THE FOUNDATION FOR SCIENCE AND TECHNOLOGY

DINNER/DISCUSSION SUMMARY

Risk, responsibility, regulation: whose risk is it anyway?

Held at The Royal Society on 9th May 2007

We are grateful to
BP, The Department for Environment, Food and Rural Affairs
and The Institute for Statecraft and Governance
for supporting this meeting

Chair: **The Earl of Selborne KBE FRS**
Chairman, The Foundation for Science and Technology

Speakers: **Rick Haythornthwaite**
Chair, Better Regulation Commission
Sir David Omand GCB
King's College London
Verena Ross
Director, Strategy and Risk Division, Financial Services Authority

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MR. HAYTHORNTHWAITE explained the principles underlying the report of the Better Regulation Commission. Every person had to make decisions about risk every day; everyone's view about what risk was is different, inconsistent and variable. The government had to regulate in some cases, but it was vital that the individual's responsibility was not removed unless there was a clear case for doing so. Governments should not automatically regulate when a problem appeared; they should consider all options to see whether voluntary action could be effective. It was a mistake to assume that the public were inept about understanding risk and were not prepared to be challenged. Government's job was to seek the balance between risk and regulation and educate people to be prepared to take more risk. They should resist the "something must be done" cry; ensure regulation is specific and directed only to those who are vulnerable; consider the opportunity cost of regulation; be systematic and where changes in behaviour were sought, be cautious and flexible. The government must provide leadership to abolish the chimera of zero risk, restore individual responsibility and avoid adding new layers of regulation to fill in every gap.

SIR DAVID OMAND outlined the work of the Government's Risk Steering Programme. The aim had been to improve risk management across Whitehall against a culture which appeared to give more rewards for caution than praise for accepting risk, and where "risk blindness" - failing to perceive what risks were present, lead to ill-considered policies and initiatives. The programme, warmly supported by the Prime Minister and audited by the National Audit Office had succeeded in installing a coherent risk programme in departments. The principles underlying it were personal responsibility by heads of Departments; systematic assessment of the probability and impact of individual risks; review of existing risks and analysis of any risks inherent in new policies; seeking advice from outside sources and ensuring proper public presentation of risks. Success was achieved when risk analysis became so imbedded in the development of new policies by Departments that it was unconscious; the result was more trust and a more willing acceptance of policies.

MS ROSS said that there were four core elements in the Financial Services Authority's approach to regulation. It should be risk based evidence based, be principle based, and work in practice. Good regulation should improve efficiency of the market, stimulate, rather than suppress innovation and be manageable. It was important to understand that the appetite for risk varied in different markets and with different sizes and types of companies. Regulation should be avoided if voluntary codes can be effective; good outcomes, rather than elaborate processes, should be sought and monitored. As far as possible, companies should be left to themselves to decide how to achieve outcomes and accept that failure to achieve them would be likely to lead to regulation. The practicability of regulation had to take into account globalization and the dominance of global firms, the sophistication of financial products, the vulnerability of consumers; international regulation (EU and Basel) and the changing nature of financial crime. The outcomes sought for consumers were clear advice, acceptability and fair treatment; for markets, financially sound companies who understand their responsibilities and the role of the FSA and for business effectiveness, lowering costs and encouraging innovation.

Principal themes in the following discussion were the nature of risk, how risk was perceived and how government communicated its views about risk and the need for regulation. There were differences between uncertainty and risk and calculable and perceived risk. Behind them lay the ability and need to make judgments. Uncertainty was where there was no way to make a judgment because the facts or hypotheses did not exist to make them; risks were based on individual judgments, which would be likely to be more plausible and acceptable if they were based on evidence and not mere intuition. Research had shown that the public generally overstated the probability of risks which were infrequent but catastrophic (rail crashes) and understated more probable risks which lead to smaller outcomes (car crashes). Public acceptance of risks was related to the individual's feeling that he was in some sense was in control and had taken personal decisions. Theoretically, it should be possible to calculate risks with sufficient data and analysis, but caution should be exercised. Such calculations were inevitably based on judgments about the reliability and comprehensiveness of the data, and the weighting of the various factors. Judgment could not, therefore, be excluded and intuition ignored. It was important that it was made explicit on what basis judgments were being formed - what was the model being used. People would be more likely to accept risk, if government were better at communicating the nature of risks and an understanding why some must be accepted while other could be subject to regulation. But successful communication of the nature of risk in policies depended on the public trusting the government to be open and honest about them. Unfortunately this trust had diminished over the last decades and needed to be re-established. Transparency and openness were crucial. Secrecy was corrosive - immediately someone felt they were not being given the whole truth, all trust disappeared. This was particularly true in relation to concerns about terrorism, where it was essential to enlist the support and understanding of the public in dealing with insidious and unknowable threats.

Speakers suggested that trust increased the further away one went from the central government machine and politicians. For example the trust the public showed in bodies such as the FSA and NICE owed much to their independence from Ministers. But there was danger in introducing too many outside bodies - developing a 'quangocracy'. But one speaker suggested that trust in government could return only if people felt they were not being manipulated or subject to a secret agenda. - and Ministerial inputs made this impossible. But others warned of the danger of diluting the responsibility of Ministers to Parliament and public accountability. Parliament, and in particular bodies such as the PAC needed to understand that any large business - and individual departments were very large businesses - had a large portfolio of risks which were being managed. Whereas in business if there were nine successes and one failure in a portfolio, managers were congratulated; in Parliament and the media, the one failure would be marked and the nine successes ignored. Officials needed support from Ministers to enable them to face up to such pressures, or else the risk-averse culture of the civil service would remain.

Speakers pointed out some problems in the principles of evidence based policies on risk and leaving the risk with the individual if the risk was only to him and not to anyone else. Evidence could only be collected from the past - but, as financial firms always said, the past was no guide to the future. Also how far ahead should we look? It was accepted that the past could never be a certain guide to the future but it always held lessons, particularly where patterns and trends could be noted. How far ahead one should look, depended both on the nature of the risk and what account should be taken of the welfare of future generations. Both questions featured strongly in the Climate Change debate and the reaction to the Stern report. On the question of individual risk, it could be argued (and many have) that it should be left to individuals to decide whether to wear crash helmets on motor cycles and not be required to do so by regulation. But the justification for the regulation was that had been considered as part of an overall policy of reducing road deaths, took into account alternative courses, the economic costs of accidents and the risk blindness of young riders. It was not a stand alone regulation.

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Sir Geoffrey Chipperfield KCB

The presentations are on the Foundation website at www.foundation.org.uk.

Useful web links:

Better Regulation Commission Report:
www.brc.gov.uk/risk_report.aspx
BP:
www.bp.com
Centre for the Protection of National Infrastructure:
www.cpni.gov.uk
Department for Environment, Food and Rural Affairs:
www.defra.gov.uk
Food Standards Agency:
www.food.gov.uk
The Foundation for Science and Technology
www.foundation.org.uk
Hazards Forum
www.hazardsforum.co.uk
Health and Safety Executive:
www.hse.gov.uk
The Royal Society
www.royalsoc.ac.uk
The Strategy Unit Report on Risk:
www.cabinetoffice.gov.uk/strategy.downloads/su/risk/report/downloads/su-risk.pdf
UK Resilience:
www.ukresilience.info

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