



BOARD OF SWEDISH  
INDUSTRY AND COMMERCE  
FOR BETTER REGULATION

# Regulation Indicator 2008

Better Regulation for Business in Sweden: an  
evaluation of government initiatives

June 2009



# Foreword

The business community in Sweden is calling for regulations that are efficient, cost effective and easy to understand and comply with. Complying with regulations is perceived as more time-consuming and costly than it should, and needs to be, and, therefore, as a strain on company resources. The Board of Swedish Industry and Commerce for Better Regulation (NNR) supports the Swedish Government's aims to improve the regulatory environment for business, reduce the administrative cost to business of complying with regulations by 25 per cent by 2010, and to simplify noticeably the day-to-day running of a business.

NNR believes that if the Government is going to achieve its aims, it has to focus on simplification measures that business wants and asks for. This necessitates consultation and dialogue with business representatives. It is, therefore, encouraging that the Government is putting pressure on ministries and state agencies to improve their communication with business on better regulation matters.

Those of us who represent Swedish companies are keen to contribute to and assist in the better regulation work of ministries and state agencies. NNR, and organisations linked to NNR, have already submitted over 400 proposals for simplification of regulation to the Government, ministries and state agencies. Analysis of the proposals shows that certain areas of regulation and aspects of the regulatory process are cited as problematic more often than others. This should give an indication of which areas government should prioritise when deciding on which simplification measures to take; especially if the aim is to simplify the regulatory environment for a majority of companies in Sweden.

However, it is not enough to simplify existing regulations. It is equally important to ensure that all new regulations are efficient, cost effective and as business-friendly as possible. This requires a good evidence-base for decisions about new or changed regulations. NNR is pleased that on 1 January 2008, the Swedish Government issued uniform and clear rules that stipulate that an impact assessment (IA) should be carried out for all new or changed regulations and what should be included in the IA. NNR believes that it is important that the potential benefit of a new proposal is considered alongside its potential costs to stakeholders. The establishment of an independent body, the Better Regulation Council, that scrutinises the quality of IAs, is crucial for ensuring that IAs are carried out in accordance with the new rules. NNR will also continue its examination of the quality of IAs and the evidence-base for regulatory proposals.

NNR supports the Government's ambitious aims in the area of better regulation. However, it is the work of civil servants in ministries and state agencies that will turn the aims into actual results. Many have come a long way in this work while others still have much left to do. Expectations among the Swedish business community are high. We look forward to constructive co-operation in the future that will lead to a noticeable improvement in the business environment.

*Jens Hedström, President*

Board of Swedish Industry and Commerce for Better Regulation



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## Editorial Note

When referring to ‘regulation’ in this report we intend the laws, ordinances, regulations and general recommendations that businesses in Sweden have to comply with. As for ‘EU regulation’ we intend both Regulations and Directives. Where these collective terms are unsuitable, we define the exact kind of regulation referred to.

This evaluation of the ongoing regulatory simplification programme in Sweden is confined to the work presented in a written communication from the Swedish Government to the Swedish Parliament (Govt. Comm. 2007/08:131) in April 2008.<sup>1</sup> This communication was the basis for the Government’s action plan for regulatory simplification in 2008, ‘Making a Difference in Day-to-Day Business’<sup>2</sup>.

We have primarily focused this evaluation on the ten ministries, with their subordinate state agencies, to which our members have submitted simplification proposals. These are the Ministries of Labour; Finance; Defence; Integration and Gender Equality; Agriculture, Food and Fisheries; Justice, the Environment; Enterprise, Energy and Communications; Health and Social Affairs; and the Ministry for Foreign Affairs. It should, however, be noted that the Government’s instructions to the Government Offices<sup>3</sup> and state agencies to draw up documentation for the 2008 action plan covered all 12 specialist ministries (and 52 underlying state agencies), i.e. the Ministry of Culture and the Ministry of Education and Research as well. Where all these 12 ministries are referred to, this is stated below.

The information and the figures used in Tables 2–4 were compiled and worked out with as much precision as possible with the background material available to us. Regarding our calculations, we claim no absolute scientific accuracy. The purpose of expressing some parts of our analysis numerically is, rather, to illustrate our arguments and conclusions in an easily intelligible manner.

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<sup>1</sup> This communication, containing a comprehensive report on the simplification work undertaken by the ministries to date, is available in Swedish at <http://www.regeringen.se/content/1/c6/10/30/12/5de2f1ee.pdf>.

<sup>2</sup> [www.sweden.gov.se/content/1/c6/12/14/51/af4e91e9.pdf](http://www.sweden.gov.se/content/1/c6/12/14/51/af4e91e9.pdf)

<sup>3</sup> The Government Office includes the Prime Minister’s Office, the 12 ministries, and the Office of Administrative Affairs.

## Summary

In its Budget Bill for 2009, the Swedish Government stated its view that a ‘simple and efficient regulatory framework’ is urgently required.<sup>4</sup> This and many other signals from the Government in the area of regulatory simplification show that the overall, long-term objective for simplifying the regulatory environment conforms to the views expressed by business in Sweden. Many of the tools needed within government to achieve this objective are also being put in place. Accordingly, there should be ample scope for creating better business regulations.

The big challenge now is that all those, politicians and civil servants alike, who have been charged by the Government with delivering results for business, must give priority to regulatory simplification and use the tools that are available. Signals from NNR members indicate a growing impatience among many companies in Sweden, since they have perceived no decrease in regulatory burdens or costs. Results must therefore be delivered promptly if Swedish businesses are to have confidence in this endeavour to bring about regulatory simplification. In summer 2008 the Government decided on further instructions for ministries and state agencies involving regulatory simplification. NNR welcomes the decision to lay emphasis, during the assignment period, on identifying simplification measures that ‘yield substantial effects for companies in the short term’.<sup>5</sup>

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<sup>4</sup> Budget Bill for 2009 (2008/09:1, in Swedish), expenditure area 24, Industry and trade, p. 21.

