

5 March 2008

BETTER REGULATION

Second Strategic Review of Better Regulation in the EU

Executive Summary

Simplification and Administrative cost measurement and burden reduction

- BUSINESSEUROPE is pleased that concrete steps have been made to reduce administrative burdens on business and simplify existing legislation but the handling of simplification proposals and Fast Track Actions by the Council and European Parliament is too complicated and time-consuming.
- Current legislative procedures need to be speeded up and the legislature must not add to or amend proposals in any way that imposes new burdens.
- All Member States should set targets for the reduction of administrative burdens generated by national legislation.
- National and EU targets should be net targets to ensure that future legislation does not offset achieved reductions.
- The administrative burden reduction project should be extended to include measurement of all administrative, compliance and enforcement costs and not only administrative costs generated by legislation in priority areas.
- Close cooperation with all relevant stakeholders is of utmost importance when devising concrete reduction measures and priority should be given to address irritation burdens.
- An ex post evaluation should assess whether reduction measures really reduced burdens.

Impact Assessments

- BUSINESSEUROPE is positive about the establishment of the Impact Assessment Board which has contributed to embedding assessments in the system and better quality assessments but to bring more critical oversight into the process, an independent agency for quality control is needed.
- All affected stakeholders should have the opportunity to contribute information to impact assessments and the received input should be adequately reflected in the assessment.
- To increase transparency, draft assessments and the Board's opinions should be published earlier to allow stakeholders to address shortcomings before the legislative proposal is adopted.

Cooperation with Member States and European Parliament

- The Council and European Parliament should make better progress with respect to assessing the impact of substantive amendments to legislative proposals and agree a quick and efficient procedure for the approval of simplification proposals.
- Progress on better regulation at national level should be reported and the Commission should evaluate developments.



COMMENTS

5 March 2008

BETTER REGULATION Second Strategic Review of Better Regulation in the EU

1. INTRODUCTION

BUSINESSEUROPE is pleased that better regulation remains a priority for the European Commission. It is central in strengthening competitiveness and supporting sustainable growth and employment across the European Union. The Commission Communication “*Second strategic review of Better Regulation in the European Union*” shows the continuing emphasis which the Commission is putting on better regulation.

Good progress on better regulation has been made in a relatively short period of time. Impact assessments on regulatory proposals are carried out more frequently and at a higher level of quality under the watch of the new Impact Assessment Board. Furthermore, concrete steps have been made to reduce administrative burdens on business and simplify existing EU legislation.

BUSINESSEUROPE welcomes these developments and commends the Commission for its on-going efforts to further advance the better regulation project.

BUSINESSEUROPE welcomes taking part in discussions on how to achieve further advances on better regulation in the EU. Our views and recommendations regarding the issues raised in the Communication are set out below.

2. COMMISSION COMMUNICATION

Simplification

The Communication and the second progress report on the strategy for simplifying the regulatory environment state that implementation of the rolling programme is by and large on schedule and that the Commission will finish screening all existing EU legislation and integrate the results into the updated programme in early 2009.

BUSINESSEUROPE is pleased to see an accelerated adoption of proposals for simplification by the Commission, especially in areas of concern for business as highlighted by BUSINESSEUROPE in previous position papers, such as the review of the rules on public procurement and business statistics. However, most of these proposals must be adopted by the legislature and progress in Council and

European Parliament is still too slow. Therefore, BUSINESSEUROPE believed that the Council and European Parliament should modify their working methods in order that they can adopt simplification proposals more quickly. Furthermore, the legislature must not add to or amend the simplification proposals in any way that imposes new and additional burdens on business.

Indeed, whilst simplification in areas such as company law, accounting and auditing and consumer rights are welcome, they must deliver a real difference on the ground for business. It is of vital importance that any simplification exercise really reduces costs and burdens for business. The changes introduced by the simplification process should not add any further requirement on business and should be communicated in a timely and effective manner to help businesses achieve compliance. Simplification proposals should also always be the subject of an impact assessment.

