



Work and Pensions Committee

Business, Energy and Industrial Strategy Committee

House of Commons, London SW1A 0AA

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From the Chairs

Sir John Kingman
Independent Review of the Financial Reporting Council
1 Victoria St
Westminster
London SW1H 0ET

12 September 2018

Dear Sir John,

FRC report on PwC's 2014 audit of BHS

You will no doubt have followed the FRC's investigation into PwC's audit of the 2014 BHS accounts, the report of which was finally published on Monday 15 August. We very much welcome the robust action that the FRC has taken in this case, which marks a commendable development of its approach.

Nevertheless, it will not have escaped your attention that this case raises fundamental questions about the FRC, which are highly relevant to the terms of reference of your review.

We are conscious that the consultation period for your review ended on 6 August, but we would be most grateful if you would consider the lessons of this case while reaching your conclusions.

FRC powers

This case highlighted the fact that Taveta are not regulated by the FRC and therefore were not the subject of the investigation nor a party to the Settlement Agreement. Thus, the penalty for the accounting failures was borne solely by the auditors, and not by the directors who were responsible for the preparation of the accounts.

As you will know, the joint committee report into Carillion recommended that the FRC's powers be extended "to ensure that all directors who exert influence over financial statements can be investigated and punished as part of the same investigation, not just those with accounting qualifications."¹

One of the objectives for your review is to "put the FRC in a position to stand as a beacon for the best in governance, transparency and independence; strengthening its position and reputation". It is very difficult to see how that aim can be achieved without a significant

¹ Business, Energy and Industrial Strategy and Work and Pensions Committees, Second Joint Report of Session 2017-19, [Carillion](#), HC769, para 148

change to its existing powers. We would be most grateful if you would give careful consideration to the lessons to be learned from the Taveta case on this point.

FRC legal resources

From the beginning of this case, it was abundantly clear that a legal proceeding between a public regulator and corporate giant is a case of David and Goliath. The plaintiff was backed by seemingly bottomless resources. The FRC, as a relatively small public regulator, could not hope to compete.

Though the judgment was ultimately in the FRC's favour, it is not difficult to imagine the subsequent pressure it will have felt to amend its original report. While we are pleased that the FRC appears mostly to have resisted attempts to bully it into substantially watering down its findings, this seems to have taken a long time and substantial resource, including at a very senior level.

We are also concerned about the future risks that regulators' independence could be compromised by legal threats from the rich and powerful. As Mr Justice Nicklin said: "The importance of regulators operating with transparency and openness hardly needs stating".² There is a risk that this case could have a chilling effect on the willingness of the FRC to speak freely where it finds misconduct in future cases. The ability of regulators to carry out their work openly and rigorously should never be compromised because of mismatched resource for legal support or representation.

As part of your review, we would be very grateful if you would consider whether the FRC has the resources it needs to meet legal challenges such as that recently brought by Taveta, and whether there may be a case for the Government to consider providing temporary, additional resource for legal support in exceptional cases of this kind.

With best wishes,



Rt Hon Frank Field MP
Chair, Work and Pensions Committee



Rachel Reeves MP
Chair, Business, Energy and Industrial
Strategy Committee

² The Honourable Mr Justice Nicklin, Approved Judgment, 29 June 2018