<sup>5</sup> Budget Bill for 2009 (2008/09:1, in Swedish), expenditure area 24. Industry and trade, p. 22.

## NNR's Action Proposals

NNR has both recommendations for actions that the Government should undertake immediately, during 2009, and in the longer-term.

### Action Proposals for 2009

1. **When decisions are taken on new or amended regulations, the option entailing the lowest cost to businesses and, at the same time, attaining the purpose of the regulation should always be given priority.** Impact assessments (IAs) of high quality must be a tool that is used to assign priorities in this way.
2. **Amendments in existing regulatory systems must be those that companies in Sweden want and demand.** NNR calls for simplification measures aimed at either reducing companies' direct regulatory costs or removing aspects of the regulatory system that cause unnecessary irritation.

### Action Proposals for the Longer-Term

1. **Companies' total costs of regulations must be reduced.** It is important for the Government, in the long term, not only to reduce companies' administrative regulatory costs but to broaden its regulatory simplification programme in such a way as to reduce companies' financial and material costs of regulations as well.
2. **Systematic evaluation of the actual results of implemented simplification measures must be integrated into the Government's planning and strategy in the area of regulatory simplification.** Evaluation of results is the only way of knowing whether the outcome of simplification measures is what was intended for business in Sweden.
3. **Efforts to bring about regulatory simplification must be made in central and local government simultaneously.** Many companies experience regulatory burdens and irritation primarily at municipal level and in their contacts with officials in the local authorities.
4. **More resources must be devoted to improving communication between government and business in the area of regulatory simplification.** This is important in order to reduce perceived regulatory burdens, make companies aware of the regulatory simplification measures that have been implemented and enhance trust in the Government's capacity to bring about a noticeable improvement in companies' everyday operations.

Besides these six action proposals for 2009 and beyond, NNR wishes to see completion of the work of regulatory simplification that was commenced in 2008. See further Table 1.



# 1. Progress up to Year-end 2008

In the *Regulation Indicator* for 2007, NNR put forward nine proposals for action that, in our view, the Government, ministries and state agencies should take. In the table below, we compare our proposals with the progress that has actually taken place since that *Regulation Indicator* was published in October 2007. We have used traffic-light colour coding to rate progress: red stands for ‘no progress’, yellow for ‘some progress’ (the right measures are under way but not fully implemented) and green for ‘good progress’ (the right measures have been implemented).

NNR finds that, of the nine action proposals, seven have been considered, are in the course of being implemented or have already been implemented. Accordingly, a great deal has happened during 2008. Nevertheless, much also remains to be done before the table shows a consistent ‘green light’.

In the year ahead, NNR will continue to evaluate the results of the Government’s regulatory simplification programme. We shall maintain our quality control of proposals for new or amended regulations and the impact assessments (IAs) that accompany these proposals. We also plan to carry out a follow-up study of the investigations that NNR implemented in 2006, in which we examined businesses’ total regulatory costs. We shall, moreover, conduct a survey among Swedish companies for the purpose of establishing whether the government simplification measures implemented have had noticeable effects.

**Table 1. NNR's Summary of the Progress of Regulatory Simplification from October 2007 until Year-end 2008.**

<b>NNR's action proposals in the Regulation Indicator for 2007</b>	<b>Government measures taken from October 2007 to year-end 2008</b>	<b>NNR's comments</b>
1. Consult as early as possible with stakeholders affected by new or amended regulations.	The Government has, in its instructions to ministries and state agencies concerning regulatory simplification, emphasised the importance of consultation with business in regulatory simplification work.	Only about half of all ministries and state agencies invited business to consultation meetings on regulatory simplification during 2008. Consultation meetings on regulatory simplification must continue to be held during 2009.
2. Always choose the option that is the least costly for companies and simultaneously achieves the purpose of the regulation.	NNR has not noted any development in the area, and this is not an issue that has been given priority in the Government's regulatory simplification programme.	In NNR's view, the Government should emphasise the importance of choosing the most cost-effective option for business when it comes to new or amended regulations.
3. Introduce a new, uniform model for IAs and carry out national IAs of proposed EU regulations.	Uniform rules concerning IAs have been introduced for state agencies, committees of inquiry and the Government Offices. However, national IAs of EU proposals are almost always lacking.	The quality of IAs has improved but is still too low. Introducing a control mechanism in the form of the Better Regulation Council may result in a positive development.  There is still a need for national IAs of EU draft regulations.
4. Establish a regulation council.	In May 2008 the Government decided to set up the Better Regulation Council. The Council has been fully operational since February 2009.	Setting up the Better Regulation Council is a signal from the Government that work on IAs must be given higher priority.
5. Continuously update the measurements of the administrative costs of regulation to business and evaluate the impact of existing legislation on business.	According to the baseline measurements, companies' administrative regulatory costs in 18 legislative areas amounted to some SEK 97.6 billion (approximately €9bn).  The Swedish Agency for Economic and Regional Growth (Tillväxtverket) updates the baseline measurements every year. The first updates, published in June 2008, showed that costs had risen by roughly SEK 1.96bn (about €200m).  The Government is considering how to assess and measure the overall effects of regulations on businesses and society.	This year's update shows an increase in companies' administrative regulatory costs in 2007, which is a cause for concern. Reversing this adverse trend is essential.  In NNR's view, the actual effects of regulatory simplification measures on businesses should be evaluated. The Government should systematically evaluate the effects of regulation on companies and their competitiveness.

