POSITION PAPER

BUSINESSEUROPE

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SMART REGULATION

The EU must improve its competitiveness to hold its own against both developed and emerging economic blocs around the world. Taking a smart approach to regulation will enhance growth and investment. The EU should avoid legislative proposals with a disproportionate impact on competitiveness that add no real value to the single market and growth. This requires a sharp focus on smart regulation. Boosting competeviness and developing the single market through the use of smart regulation tools to cut red tape and devise proportionate legislation should be a mindset of decision-makers. It should remain a priority for the new Commission and European Parliament.

KEY RECOMMENDATIONS

1 **Focus on competitiveness and growth**. Competitiveness proofing and the SME test must be an integral part of impact assessments for all policy initiatives and legislative proposals.

2 **Reduce burdens.** There should be a EU target to reduce costs defined for the totality of regulatory costs in all policy areas. This target must be a net target so that regulatory costs due to new legislation are offset by reductions in existing regulatory costs in a given policy area.

3 **Avoid gold-plating.** When transposing EU legislation, Member States must become more transparent when adding requirements that negatively affect the single market, competitiveness and growth.

KEY PRINCIPLES

1 **Proportionality**. Avoid legislative proposals with a disproportionate impact on competitiveness. New legislation should provide the most efficient solutions to meet policy objectives. Inconsistencies with other existing rules should be avoided.

2 **Openness.** Allow for timely and meaningful participation by business organisations and other stakeholders in all rule-making processes.

3 **Transparency.** Publish draft impact assessments so that stakeholders can address shortcomings before the assessment and legislative proposal is finalized.

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KEY TOOLS

1 **Impact Assessments**. Proper impact assessments must be carried out on all legislative and non-legislative initiatives of major impact, including implementing and delegated acts, and of amendments introduced during the legislative process in the Council and European Parliament. Apply realistic modelling and sound science. Take account of the cumulative effects of different rules. Ensure independent review of impact assessments.

2 **Consultation.** Comprehensive and objective stakeholder consultation is crucial for collecting high-quality data. It is vital that business organisations and other relevant stakeholders can provide input and that there is sufficient publicity and time afforded to the process. Adequate feedback must be given and the representativeness of stakeholder organisations should be taken into account.

3 **Evaluation and targets.** Systematic post-implementation monitoring and evaluation of all EU legislation must be carried out to identify excessive burdens, inconsistencies, obsolete or ineffective rules. Resulting proposals for change must deliver a real difference on the ground for businesses and citizens. The EU should adopt a simple and clear target to reduce all business burdens and ensure that reductions are not undermined by new burdens.

WHAT SHOULD EUROPE AIM FOR?

- Ensure that objective high-quality impact assessments are carried out on all legislative and non-legislative initiatives of major impact whilst assuring effective stakeholder involvement to make sure that there is transparency about the least burdensome solutions and the impact on competitiveness.

- Ensure that compliance costs and cumulative effects are measured both in impact assessments and evaluations and that consistency, workability and enforceability is also assessed.

- Ensure that legislative proposals are based on objective scientific advice following a risk-based approach.

- Ensure that legislative proposals are assessed together with legislation dealing with the same product or service area to assess the full consequences and avoid potential legal or political inconsistencies.

- Ensure that legislative proposals are compared with similar requirements in important trading partner countries and always assess whether international standards can be used for mutual recognition.

- Ensure effective and transparent scrutiny of draft impact assessments by stakeholders and impartial oversight bodies to make sure that they are of high quality.

- Ensure that everyone involved in policy development uses impact assessments at an early stage and throughout the legislative process. Quality checks should be regularly performed and the impact of substantive amendments should always be assessed.

- Ensure that the overall EU regulatory burden on businesses is reduced through the adoption of a simple absolute reduction target.

- Ensure that proposals to reduce burdens are approved quickly without adding new burdens through amendments.

- Ensure the role of the High Level Group of Independent Stakeholders which plays an important role in the delivery of cost-cutting reforms.

- Ensure the setting up of a political forum where stakeholders can bring forward burdensome measures linked to the implementation of EU legislation or the lack of hamonisation. The proposals put forward should be subject to a Commission response based on a “comply-or-explain” principle.

- Ensure that Member States better assess the reasons and consequences of gold-plating. Use the EU Regulatory Scoreboard to achieve harmonized implementation of EU legislation.

- Ensure adherence to the OECD Recommendation on Regulatory Policy and Governance (http://www.oecd.org/regreform/regulatory-policy/49990817.pdf) so that regulatory frameworks are designed and reviewed in accordance with the highest standards.

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