Administrative costs measurement and burden reduction

BUSINESSEUROPE supports the measurement of administrative costs generated by legislation and the setting of a concrete net target for reduction of burdens. This is an important step in rendering the better regulation project more effective and targeting areas where real results can be achieved, especially for SMEs.

BUSINESSEUROPE also welcomes the formation of the High Level Group of Independent Stakeholders on Administrative Burdens and looks forward to working closely with its members to help assess the delivery of cost cutting reforms. Additionally, the “Fast Track Actions” are a sensible way forward provided that stakeholders are adequately involved. Nonetheless, the same problem exists as with the simplification proposals as current legislative procedures need to be speeded up. The Council and European Parliament take too long to adopt and finalise the Fast Track Actions. It is unlikely that this situation will get any better for the newly planned Fast Track Actions. It is therefore imperative that the Council and European Parliament agree a real fast-track approval procedure. In order to achieve real results in the area of better regulation, both the Commission and the legislature have to subscribe to the need for improved legislation and cost reductions.

However, the drive to cut administrative burdens has not been applied consistently at a Member State level, and BUSINESSEUROPE is disappointed that not all Member States have set national targets for the reduction of administrative burdens generated by national legislation.

BUSINESSEUROPE believes that the 25% target should be a net target to ensure that future legislation does not add new burdens thereby offsetting any reductions achieved.

BUSINESSEUROPE stresses that the administrative burden reduction project should be extended to include measurement of all administrative costs and not only those generated by the 40 pieces of legislation in the 13 priority areas. Experiences from the Member States show that administrative costs are often high

in areas that initially were considered to be low-cost areas by the authorities. BUSINESSEUROPE recommends for example that customs, consumer- and product legislation is included. The Commission should also advance its analysis for all beneficiaries of cohesion policy. Coordination between European, national and regional evaluators is essential to reduce useless administrative burdens for the beneficiaries of EU funds.

Additionally, the Commission and the Member States should not only look at the administrative costs, which are narrowly linked to information obligations, but also at the more varied and substantially higher compliance and enforcement costs which cover all costs of complying with legislation. A close cooperation with relevant stakeholders and consideration of their input is of utmost importance in this process. BUSINESSEUROPE suggests that priority should be given, when devising concrete reduction measures, to those measures that address so-called irritation burdens, i.e. burdens that are irritating to business but not necessarily expensive in monetary terms. There should also be an ex post evaluation to assess whether the reduction measures really reduced burdens.

Finally, with respect to the measurement, it is very important that the model used by the Commission to measure administrative burdens of EU legislation, will be used in a way that is consistent with its application in the Member States so that the results can be easily compared and presented.

Impact Assessments

Draft policy cannot, and should not, mean a prior commitment to legislate. Impact assessments are crucial for estimating the cost-effectiveness of proposed legislation and it is important that all options, including the 'do nothing option', are considered in the analysis.

BUSINESSEUROPE is pleased that this important tool is used more often and that significant emphasis is being put on improving the quality of assessments. In this context, BUSINESSEUROPE is also positive about the establishment of the Impact Assessment Board which, we believe, has contributed to embedding impact assessments in the working practices and policy-shaping of the different Commission DGs.

BUSINESSEUROPE has reviewed a representative number of impact assessments carried out in 2007, together with the Board's opinion. On the basis of this assessment we can conclude that overall the quality of assessment has indeed improved. The Board's focus on presenting several realistic alternative options and assessing the true impact on the affected target groups is reflected in the different assessments. However, the costs are often not specified for each affected target group and the administrative and compliance costs are usually not properly calculated and quantified. The impact assessments could also be better in taking into consideration the 'do nothing' option.

In addition, it is crucial that all affected stakeholders should have the opportunity to participate in public consultations and contribute information to impact

assessments. In accordance with the minimum standards for external consultation, there should be sufficient publicity about the impact assessment taking place.