<b>NNR's action proposals in the Regulation Indicator for 2007</b>	<b>Government measures taken from October 2007 to year-end 2008</b>	<b>NNR's comments</b>
6. Foster and require more cooperation among ministries and state agencies.	The ministries' and state agencies' current instructions regarding regulatory simplification includes submitting specific proposals as to how they can collaborate and coordinate their efforts to reduce the administrative cost to companies of complying with reporting obligations.	NNR has stressed the importance of the ministries and state agencies cooperating to make their simplification work effective and reduce the number of cases in which different regulations and state agencies' areas of responsibility overlap.
7. Set up a coordinated register of government reporting obligations on business concerning business data.	In September 2008, the Government assigned the Swedish Companies Registration Office to draft a proposal on how the amount of information that companies are required to submit to central government can be reduced. The Office will report by 30 April 2009 at the latest.	NNR supports this decision and regards it as very important for the Companies Registration Office to carry out a complete review of all state agencies' reporting obligations imposed on companies.
8. Identify and abolish all forms of 'goldplating', i.e. national Swedish requirements that go beyond what EU legislation prescribes.	NNR cannot discern any real development in this area. Work takes place on an ad hoc basis, in committees of inquiry and in ministries and state agencies, but not systematically or uniformly.	NNR's action proposals from 2007 still apply.
9. Implement tangible regulatory simplification measures that reduce administrative costs of regulations by at least 25%, and initiate a process focusing on cutting companies' total regulatory costs.	The work of identifying simplification measures has focused on areas identified by business: regulations that companies find irritating and the reporting obligations that, according to the baseline measurement, are the most burdensome.  Simplification measures that have been identified and will be applied during 2009 and 2010 show a positive trend.	It is important to reverse the adverse trend concerning administrative regulatory costs.  What this requires is: <ul style="list-style-type: none"> <li>• that the simplification measures implemented are those that companies want</li> <li>• that companies' financial and material regulatory costs are measured and reduced.</li> </ul>

## 2. What Business Wants

Companies in Sweden demand regulations that are efficient, cost-effective and easy to understand and comply with. Efficient regulations solve the problems they are intended to solve. Efficiency is often also a matter of proportionality, of ‘not using a sledgehammer to crack a nut’. Moreover, regulations must be written in such a way as to make it clear what they permit or prohibit. Finally, businesses that must comply with regulations must be able to obtain information and guidance on what they need to do, in purely practical terms, to meet the compliance requirements imposed on them. These must be guiding principles throughout the ‘regulatory chain’, from official inquiries at central government level to enforcement at municipal level, irrespective of what government is in power.

In order for regulatory simplification to result in genuine, noticeable easing of costs and burdens on companies, the simplification measures must be those that business wants and demands. In the *Regulation Indicator* for 2007, NNR pointed out how important it is for the simplification measures that ministries and state agencies implement, or plan to implement, to meet the wishes regarding simplification that are expressed by business. It is a matter of prioritising in the work of simplification. It must be established which regulations, and which aspects of complying with them, firms think are the most costly and irritating; in order that focus can be on simplifying these. For this to be possible, consultation and dialogue between government and business are a fundamental requirement.

### Consultation

NNR always emphasises the importance of functioning communication and consultation between government and business representatives. It is therefore encouraging that consultation with business has been emphasised by the Government as a precondition for regulatory simplification resulting in the promised ‘significant change in day-to-day business operations’.<sup>6</sup> Besides other types of consultation, NNR considers that those relating to regulatory simplification must involve actual consultation meetings and open discussions of specific simplification measures.

### Simplification Proposals from Business

NNR and its members are, of course, prepared to assist ministries and state agencies in their regulatory simplification work. NNR, and organisations associated with NNR, have already submitted more than 400 regulatory simplification proposals to the Government, ministries and state agencies. A review of these proposals shows that certain regulatory areas and process issues are repeatedly said by various business organisations and trade associations to cause problems. This surely provides an indication of the priorities that regulatory simplification calls for, if the ambition is to take steps to attain simplification for most businesses in Sweden.

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<sup>6</sup> Government Offices (2008), *Making a Difference in Day-to-day Business. The Government's Action Plan for Regulatory Simplification — A Report on Stage II*, Executive summary, p. 6.

Every change made in existing regulations means that businesses incur transition costs. The planned cost saving for companies of the changes made must therefore exceed these transition costs. Accordingly, a cost-benefit analysis of every proposed simplification measure must be carried out.

## **Feedback**

In their instructions for regulatory simplification, ministries and relevant state agencies were, in drawing up a work programme for the 2008 action plan, to summarise which proposals from business that they intended to follow up and process.<sup>7</sup>

NNR has not been able to obtain this information and it is not systematically documented either in the joint action plan for 2008 or in the ministries' lists of planned simplification measures that were published in April 2008.

NNR has surveyed and analysed the proposals that we, and the organisations associated with NNR, submitted to the Government early in 2007. It would have been reasonable to expect the ministries and state agencies to be able to go through these proposals during the year and provide feedback for those who had presented them, and to issue information on which proposals are to be followed up and which will not be processed further, and why.

In NNR's view, it is of utmost importance that the organisations submitting simplification proposals and thus contributing constructively to the Swedish Government's regulatory simplification efforts should receive adequate feedback on their proposals. By 'adequate feedback', NNR means that the civil servants in charge of dealing with incoming proposals at the ministries and state agencies should contact those who have submitted proposals to let them know what will happen to the various proposals and why. NNR considers that giving feedback at consultation meetings, as has been done in some cases during 2007 and 2008, is not good enough.

The table below shows the number of simplification proposals that have been submitted by NNR and 13 business organisations and trade associations connected with NNR.

In some cases, the same or very similar proposals have been submitted by two or more organisations. In these cases, the proposal has been counted once only. This means that the number of proposals is stated in two ways: both as the total number of proposals from different organisations (424) and as the number of separate proposals (316). It also means that there are 424 cases to provide feedback on, but 316 separate proposals to process.

