

Better legislation, subsidiarity and proportionality and smart regulation

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PURPOSE: to improve the quality of regulation within the European Union (Smart Regulation).

CONTENT: the better regulation agenda has already led to a significant change in how the Commission makes policy and proposes to regulate. The Commission believes that it is now time to step up a gear. Better regulation must become **smart regulation** and be further embedded in the Commission's working culture.

The approach to regulation must **promote the interests of citizens, and deliver on the full range of public policy objectives** from ensuring financial stability to tackling climate change. EU regulations also contribute to business competitiveness by underpinning the single market, eliminating the costly fragmentation of the internal market because of different national rules.

This communication outlines the measures envisaged by the Commission to **ensure the quality of regulation throughout the whole policy cycle** - from the design of a piece of legislation, to implementation, enforcement, evaluation and revision. It draws on a number of inputs including a recent [resolution from the European Parliament on Better Law-making](#) a public consultation⁴; the European Court of Auditors' report on Impact Assessment in the EU institutions; and the reports of the Impact Assessment Board (IAB).

The measures foreseen to deal with these issues are the following:

1) Improving the stock of EU legislation: the Commission is concentrating its efforts on **reducing administrative burdens** along with **simplifying** legislation. A key tool in this new approach will be **ex post evaluation** of legislation. The Commission intends, in particular, to:

- ensure that all significant proposals for new or revised legislation are in principle based on an evaluation of what is already in place;
- provide transparency by presenting planned evaluations of legislation on a specific website to allow Member States and stakeholders to prepare inputs at an early stage;
- carry out the four “fitness checks” launched in 2010 for areas in environment, transport, employment /social policy and industrial policy and extend the approach to other policy areas in 2011 on the basis of these experiences;
- finalise the administrative burden reduction programme by 2012;
- improve the consultation website to allow stakeholders to express more easily their concerns about administrative burdens and simplification issues;
- invite Member States to use the possibilities in EU legislation to waive obligations for businesses such as SMEs.

At the same time, the Commission will continue to encourage the European Parliament and Council to approve swiftly the simplification and burden reduction proposals that it has already tabled, and the new proposals it will make over the next year.

2) Ensuring that new legislation is the best possible: the Commission has put in place an impact assessment system to prepare evidence for political decision-making and to provide transparency on the benefits and costs of policy. A key element of this system is the Impact Assessment Board (IAB) which

provides independent quality control of the Commission's impact assessments. Since it was created in 2006 it has produced over 400 opinions which are available to the public.

While the Court of Auditors has confirmed that the IAB is effective, the President of the Commission has reinforced its role further so that in principle a positive opinion from the IAB is needed before a proposal can be put forward for Commission decision. The independence of the IAB is also demonstrated. Against this background, the **Commission will consolidate the current system** and the priority will be to ensure that it delivers its full potential.

3) Improving the implementation of EU legislation: to improve further the transposition, implementation and enforcement of EU legislation the Commission will:

- strengthen the analysis of these issues in ex post evaluations of legislation and ensure that the results are used in impact assessments for new or revised proposals;
- further develop the use of Implementation Plans for new EU legislation, and continue to request Member States to produce correlation tables to provide transparency on how national law transposes the obligations in EU directives;
- improve the efficiency of the EU Pilot which aims to provide quick and full answers to citizens' and businesses' questions on EU law, and encourage more Member States to participate in it;
- explore how to improve SOLVIT and promote it further to SMEs.

4) Making legislation clearer and more accessible: the Commission scrutinizes all new legislative proposals to ensure that the rights and obligations they create are set out in simple language to facilitate implementation and enforcement. To improve electronic access to the full body of EU legislation, a new EUR-Lex portal is being developed with the other EU institutions. The Commission encourages Member States to consolidate national legislation which transposes EU legislation and to make it electronically available, including via the EUR-Lex portal.

The Communication stresses that smart regulation is, however, a **shared responsibility** and its success will depend on all institutions and stakeholders involved in the formulation and implementation of EU policies playing their part.

Moreover, the views of those most affected by regulation have a key role to play in smart regulation. The Commission has made great strides in opening its policy making to **stakeholders**. This can also be taken a step further and the Commission will lengthen the period for its consultations, and carry out a review of its consultation processes to see how to strengthen the voice of citizens and stakeholders further.

The Commission will report on progress in implementing the smart regulation agenda in the second half of 2012.