

**Stakeholder Consultation on Smart Regulation
European Commission
Secretariat General
Directorate for Better Regulation, Evaluation and Impact Assessment**

Stockholm 2010-06-22

Questions

1. *Do you think that the Commission's approach to improving existing legislation is appropriate, or do you believe there are more effective ways of doing so? Could you give us practical examples?*

NNR strongly supports the administrative burden reduction programme and the setting of a concrete target and time frame for the reduction of administrative costs. NNR also supports the work of the High Level Group of Independent Stakeholders on Administrative Burdens which plays an important role in the delivery of cost cutting reforms.

Given the considerable potential for reducing burdens that has already been identified for the key priority areas, NNR urges the Commission to extend the administrative burden reduction project.

The 25% target should be a net target to ensure that future legislation does not add new burdens thereby offsetting any reductions achieved. Moreover, the measurement and reduction programme should cover all administrative costs and not only those generated by the pieces of legislation in the priority areas. In addition, the Commission 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.

2. *What can be done to ensure that businesses feel the benefits from simplification and administrative reduction programmes? Do these programmes focus on the right issues? How can stakeholders, including SMEs, better indicate which pieces of legislation should be simplified? Could you give us practical examples?*

More must be done for businesses to see real effects in their day-to-day operations. The changes introduced by the simplification and administrative burden process should be communicated in a timely and effective manner to help businesses note the changes and achieve compliance. Priority should be given to those measures that address so-called irritation burdens, i.e. burdens that are irritating to business but not necessarily expensive in monetary terms.

It is also imperative that the Council and European Parliament agree a real fast-track approval procedure. Too many proposals must still be adopted by the legislature before businesses will be able to notice any changes in their day to day operations. The Council and European Parliament should modify their working methods in order that they can adopt reduction proposals more quickly. Furthermore, the legislature must not add to or amend the proposals in any way that imposes new and additional burdens on business.

A close cooperation with relevant stakeholders and consideration of their input is of utmost importance in this process. Businesses can provide and have been providing the Commission with concrete suggestions for simplification and administrative burden reduction but often no feedback was given on how the Commission intended to deal with the suggestions. Businesses should be more closely involved with respect to the identification of reduction and simplification proposals and their subsequent progress throughout the legislative process. In this context, the Commission should consider, always in close consultation with stakeholders, to withdraw proposals if the legislature adds to or amends the proposals in any way that imposes new and additional burdens on business.

3. *Which good practices of ex-post evaluation in the Member States or elsewhere do you consider that the Commission should use in developing the evaluation approach? For example, is there a way to improve the involvement of Member States and stakeholders in the evaluation exercise?*

NNR does not know any good practices of ex-post evaluation in the Member States or elsewhere.

4. *Which sectors do you think should be subject to a pilot policy evaluation?*

NNR believes that systematic post-implementation monitoring and evaluation should be carried out for all policy areas given the considerable potential for reducing burdens that may be identified. The Commission should thus dedicate sufficient resources to this exercise to ensure that all policy areas are covered. As a first step, a pilot policy evaluation may be necessary which should focus on those policy areas with a relatively complicated and fragmented regulatory framework and areas of high irritation, such as for example the areas of environmental legislation, statistics and VAT.

5. *Within the integrated approach, where all relevant impacts are assessed side by side, are there any specific issues on which the Commission should reinforce its analysis? If so, why and how?*

NNR supports the integrated approach of the Commission's impact assessment system as set out in the Impact Assessment Guidelines. Overall, the Commission could reinforce its analysis of several realistic alternative options and its assessment of the true impact on the affected target groups in order to better specify the costs for

each affected target group and the proper quantification of administrative and compliance costs.

Where international standards exist, impact assessments should always assess the option of relying on these rather than taking a specific European initiative. Impact assessments should also provide more information about the assessment and measurement of risks, hazards and uncertainties to ensure a more risk-focused approach to technological risks to public health, safety and the environment. 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.

Independent and transparent scrutiny of impact assessments is important to ensure that they are of high quality and developed according to the guidelines. This should be done by an independent body.

6. *Do you have concrete ideas on how the Commission can improve its assessment of social impacts? Do you have examples of best practice in dealing with this issue in Member States or elsewhere?*
7. *What concrete improvements could the Commission make to ensure that all relevant stakeholders are aware of and able to participate in consultations? Are there particular forms of consultation which you found useful when taking part in the Commission's consultations (open internet questionnaires, stakeholder meetings, public hearing)?*

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. The received input should be adequately reflected in the assessment. To grant sufficient time to stakeholders, NNR believes that the minimum consultation period for written consultations should be extended from eight weeks to 12 weeks.

NNR does not favour online questionnaires. They can be over-simplistic and may lead to misinterpretations. They are not a substitute for reliable and representative consultation. Direct discussions with European business organisations, individual companies and other interested stakeholders are important in particular when the subject matter is an impact assessment of specific legislative initiatives. Equally important is that all replies should not be given the same weight; account should be taken of the real representativeness of respondents.

NNR also believes that transparency can be improved if stakeholders were given the opportunity to review draft impact assessments for a 'fact-check' and address shortcomings directly to the Impact Assessment Board. Draft impact assessments should thus be made public before the legislative proposal is adopted. This could easily be undertaken during the four weeks that are available between the submission of the draft assessment and the Board meeting where it will be discussed.

This would not be a new and separate consultation but simply another step in the consultation process

8. *Given that smart regulation can only be delivered if all institutions and Member States act together, what steps should be taken to ensure that this happens?*

Indeed, for the smart regulation exercise to be successful it is essential that each of the European Institutions assumes its responsibility. The Council and European Parliament should make better use of impact assessments and make better progress with respect to systematic impact assessments on substantive amendments to Commission proposals.

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. To facilitate the use of impact assessments, an impact assessment should be no more than thirty pages and an executive summary should be provided of no more than two pages, which, as a minimum, should contain a clear presentation of any quantified benefits and costs of the various options. In this summary, the costs and benefits should always be stated in an objective and transparent manner. The use of a template such as the one developed in the UK would be a sensible solution to providing a simple and easy to understand summary sheet, which should be produced consistently across the Commission. This approach would not only encourage clarity of thought and expression, but it would also make it much harder for more difficult outcomes to be overlooked, i.e. by being buried within the body of the document.

As mentioned above, the Council and European Parliament should also agree a true fast track procedure so that simplification and administrative reduction proposals can be dealt with quickly. It is also important that these institutions do not add to or amend proposals in any way that imposes new and additional burdens on business.

At national level, Member States should reduce 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.

The Commission should encourage this by monitoring progress on better regulation at national level and report developments. In cases where evaluation 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.