Table 2 shows the number of proposals either included in the ministries' lists of measures drawn up in 2008, or processed in other ways ('business proposals being processed') in numerical terms or as percentages of the total number of different proposals. The table also shows the number of proposals that have already been implemented ('business proposals implemented') and the number of cases in which the party presenting the proposal is still waiting for adequate feedback ('unclear outcome').

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<sup>7</sup> Government Offices (2008), *ibid.*, p. 14.

**Table 2. Analysis of Simplification Proposals from Business**

<b>Proposals from NNR and organisations associated with NNR</b>	
<b>Total (different)</b>	424 (316) proposals
<b>Business proposals being processed</b>	74 proposals (23%)
<b>Business proposals implemented</b>	52 proposals (16%)
<b>Unclear outcome: proposal presenter awaiting feedback</b>	190 proposals (60%)

The table shows that, of the number of different proposals submitted, just under a quarter were included in the ministries' lists of simplification measures drawn up in 2008 or otherwise processed by ministries and state agencies, and roughly 16% were implemented. The big question is what happened to the 190 proposals that were categorised as having an 'unclear outcome'. NNR would like an answer to this question.

According to NNR's calculations the ten ministries and their subordinate state agencies to which our proposals were addressed had implemented, in total, 162 simplification measures by year-end 2007. In addition, they have jointly presented 397 simplification measures that are being implemented, or may be implemented, during 2008 and thereafter. Only a small proportion of these measures seem to be based on simplification proposals from business. NNR would, therefore, like information on how the measures have been identified.

It has emerged from NNR's contacts with the organisations that have submitted simplification proposals to the Government, ministries and state agencies that examples of adequate feedback do exist. In these cases, however, it is a matter of individual civil servants taking the initiative and contacting the people who submitted the proposals. There are few examples of ministries and state agencies systematically providing adequate feedback.

Improvement in this area is necessary. NNR therefore welcomes the fact that the Government's regulatory simplification instructions of July 2008 for the ministries and state agencies include the requirement that they report which proposals from business have been implemented.<sup>8</sup>

Feedback is a fundamental requirement if business is to have confidence that proposals for simplification will actually be processed. One option might be to set up a system resembling that used by the Better Regulation Executive in the UK<sup>9</sup>. This system appear to offer good scope for government to register which simplification proposals are coming in, and to ensure that suggestions go to the right ministry or state agency, and that the people submitting proposals are told what has become of them.

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<sup>8</sup> Ministry of Enterprise, Energy and Communications (2008), 'Assignment to draw up documentation for the Government's regulatory simplification action plan' (in Swedish, *Uppdrag att ta fram underlag till regeringens handlingsplan för regelförenkling*; Govt. Decision N2008/4837/MK).

<sup>9</sup> See [www.betterregulation.gov.uk](http://www.betterregulation.gov.uk).

## **Burdensome Regulatory Areas and Processes**

Analysis of the 424 proposals for regulatory simplification from business clearly shows that certain regulatory areas and process issues recur more often than others. The simplification proposals received from business include both those that would lower the administrative, financial and material costs of regulations and proposals for measures applying to process issues and other sources of irritation.

### **Burdensome Regulatory Areas**

The regulatory areas that crop up most frequently in the 424 regulatory simplification proposals submitted by NNR, and the organisations associated with NNR, are as follows:

- environmentally related rules, such as the Swedish Environmental Code and waste regulations;
- health and safety legislation;
- labour-market regulations, especially the Swedish Employment Protection Act;
- auditing issues and/or the obligation to undergo an audit;
- tax regulations (especially the ‘3:12 regulations’);
- value-added tax (VAT) rules;
- requirements to draw up plans, such as gender-equality plans and salary schedules, and
- submission of information, especially statistics, but also statements of earnings and tax deductions that must be submitted for enforcement purposes (this issue is dealt with under the heading ‘process issues’ below, since the reporting obligations are derived from different regulatory areas).

These regulatory areas and more were all listed in the Government’s action plan for regulatory simplification back in 2007. According to the 2008 action plan, ministries and state agencies had reported 600 implemented or planned simplification measures.<sup>10</sup> It is gratifying and we welcome the fact that, among these measures, there are a number that focus on simplifications in the above-mentioned regulatory areas. Among the 600 simplification measures, there are both those conceived as reducing businesses’ administrative regulatory costs and those that are to yield other means of simplification that facilitate companies’ regulatory compliance.

Now all these regulatory simplification measures must be implemented and results delivered.

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<sup>10</sup> Government Offices (2008), *Making a Difference in Day-to-day Business. The Government’s Action Plan for Regulatory Simplification — A Report on Stage II*, p. 16.

## **Burdensome Process Issues**

The process issues regarded as problematic, and which recur most often of all, are:

1. Extensive submission of information to government – reduction of reporting obligations on business and ensuring that companies do not have to submit the same information to government more than once.
2. The need for an improved evidence-base for decisions and impact assessments (IAs) when new or amended regulations are to be adopted.
3. Variation in implementation and enforcement by state agencies and municipalities, and a lack of information on what regulations apply and how they are to be complied with.

### **1. Extensive Reporting Obligations on Business**

One demand that is often expressed by NNR's members is that companies in Sweden should not need to submit the same information to government more than once. Submitting information to government in general, and to statistical surveys in particular, are at the top of companies' list of regulatory burdens and irritation. All too often, the same or very similar information is demanded from companies by different state agencies. In addition, the reporting obligations are not always adapted to how and when companies can most easily compile the data concerned. For business it is a costly, burdensome and irritating task.

In 2006, NNR published a summary of the extent of companies' information submission to government.<sup>11</sup> This report showed that 90 state agencies demand 94 million forms from companies in Sweden every year (there are just over a million registered companies in Sweden, according to the Swedish Companies Registration Offices' figures). This was an increase of 29% compared with the situation in 1999, when the Swedish Agency for Public Management compiled a similar summary. NNR's report also showed that coordination between the state agencies in the collection of data from companies was limited, and that state agencies do not use shared electronic systems.