Transparent and accessible information about the impact assessment process is key to raising awareness amongst stakeholders, who must be invited to feed into the process, that there is an opportunity to participate. This would also enhance the Commission's chances of receiving and assessing relevant comments and information from all sectors and businesses concerned. The received input should be adequately reflected in the assessment.

To further increase transparency, the Board's opinions and the draft impact assessments should be published before the legislative proposal is adopted to allow stakeholders to address shortcomings in the analysis directly to the Board. The Board's recommendations should then, of course, be adequately addressed by the services that prepared the assessment. No proposal should be submitted to the College before this has happened.

Overall, the review carried out by the Board is important. However, to bring more critical oversight into the process, an independent agency for quality control is needed. This has to be assessed in accordance with the conclusions of the 2007 Spring European Council and European Parliament resolutions.

With respect to the suggestions for improvement of the impact assessment system, BUSINESSEUROPE agrees that impact assessments should be conducted on the most important proposals and on those having the most far-reaching impacts, irrespective of whether they are included in the Commission Legislative and Work Programme, especially decisions taken by comitology committees, notices and guidelines, and decisions regarding international agreements. However, it is worried about proposals which would lead to impact assessment requirements being scaled down or waived for initiatives with limited or only general impacts. It is important that impact assessment are carried out for all legislative proposals; the principle of a proportionate level of analysis would ensure that proposals with only limited impacts are not over-assessed and BUSINESSEUROPE thus supports more guidance on the application of this principle.

It also supports more guidance and quality support on subsidiarity and proportionality; and the analysis of specific impacts such as those on the internal market, regions and SMEs. It is important that the analysis of specific impacts on SMEs and the internal market is systematically carried out.

BUSINESSEUROPE also welcomes better anticipation of transposition and implementation issues and more guidance and support on quantification of impacts, especially of administrative and other compliance costs. As set out above, more guidance and support on stakeholder and expert input is also crucial but not enough; what is also needed is more transparency to allow for earlier stakeholder involvement.

In addition, impact assessments should always be forwarded to the Member States to better involve them in activities of the EU and enhance their ability to express their views on draft legislative acts.

It should also be ensured that the impact on key international economic partnerships, such as the transatlantic relationship, is systematically assessed. In this context, BUSINESSEUROPE applauds the joint work between the US Office of Management and Budget and the Secretariat General. BUSINESSEUROPE has submitted comments suggesting a variety of mechanisms to improve the assessment of trade and investment impacts in assessments by both parties. BUSINESSEUROPE particularly welcomes the proposal that where international standards exist, impact assessments will assess the option of relying on these rather than taking a specific European initiative. It further suggests that impact assessments assess the option of adopting similar measures to those in place in our major trading partners.

There should also be more information provided about the assessment and measurement of risks, hazards and uncertainties to ensure a more risk-focussed approach to technological risks to public health, safety and the environment. And, lastly, more information should be provided about the quality standards applied for the provision of scientific advice and information to ensure that legislative proposals and impact assessments are based on sound science.

Cooperation with Member States and European Parliament

As set out in the Commission Communication, the success of better regulation is dependent on sustained political support and commitment from all European Institutions as well as from the Member States and stakeholders.

The Council and European Parliament should make better progress with respect to systematic impact assessments on substantive amendments to Commission proposals. As mentioned above, the Council and European Parliament should also agree a true fast track procedure so that simplification proposals can be dealt with quickly. It is also important that these institutions do not add to or amend simplification proposals in any way that imposes new and additional burdens on business.

All Member States should also set national targets for the reduction of administrative burdens generated by national legislation and refrain from gold-plating European Directives. In addition, they should carry out effective impact assessments on national legislative proposals.

In order to monitor progress on better regulation at national level, BUSINESSEUROPE supports that developments are reported in the National Reform Programmes. In cases where evaluation of the Programmes shows that Member States are not making enough progress, the Commission should put pressure on those countries to improve but also offer assistance and support if needed.

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