



**COUNCIL OF
THE EUROPEAN UNION**

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MI 115
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NOTE

from: Presidency
to: Working Party "Competitiveness and Growth"
Subject: - Draft Council Conclusions on Smart Regulation

Delegations will find in Annex a set of draft Council Conclusions prepared by the Presidency as a response to the Communication "EU Regulatory Fitness" presented by the Commission on 12 December 2012 and on the Communication on "How to respond better to the needs of small and medium-sized enterprises" to be presented by the Commission in March 2013.

Draft COUNCIL CONCLUSIONS ON SMART REGULATION

On the basis of the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - EU Regulatory Fitness, adopted on 12 December 2012¹ and on the Communication on "How to respond better to the needs of small and medium-sized enterprises" presented by the Commission on X March 2013².

"THE COUNCIL (Competitiveness)

1. **ACKNOWLEDGES** that well designed and implemented regulation contributes to reaching EU policy goals at minimum cost and that ensuring EU competitiveness requires a continued effort be made to eliminate unnecessary regulatory burdens for government, business and citizens.
2. **EMPHASISES** that Smart Regulation is about achieving benefits at minimum cost and means ensuring that: alternatives to regulation are considered; regulation is evidence-based, in particular by means of robust Impact Assessment, and fit for purpose; the principles of subsidiarity and proportionality are respected; administrative procedures are efficient; unnecessary costs are removed; overlaps, inconsistencies and gaps are identified and removed; and both effectiveness and efficiency are reviewed on a regular basis. It is a shared mission, involving Member States and the European institutions.
3. **AGREES** that in the light of the fundamental challenges facing the European economy, the current focus of Smart Regulation should be on what boosts opportunities for Jobs, especially in the smallest enterprises, and therefore what contributes to Growth across the Single Market, and that progress must be quick, concrete and transparent.

¹ Doc. 17784/12 COMPET 778 MI 830

² Doc. [not yet published]

4. **SUPPORTS** the Commission's whole-policy-cycle approach to Smart Regulation, along with the goal of minimizing burdens particularly for small and micro-enterprises; in this context, **WELCOMES** the proposed REFIT Programme, as set out in the Communication of 12 December 2012, which will identify burdens, inconsistencies, gaps and ineffective measures; and in particular, the Commission's commitments: to an 'evaluate first' policy; to improve assessment of ex-ante costs and benefits; to include a standardised 2-page summary sheet in Impact Assessment (IA) reports; and its commitment to set up a tracking system (scoreboard) to assess progress of proposals and results.
5. **STRESSES** the urgency of making concrete and transparent progress, and therefore the importance of immediate action by all actors involved, leading to tangible reductions in the overall burden of regulation for businesses, especially SMEs, as well as simplification for all affected end-users.
6. Therefore, **CALLS ON** the Commission to ensure swift and effective implementation of the REFIT Programme by:
 - Rapidly and transparently identifying the regulatory areas and pieces of legislation with the greatest potential for simplifying rules and reducing regulatory cost for businesses and citizens;
 - Encouraging Member States to provide data on and assessment of the regulatory costs arising from implementation of initiatives identified;
 - Carrying out comprehensive evaluations in the identified areas and taking action to reduce burdens wherever possible;
 - Publishing before the end of 2013 all planned REFIT initiatives starting from the 2014 work programme, including those arising from the 'Top Ten most burdensome legislative Acts' consultation;
 - Regularly reporting by means of a tracking system (scoreboard) on the proposals arising under the REFIT framework and their progress through the EU institutions and at the transposition stage.

And, more broadly in terms of Smart Regulation tools:

- Consider the introduction of mandatory evaluation for all new regulation within five-years of entering into force;
- Better exploit the IA process by improving the ex-ante assessment of costs and benefits and presenting the estimated benefits and costs of new proposals in the two-page summary sheet of IA reports.

7. [In this context, **WELCOMES** the Commission's Communication on 'How to respond better to the needs of small and medium-sized enterprises', which reports on:

- The strengthening of the application of the SME test;
- The screening of the *acquis*;
- The SME Action Plan;
- Consultation (including publication of the results on the Top Ten most burdensome legislative Acts).

8. And, **INVITES** the Commission to continue to work directly with SMEs in Member States, including through the use of SME panels, dedicated conferences, and in conjunction with the SME Envoys, to determine the most effective ways to reduce the identified burdens.]

9. **AGREES** that Smart Regulation is a shared responsibility and **WELCOMES**:

- the Commission's commitment to apply common commencement dates for EU regulation affecting business more widely;
- the proposal to launch pilot joint evaluations with interested Member States; and
- the thrust of the ABR+ initiative which will identify how the Commission's proposals for administrative burden reduction, totalling 25% to date, have been implemented in Member States, to the benefit of businesses in concrete terms;
- the extension of the minimum consultation period from 8 to 12 weeks, and **ENCOURAGES** the Commission to intensify its efforts towards improving electronic access to the full body of EU legislation and in particular completion of development by the Publications Office of the new EUR-Lex common portal as soon as possible.

10. **PROPOSES** that Member States and the Commission work more closely together to share good IA practice, with the aim to develop transparent and flexible methodologies for IA across all Member States and EU Institutions; **INVITES** Member States to carry out ex-ante impact assessments and ex-post evaluations on the implementation of EU legislation following transposition into the national legal framework; and **RECOMMENDS** that Member States participate in the joint evaluation pilots with the Commission to their mutual benefit.
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