led by **Andrew Dyce**, Policy Executive (directly responsible to the Scottish Director).

Report on the meeting by Andy Myles

On Tuesday 27th June, Lisa Webb, John Mayhew and I attended a stakeholders meeting 8 representatives of the CBI Scotland (mostly from drinks and leather businesses) to discuss SEPA's Better Regulation consultation. SEPA had facilitated the meeting and were also in attendance.

In the discussion we were able to follow the brief which had been circulated beforehand for LINK member comments (see attached) – and I can report on the following points of substance:

- there was a broad understanding that the process was about re-calibrating existing regulations and NOT either de-regulation or moving to a lighter touch (although some of the CBI wanted self-regulation);
- there was no real opposition to the idea of ensuring that penalties were strengthened to levels where they were genuinely deterrent;
- the CBI expressed some interest in discussing the possibility of establishing an Environment Court; and
- that continuing with joint meetings on the Better Regulation agenda were desirable.

We now move on to discussions around LINK's response to the consultation, which is being drafted by Lisa Webb – but will require input from many of you where non-water issues are covered. This has to be ready for **4th August, 2012**.