Consequently, coordination of government collection of information from companies is a vital issue. In NNR's view, the Norwegian 'Register of Reporting Obligations of Enterprises' (*Oppgaveregisteret*) is a model that should and could be implemented in Sweden without delay.

In a press release of September 2008, the Ministry of Enterprise, Energy and Communications announced that the Government had decided to instruct the Swedish Companies Registration Office to draw up proposals on how government reporting obligations on companies could be reduced.<sup>12</sup> The Companies Registration Office's instruction was to review businesses' submission of information to state agencies in Sweden. The Registration Office was to issue proposals as to how companies' submission of information can be reduced and how the state agencies' handling of the information concerned can be coordinated and made more efficient. A report on this assignment is to be issued by 30 April 2009 at the latest.

NNR supports the decision and sees it as essential for the Swedish Companies Registration Office to carry out a full survey of all the obligations concerning

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<sup>11</sup> NNR (2006), *Agencies' Exchange of Information or Duplication of Companies' Work? Government Agencies Require 94 Million Forms from Companies Annually*.

<sup>12</sup> See <http://www.regeringen.se/sb/d/10902/a/112365> (in Swedish).



companies' information submission to state agencies. The state agency that may be responsible for managing a future register should not need to start its work with another survey phase. To obtain a comprehensive picture of companies' data submission, the survey should also include the dates when the data are submitted and how often (at what frequency) the companies submit information.

NNR welcomes the fact that the Swedish Companies Registration Office immediately invited NNR to comment on this work as NNR is responsible for coordination for business on matters of data submission.

NNR also urges all ministries and state agencies that request information from companies to assist the Swedish Companies Registration Office with specifications and summaries of their respective reporting obligations. This work will require cooperation among various ministries and their state agencies to obtain a complete picture of companies' information submission. Cooperation is also important to bring about systems that can be coordinated, especially given the need for uniform definitions and standardised electronic services.

## **2. A Better Evidence-base for Decisions and Improved Impact Assessments**

A good evidence-base for decisions is necessary if new or amended regulations are to be efficient and cost-effective, and also easy to understand and comply with. NNR believes that IAs of new proposals are among the key tools for considering different aspects of a proposal. Impact assessments are about getting decision-makers to consider the potential impact of their decisions before making them. NNR considers that the regulation option entailing the lowest costs to companies and simultaneously attaining the purpose of the regulation should always be chosen.

In December 2007, the Government decided on a new ordinance to regulate the state agencies' work on IAs. The Regulatory Impact Assessment Ordinance (2007:1244) supersedes the Ordinance on Special Impact Assessment of the Effects of Rules on Conditions for Small Enterprises (1998:1820 and Sections 27 and 28 of the Government Agencies and Institutes Ordinance (1995:1322), which previously regulated IA work.

The Regulatory Impact Assessment Ordinance (2007:1244) came into force on 1 January 2008 and applies to state agencies under the Government. Moreover, it emerges from the guidelines for work on IAs in the Government Offices that IAs are compulsory for proposed new or amended regulations and that the Regulatory Impact Assessment Ordinance (2007:1244) should serve as a guide. The same applies to official inquiries under the Committees Ordinance (1998:1474), which lays down the rule that IAs must be carried out pursuant to the Regulatory Impact Assessment Ordinance if the final inquiry report contains proposals for new or amended regulations.

This development is highly welcome, since it means that IAs must now be carried out at every stage when new or amended regulations are developed.

Some degree of caution is necessary where IAs are concerned. Since they are worked out entirely in a prospective or ex ante perspective, figures and analyses that are used should not be assumed to be entirely precise. Section 8 of the Regulatory Impact Assessment Ordinance is therefore highly significant. It states that a state agency must monitor the consequences of its regulations and general recommendations, and that if the basic preconditions for a regulation have changed

it must be reviewed and a new IA introduced. NNR considers compliance with this clause to be essential.

### **3. Implementation, Enforcement and Information**

Efficient regulations must also be easy to understand and comply with. In terms of regulatory simplification, it is important to ensure that regulations are not only well written; they must also be applied correctly. The implementation of regulation is something that is too often forgotten when new regulations are drawn up. A regulation becomes superfluous if it is not enforced and complied with.

Many companies testify to variations in implementation, enforcement and costs of regulations, above all depending on which municipality companies happen to be in. These problems are found in regulatory areas where state agencies are responsible for implementation of regulation but enforcement is the responsibility of municipalities. The same applies in areas where the municipalities themselves are responsible for both implementation and enforcement of regulations. NNR is of the view that enforcement must become more uniform, more cost-effective and less arbitrary, to enable companies to operate on equal terms and have confidence in the regulations they must comply with.

To remedy this kind of regulatory irritation, one key aspect is the need to devote more of the state agencies' and municipalities' resources to quality in implementation and enforcement. It is, for example, important to provide support and training for the officers who are to conduct inspections. Companies often feel that the people who enforce regulations lack understanding and knowledge of business owners' situation and, accordingly, unnecessary friction may arise between businesses and the enforcement agency.

It is also, to some extent, a matter of which signals state agencies send to enforcement officers, and of what they convey in manuals, general recommendations, other guidance material and training courses. Guidance for inspectors may play a major part in determining whether the implementation of regulations is effective.

Companies also state that they have difficulty in obtaining information and guidance on which regulations apply and what complying with them means in purely practical terms. The uncertainty that arises owing to inadequate knowledge leads both to irritation and to a perception of regulatory burdens, and in some cases to unintentional non-compliance.

