



**COUNCIL OF
THE EUROPEAN UNION**

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**COMPET 162
MI 216
POLGEN 40**

NOTE

from: Presidency

to: Working Party "Competitiveness and Growth"

Subject: - Revised draft Council Conclusions on Smart Regulation

Delegations will find in Annex a revised set of draft Council Conclusions prepared by the Presidency as a response to the Communication "EU Regulatory Fitness" adopted by the Commission on 12 December 2012 and to the Communication "Smart Regulation - Responding to the needs of small and medium-sized enterprises" adopted by the Commission on 7 March 2013.

Delegations are informed that new text compared to previous document 6602/13, is indicated in **bold/underlined** and deletions are marked with ~~strikethrough~~.

Revised draft COUNCIL CONCLUSIONS ON SMART REGULATION

On the basis of the Commission Communications " EU Regulatory Fitness" adopted on 12 December 2012¹ and "Smart Regulation - Responding to the needs of small and medium-sized enterprises" adopted on 7 March 2013².

"THE COUNCIL (Competitiveness)

- 1 **ACKNOWLEDGES that regulation is a necessary tool for addressing the needs of EU citizens and businesses, including social, financial, environmental, consumer or external aims, that EU legislation is essential to achieve the objectives of the EU Treaty,** and that well designed and implemented regulation contributes to reaching EU policy goals at minimum cost; **however, STRESSES** 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: **the potential costs and benefits of non-regulation and non-action are considered;** 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 **without undermining the policy goals of regulation;** 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 **all the** European institutions and the Member States.

¹ Doc. 17784/12.

² Doc. 7268/13.

- 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 **competitiveness and** 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.
- 4 **SUPPORTS** the Commission's whole-policy-cycle approach to Smart Regulation, along with the goal of minimizing burdens **regulatory costs** particularly for small and micro-enterprises; in this context, **WELCOMES the Communication of 12 December 2012 [moved] on EU Regulatory Fitness including** the proposed REFIT Programme, ~~as set out in~~, 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 benefits and costs;
 - to include a standardised 2-page summary sheet in Impact Assessment (IA) reports, **which inter alia** presents the estimated benefits and costs of new proposals ~~in the two-page summary sheet of IA reports [from para 7];~~
 - to set up a **single** tracking system (scoreboard) to assess progress of proposals and results;
 - **to conduct further fitness checks; and**
 - **to require, in principle, a positive opinion from its Impact Assessment Board (IAB) before a proposal is submitted for decision.**

- 5 **AGREES that regulation needs to be designed with SMEs in mind, and, in this context, also WELCOMES the Commission's Communication of 7 March 2013 "Smart Regulation – Responding to the needs of SMEs", and in particular:**
- **the strengthening of the application of the SME test through increased examination of the potential for exempting micro-enterprises from new regulations or adopting lighter regimes;**
 - **the ongoing screening of the *acquis* to identify initiatives with significant impact on SMEs;**
 - **the ongoing work of the Commission to consult SMEs directly in Member States and *inter alia* via the SME Envoy network and the Enterprise Europe Network;**
 - **the extension of the mandates of the High Level Groups on Administrative Burdens and of National Regulatory Experts until October 2014.**
- 6 But, **STRESSES that further action is required and therefore** the urgency of making concrete and transparent progress, ~~and therefore~~ **as well as** the importance of immediate action by all actors involved, leading to tangible reductions in the overall burden of regulation for businesses, especially small businesses, as well as simplification for ~~all affected~~ end-users.
- 7 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 **need and** potential for simplifying rules and reducing regulatory cost for businesses;
 - ~~Encouraging~~ **Working with** Member States to ~~provide~~ identify relevant **national level** data, **where available**, on and assessment of the regulatory costs arising from implementation of initiatives identified;

- Publishing: **before the summer 2013 the results of its mapping exercise; and in the autumn before the end of 2013** all planned REFIT initiatives starting from the 2014 work programme, **prioritising** including those arising from the ‘Top Ten’ consultation; **and by end 2013 the results of the pilot fitness checks launched before 2012;**
- **In particular to publish initial concrete proposals to implement its findings on the ‘Top Ten’ most burdensome regulations for SMEs by June 2013; and in the autumn, the first proposals for simplification and reducing the regulatory burden, under REFIT;**
- **It also ENCOURAGES the Commission to use the REFIT programme to identify and propose in the autumn the withdrawal of existing regulations and pending proposals that are no longer of use, and to pursue the consolidation of existing legislation as part of its simplification work, as called for by the March European Council;**
- Carrying out comprehensive evaluations in the identified areas, ~~and~~ taking action to reduce **unnecessary regulatory costs** burdens wherever possible **and assessing whether quantitative targets for burden reduction should be examined in particular areas;**
- Regularly Reporting **annually** by means of a **the single** tracking system (scoreboard) on the proposals arising under the REFIT framework, **including those relating to SMEs,** and their progress through the EU institutions and at the transposition stage, **and flagging whether regulatory cost has been added or reduced at the various stages, with results open for stakeholder comment.**

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, wherever possible, and presenting the estimated benefits and costs of new proposals in the two-page summary sheet of IA reports. [moved to para 4]~~

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

- the Commission's commitment to apply common commencement dates more widely for EU regulation affecting business;
- the proposal to launch pilot joint evaluations with interested Member States; and
- the thrust of the ABR+ initiative which will **focus on follow-up** ~~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~~ **in order to facilitate best practice exchanges**;
- 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.

9 **PROPOSES** that the Commission and Member States work more closely together to share good IA practice, with the aim to develop **comparable**, transparent and flexible methodologies for IA across all EU Institutions and Member States; **INVITES Member States to pay particular attention to avoiding additional burdens in the implementation of EU legislation.** ~~Member States 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.