Explanatory Statement on the Regulatory Conduct Authority’s Occasional Paper 1

By Stephen Littlechild, 2 April 2014

There was a wide variety of responses to “Applying behavioural economics at the Regulatory Conduct Authority”, Occasional Paper 1, published on 1 April 2014. These ranged from support for or concern about the RCA’s proposed policy, through the enigmatic “thank you, very interesting”, to “fantastic, brilliant”. But I suspect that a large number of readers were somewhat baffled. It therefore seems helpful to clarify the origin and possible implications of this Paper.

Over the last few years I have noted with some apprehension the extension of regulatory activity and responsibility that seems to be implied by some interpretations of the growing and interesting literature on behavioural economics. Occasional Paper 1 issued by the Financial Conduct Authority (FCA) in April 2013 was a case in point. It occurred to me that, by simply substituting “regulator” for “consumer” in the FCA’s Occasional Paper 1, then a document about customer error and customer bias provided an equally plausible (or implausible) analysis of regulatory error and regulatory bias. And if regulation was needed to improve customers’ decisions then it was equally needed to improve regulatory decisions. Hence the birth of the Regulatory Conduct Authority (RCA). Its first Occasional Paper practically wrote itself. The examples were changed to illustrate regulatory decisions rather than customer decisions, but otherwise the wording and format are practically identical to that of the FCA’s Executive Summary. April 1 seemed an appropriate day on which to issue the Paper. I am grateful to various present and former fellow regulators and regulatory observers for their support and endorsements.

As well as providing a little regulatory mischief and entertainment on April 1, I hope that the RCA Paper raised for consideration some more serious questions about the role of behavioural economics in regulation.

– If behavioural economics offers a generally plausible picture of consumers and also of regulators – a picture that many readers evidently found plausible – is there reason to believe that imperfect regulators can do such a better job than imperfect consumers that they should take responsibility for more customer decisions, or even for nudging customers in the direction preferred by regulators?

– If behavioural economics does not offer a generally plausible picture of consumers and regulators, does behavioural economics provide a reason to believe that the conventional role of regulation needs to be expanded?

– If behavioural economics offers a generally plausible picture of consumers but not of regulators, where is this regulatory phone box into which the imperfect consumer Clark Kent steps, to emerge as Regulatory Superman?

The RCA invites responses, intends to ponder on these questions, and may wish to offer further observations on 1 April 2015.