Currently, available guidance is usually addressed to inspection officers, while there is a marked lack of guidance and help for companies in their compliance with regulations. Drawing up guidance material and information should be a natural part of the process of issuing regulations. To make life simpler for businesses, this material should be ready and available before new regulations come into force. This kind of assistance is particularly important for small companies. Good guidance and information are perceived by companies as a kind of regulatory simplification.

### **3. The Quality of Impact Assessments in Sweden**

Since 2002, NNR has reported on the quality of impact assessments (IAs) that have accompanied proposals for new or amended regulations when the draft documents have been circulated for comment among stakeholders. The purpose is, over time, to be able to evaluate trends of IA quality.

NNR has devised a system in which every proposal and IA is assessed in the light of various issues or quality factors and registered in NNR's quality database. Every year, NNR estimates how many of the total number of cases dealt with include the various quality factors. The method is not intended to provide exact results. Rather, NNR's intention is to provide a comprehensive view of the trend of quality in the proposals and IAs that we deal with.

The entry into force of the new Regulatory Impact Assessment Ordinance (2007:1244) required an adaptation of our evaluation method, and the year 2008 was a period of transition to a new system. Previously, NNR's quality factors were based on the requirements concerning the content of IAs that were found in the SimpLex Ordinance and the Government Agencies and Institutes Ordinance. Since the new Ordinance came into force, we have adjusted the questions to reflect the rules that now apply to the implementation of IAs. These rules are given in Sections 6 and 7 of the new Ordinance. The quality factors that are new for 2008 are marked in bold print in Table 3 below. We have also opted to define in more detail some of the issues contained in the Ordinance. For example, we have split the question of 'what other costs the proposed regulation entails for businesses' into whether the financial and material regulatory costs of the proposal are stated. We have also added the question of whether the total costs of the regulation, i.e. administrative, financial and material regulatory costs, are reported for all the companies concerned collectively and also for individual companies.

In former years, the quality database ran from one August to the next. The new 2008 quality database runs from the end of January, to ensure that IAs assessed during the year are carried out in accordance with the new Ordinance, and we have chosen 31 October as the final date for the year's evaluation. This means that the number of cases on which this year's evaluation is based is somewhat smaller than in previous years (70 against 150 in 2007).

#### **The Quality Database and Its Quality Factors**

Table 3 shows the results from NNR's quality database in 2008. Since these results in relation to the new quality factors constitute the baseline that future years' results will be compared with, no detailed analysis of them can be carried out this year. What we find, however, is that the results are evidence that too few IAs provide answers to the questions they should answer. Table 4 shows quality factors and target fulfilment in the years 2002–08.

**Table 3. Quality Factors and Target Fulfilment in 2008 (per cent)**

	<b>% of total</b>
Are different options described?	46
Is the number of companies affected stated?	54
<b>Is the time compliance will take stated?</b>	<b>24</b>
Are previous and/or existing regulations described?	68
How does the proposal affect the administrative costs of regulation?	
Increase:	46
Decrease:	36
No change:	18
<b>How does the proposal affect the financial costs of regulation? (NNR)</b>	
Increase:	17
Decrease:	8
No change:	6
Not stated:	46
Not affected:	23
<b>How does the proposal affect the material costs of regulation? (NNR)</b>	
Increase:	10
Decrease:	6
No change:	7
Not stated:	56
Not affected:	21
Has the state agency reported the total costs of the regulation to all the companies affected? (NNR)	16
<b>Are the total costs of the regulation to individual companies stated? (NNR)</b>	<b>11</b>
<b>Is it stated whether there should be special consideration for SMEs?</b>	<b>23</b>
Is there an account of how businesses' competitiveness may be affected?	37
<b>Is there an account of how Swedish companies' competitiveness on foreign markets may be affected?</b>	<b>13</b>
Is the proposal based on new or amended EU regulations?	41
Does the proposal go further than the EU Directive, introducing special Swedish requirements?	13

**Table 4. Quality Factors and Target Fulfilment 2002–08 (per cent)**

	2008	2007	2006	2005	2004	2003	2002
1. Are different options described?	46	30	47	53	49	37	26
2. Is the number of companies affected stated?	54	40	26	28	25	9	6
3. Previous regulations	68	54	75	86	79	56	55
4. How does the proposal affect administrative costs?							
a) Increase:	46	63	53	58	52		
b) Decrease:	36	12	20	16	16	n.a.*	n.a.
c) No change:	18	25	27	26	32		
5. Are total costs to companies reported?	16	17	8	9	5	5	4
6. Is there an account of how businesses' competitiveness may be affected?	37	35	39	47	43	20	9
7. EU-based	41	51	44	44	40	n.a.	n.a.
8. Goldplating*	13	32	4	7	6	n.a.	n.a.

\* Does the proposal go further than the EU Directive, introducing special Swedish requirements?

\* n.a. = not available

Overall, a majority of the quality factors in Table 4 exhibit more favourable trends than in previous years. In some cases, such as factors 1, 2 and 3, the trend is even highly favourable. At the same time, the results still show an unacceptably low quality of IAs. It is essential for further improvement to take place, to permit comparison of the benefits of a new proposal with its costs to business.

#### **Are other options and previous regulations described and the number of companies affected stated (1,2 and 3)?**

Fewer than half of the IAs report alternative options, and only just under half state how many companies will be affected by a proposed new or amended regulation. On the other hand, the fact that previous regulations are now described in a majority of IAs is a welcome development. This means that businesses have greater chances of understanding why a new regulation is thought to be needed. But it is still difficult to assess what considerations have been made, or what options have been rejected, in the drawing-up of a regulation. Nor is it possible to assess the impact of a proposal if the number of companies that will be affected is unknown.

