



Mr Frans Timmermans
First Vice-President
European Commission
Rue de la Loi 200
BE-1049 Brussels
BELGIUM

24 February 2015

Re: BUSINESSEUROPE's recommendations regarding the review of Impact Assessments

Dear First Vice-President, *from Mr. Timmermans*

BUSINESSEUROPE has always been a strong supporter of the Commission's better regulation agenda and therefore we are pleased that President Juncker has appointed Dr Edmund Stoiber as Special Adviser on Better Regulation. We are also pleased with the recommendations of the High Level Group on Administrative Burdens. In this context, we refer specifically to the recommendation to empower an independent body to scrutinise the Commission's impact assessments and to assess the evidence base and costs and benefits of substantive amendments. This is very important as impact assessments are a key element for better law-making.

For this reason, we welcome the ideas for a new Regulatory Scrutiny Board with members, also from outside the Commission, who will work for it full-time. BUSINESSEUROPE also supports the Board reviewing existing legislation including fitness checks and evaluations. Taking a smart approach to regulation will enhance growth and investment. We need an effective competitiveness check of all proposals. Boosting competitiveness and developing the single market through the use of better regulation tools to cut red tape and devise proportionate legislation should be a mindset of all decision-makers, whether in the Commission, the Council or the Parliament.

That is why all EU institutions would benefit from the work of an impartial body which coordinates the different impact assessments, ensures good quality and guarantees transparency and coherence of EU legislation. This implies comprehensive consultation of stakeholders, not only to collect high-quality data and to put forward concrete suggestions for burden reduction (stakeholder platform), but also to allow stakeholders to address shortcomings in draft impact assessments.

There are currently two groups assessing the quality of Commission impact assessments: the soon to be Regulatory Scrutiny Board and the Impact Assessment and European Added Value Directorate within the European Parliament. BUSINESSEUROPE agrees with the Parliament that changes from amendments during the legislative process should be assessed.



A new inter-institutional agreement should clearly address this. There should be stronger commitments from the Council and Parliament that they will carry out an impact assessment of their substantive amendments. It is equally important that such impact assessments are also subject to scrutiny. This should be a task for a new inter-institutional body given the importance of separating the review from the actual carrying out of the assessment.

The inter-institutional body that we are advocating for could be similar to existing national better regulation bodies/control mechanisms bearing in mind that some national better regulation bodies lack both true independence and are unable to issue binding opinions. We need a stronger inter-institutional body than an advisory board. A new body should guarantee quality throughout the legislative procedure. BUSINESSEUROPE acknowledges that political decisions about which legislative proposals should be put forward rests with politically appointed officials. However, the impact assessment process should be about an objective and factual analysis of possible impacts of legislative proposals, not about political considerations.

According to the Commission's Impact Assessment Guidelines, an impact assessment should identify the economic, social and environmental impacts of a proposal. Therefore, those put in charge of monitoring impact assessments must have expertise in these areas. To support independence and avoid special interests gaining influence, members of the inter-institutional body should be recruited from across the EU institutions, Member States and civil society including academia and business to ensure a proper review of the competitiveness proofing. It would be important that they are appointed in a personal capacity and on the basis of their expert knowledge.

Lastly, it is not just the responsibility of the EU institutions to ensure that EU legislation is of good quality. Member States are also responsible when transposing and implementing EU legislation to do this in a way that does not distort the intended goal of the legislation. The new body should therefore also be given a mandate to evaluate the impact of EU legislation on the ground in Member States, contributing to the results announced annually through the REFIT scoreboard.

BUSINESSEUROPE hopes that our suggestions will provide a valuable contribution to the on-going debate on how to devise better legislation in the EU and we look forward to discussing these further with you. For ease of reference, we enclose our key messages on better regulation policy and our paper about setting up a stakeholder platform for smart regulation proposals which draws on experiences from similar national stakeholder forums such as the Danish Business Forum for Better Regulation.

Yours sincerely,

Markus J. Beyrer