#### **How does the proposal affect administrative regulatory costs (4)?**

Only 46% of the proposals examined by NNR during 2008 are considered to increase companies' administrative costs of regulations, compared with 63% last year. There has also been a rise, from 12% to 36%, in the number of proposals thought to reduce administrative regulatory costs. This is a gratifying development,

but more work is clearly needed if the Government's target for reducing companies' administrative regulatory costs is to be achieved.

### **Are total regulatory costs and impact on competition reported (5 and 6)?**

The account of total regulatory costs to all the companies that will be affected by a new proposal still leaves a great deal to be desired. Regarding the question of whether information is reported on the way in which the competitive situation may come to be affected, the results show a decrease compared with previous years.

### **EU-based regulations and goldplating (7 and 8)**

This year's results show that far fewer proposals examined are based on EU regulations than in the previous year. Simultaneously, the number of cases in which a proposal is considered to go further than the EU directive, introducing special Swedish requirements ('goldplating'), has fallen sharply.

## **The Better Regulation Council and External Scrutiny**

The results from NNR's quality database show, despite improvements, major shortcomings in the quality of IAs carried out by committees of inquiry and civil servants at ministries and state agencies. NNR has long asserted that a key step that can be taken to remedy this is the introduction of a control mechanism in the form of a regulation council with the task of scrutinising whether IAs are being carried out in accordance with the Regulatory Impact Assessment Ordinance (2007:1244).

Experience from the countries that have regulation councils shows that the quality of IAs has improved markedly since these councils were set up. This favourable development is one we shall probably see in Sweden as well. The scrutiny by Sweden's Better Regulation Council will, in all probability, result in improved documentation for decision-making, and clarify for decision-makers what consequences their proposals for new or amended regulations entail. This, in turn, may result in more efficient, cost-effective and business-friendly regulations.

NNR therefore welcomed the Government's decision in May 2008 to set up the Better Regulation Council. Under the Government's action plan for regulatory simplification in 2008, the Better Regulation Council is charged with 'examining the form and content of proposals for new or amended regulations that could have a significant impact on the conditions under which businesses operate, their competitiveness or other conditions'; and it is required 'to rule on whether regulatory bodies have carried out the prescribed impact assessment and determine whether new or amended regulations are designed to achieve their purpose, simply and at a relatively low cost to businesses.'<sup>13</sup>

The establishment of the Better Regulation Council means that the Government is also clearly signalling that work on IAs must be given higher priority in the management functions at ministries and state agencies, and in committees of inquiry. The Better Regulation Council held its first meeting on 2 February 2009.

To enhance the quality of IAs, sufficient information and support must also be given to the civil servants who draft regulation proposals. It is therefore important

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<sup>13</sup> Government Offices (2008), *Making a Difference in Day-to-day Business. The Government's Action Plan for Regulatory Simplification — A Report on Stage II*, p. 12.

that both the Swedish Agency for Economic and Regional Growth (Tillväxtverket) and the Swedish National Financial Management Authority have been assigned responsibility for methodological development, provision of advice, and training pursuant to the Ordinance (2007:1244).<sup>14</sup> There is, for example, a new version of a web tool with instructions to help officials in their IA work. In addition, courses are held to provide additional support in the work.

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<sup>14</sup> Section 9 of the Regulatory Impact Assessment Ordinance (2007:1244).

## 4. A Long-Term Commitment

NNR's view is that the tools needed to attain the Government's ambition of a noticeable positive change in businesses' day-to-day operations are now either in place or in the process of being put in place. These tools include:

- uniform rules on the execution of IAs;
- the Better Regulation Council;
- results from the measurements of companies' administrative regulatory costs;
- a joint action plan for regulatory simplification and lists of simplification measures from ministries and state agencies;
- structures for consultations between government and business, and
- creation of a coordinated register of government reporting obligations on business.

The tools must now be used by the people charged with carrying out the work of regulatory simplification. It takes time to adapt ways of working to new conditions. Long-term efforts to bring about regulatory simplification are therefore required. This means, for example, that regulatory simplification must be given priority by politicians and civil servants alike in decisions on the direction of work, especially at ministries and state agencies, and for committees of inquiry. It is not possible to cut costs of regulation for businesses, thereby encouraging growth that benefits the whole of society, and simultaneously increase the regulatory requirements to which the same businesses are subject.

### **Businesses' Total Regulatory Costs Must Be Reduced**

One of the Swedish Government's key instructions to ministries and state agencies is, of course, to reduce companies' administrative costs of regulations by 25% by the year 2010. The Government has used the 'Standard Cost Model' to measure administrative regulatory costs to businesses in Sweden. These measurements are the first stage in quantifying companies' administrative costs of regulations. In March 2008, The Swedish Agency for Economic and Regional Growth (Tillväxtverket) completed its baseline measurements<sup>15</sup> in 18 different regulatory areas that affect businesses. According to the baseline measurements, the total administrative regulatory cost of all the regulations measured was SEK 97.6 billion.<sup>16</sup> The first updates of the measurement results were completed in June 2008 and show that costs have risen by some SEK 1.96bn.<sup>17</sup> This negative trend must be reversed.

Nevertheless, it is important to remember the limitations of this measuring model. All it permits is estimates of the cost of certain specific administrative operations

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<sup>15</sup> Baseline refers to the index against which the target of a 25% reduction in costs by 2010 can be measured. The baseline year has been set at 2006. This information is taken from the Government's Action Plan for 2008, page 10.

<sup>16</sup> Government Offices (2008), *Making a Difference in Day-to-day Business. The Government's Action Plan for Regulatory Simplification — A Report on Stage II.*

<sup>17</sup> See <http://www.regeringen.se/sb/d/10685/a/108023> (in Swedish).



that businesses must carry out in order to comply with regulations. All other costs, including financial regulatory costs due to taxes and charges and material costs of regulations due to investment requirements, have thus not been estimated.

Compared with financial and material regulatory costs, the administrative costs of regulations are only a small portion of companies' total regulatory costs. To illustrate this, NNR has conducted a survey among businesses of various sizes and in different sectors, 'The Total Cost of Regulations to Businesses in Sweden' (*Företagens totala regelkostnader – till följd av statliga regelverk*). This report shows that, for all companies, administrative regulatory costs were below 30% (9–27%, depending on sector). It is therefore important for the Government, in the long term, not to confine itself to reducing administrative costs of regulations if companies are to experience a noticeable reduction in regulatory costs.

NNR has expressed to the Government the view that measurements of companies' administrative costs of regulations should be supplemented by a more extensive review and analysis of existing legislation in a business perspective. It is therefore imperative for the Government to allocate sufficient resources for the development work that has been initiated in the area of regulatory simplification. The Government has announced that its intention is to develop more in-depth knowledge of the impact of regulations on businesses and society. The purpose is to make it possible for regulatory simplification to result in relevant measures that genuinely make companies' day-to-day operations easier.<sup>18</sup>

## Evaluation of Actual Results

Businesses in Sweden have high expectations of regulatory simplification yielding clear results in the form of reduced compliance costs and less perceived regulatory burden. The annual updates of results from the measurements of companies' administrative regulatory costs are important means of checking that cost trends are going in the right direction. However, these updates should be supplemented by other forms of evaluation. In NNR's view, a systematic evaluation of the actual results of simplification measures is the only way of knowing whether the outcome is what was intended for businesses in Sweden. This kind of work is difficult and resource-intensive, but necessary — not least to sustain the credibility of the Government's explicit ambition to bring about a significant change in day-to-day business operations. NNR therefore considers that this aspect of regulatory simplification must be integrated in the Government's planning and strategy for the future in this area.

This year's *Regulation Indicator* may be seen as an initial step in the evaluation work that NNR intends to carry out. NNR will also henceforward evaluate the results of regulatory simplification. We shall continue our quality control of proposals for new or amended regulations and the IAs that accompany these proposals. We also plan to carry out a follow-up study of the surveys of businesses' total regulatory costs due to regulations that NNR conducted during 2006. We shall also carry out a survey among Swedish companies for the purpose of establishing whether simplification measures have had noticeable effects.

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<sup>18</sup> Budget Bill for 2009 (2008/09:1, in Swedish), expenditure area 24; Industry and Trade, page 47.

## **Regulatory Simplification at Municipal Level**

Many companies experience regulatory burdens or irritation, above all, at municipal level, i.e. in their contacts with officials in local government. This is, of course, because implementation of regulations and enforcement largely take place at this level. The problem is the same as that presented in the section on implementation, enforcement and information on page 10. Above all, perceived burdens are related to inadequate service and communication, long handling times, lack of uniformity in the implementation of regulations, and difficulties in obtaining information about which regulations apply and what, in practical terms, compliance with the regulations requires from companies.

NNR considers that regulatory simplification must result in genuine improvements that are perceived as such by companies. Improvements in contacts with municipalities would facilitate businesses' regulatory compliance considerably. In other European countries, such as the Netherlands, Denmark and the United Kingdom, where regulatory simplification has been proceeding for longer, it has also become clear that it is important to take local simplification measures.

NNR welcomes initiatives for regulatory simplification at municipal level in Sweden and thinks this work is necessary if genuine results are to be obtained for businesses in the long term.

## **Better Communication**

In the countries that have advanced furthest in reducing regulatory burdens for companies, good communication from government to business has been noted as a crucial success factor.<sup>19</sup> The importance of communication has been discussed above in connection with consultations and feedback. Nevertheless, it is worth emphasising further why good communication, adapted to corporate recipients, is so important when it comes to regulatory simplification.

## **Perceived Regulatory Burdens**

When it is difficult to understand the purpose of a regulation, when it is unclear what compliance involves in practice and when information and guidance are not available, companies perceive the regulations as being complex and burdensome. In many cases, better communication would be part of the solution. Regulations that are efficient and cost-effective, easily intelligible and easy to comply with are not perceived as burdensome.

## **The Government Must Communicate Implemented Simplification Measures**

Many companies, especially SMEs, perceive that it takes a great deal of time and is expensive to keep track of all changes in the regulations. It is therefore important for these changes to be communicated to businesses. There is a risk of companies not noticing that regulatory simplifications have been effected, quite simply because the information has not been communicated to them.

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<sup>19</sup> The countries concerned are the Netherlands, Denmark and the United Kingdom.

## **Confidence in the Government's Capacity to Achieve Regulatory Simplification**

A survey among companies in the United Kingdom<sup>20</sup> has shown that those that are aware of the Government's ongoing regulatory simplification programme and know which simplification measures have been taken also trust more in the Government's ability to bring about regulatory simplification.

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<sup>20</sup> United Kingdom National Audit Office, *Reducing the Cost of Complying with Regulations: The Delivery of the Administrative Burdens Reduction Programme, 2007* and *The Administrative Burdens Reduction Programme, 2008*.

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# Board of Swedish Industry and Commerce for Better Regulation

The Board of Swedish Industry and Commerce for Better Regulation (NNR), formed in 1982, is an independent, non-party political organisation. NNR is entirely financed by its members, who include 15 Swedish business organisations and trade associations that together represent more than 300,000 companies. This means that NNR represents more than a third of all active enterprises in Sweden, in every sector and of all sizes. NNR's function is to advocate and work for simpler, more business-friendly regulations and a reduction in companies' submission of information to government in Sweden and the EU. NNR coordinates the business scrutiny of impact assessments concerning proposed new or amended regulation. At national level, NNR also acts as the premier business lobbying organisation on regulatory reform. NNR is also an active advocate of regulatory reform at EU level and chairs the BUSINESSEUROPE Better Regulation Working Group. More information about NNR is available at [www.nnr.se](http://www.nnr.se).

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