



Council of the
European Union

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COMPET 168
RECH 101

NOTE

From:	Presidency
To:	Delegations
Subject:	Revised draft Council Conclusions - Better Regulation to strengthen competitiveness

Delegations will find attached **revised** draft Council Conclusions - Better Regulation to strengthen competitiveness to be examined at the Working Party on Competitiveness and Growth (Better Regulation) on 26 April 2016.

Revised draft Council Conclusions - Better Regulation to strengthen competitiveness

“THE COUNCIL:

ACKNOWLEDGES that smart regulation is a key driver for delivering economic growth and fostering competitiveness and job creation. REITERATES the need to ensure that EU regulation is transparent, simple and is achieved at minimum cost, while fostering competitiveness, growth and jobs, and always taking into account proper protection of consumers, health, the environment and employees.

WELCOMES the Commission Communication “Better Regulation for better results, an EU agenda” of 19 May 2015¹.

WELCOMES the Interinstitutional Agreement by the European Parliament, the Council and the Commission on "Better Law-making".

Future proof and innovation-friendly legislation

- 1) **UNDERLINES** the importance of a sound regulatory framework conducive to research and innovation **and competitiveness**, and **WELCOMES** the Commission’s ~~Communication~~ “Better Regulation for better results”,² and its commitment to address the issue of future proof, **fit for purpose** and research and innovation-friendly legislation as part of the implementation of its better regulation guidelines and toolbox.

- 2) **[STRESSES** that, when considering, developing or updating EU policy or regulatory measures, the ‘Innovation Principle’ should be applied in a complementary manner to the precautionary principle; the ‘Innovation Principle’ entails taking into account the impact on research and innovation in the process of developing and reviewing regulation in all policy domains. **CALLS** on the Commission together with Member States, to further determine its use and to evaluate its potential impact-.]

¹ **Doc. 9079/15**

² **Doc. 9079/15**

- 3) In this respect, **CALLS** on the Commission and Member States to explore and exchange best practices as to how regulation can be made more future proof and enabling for research and innovation, making good use of existing concepts and practices from the Commission and Member States. These may include risk- and hazard-based approaches to regulation, the use of goal or outcome oriented legislation, the use of digital tools, possibilities for experimentation and providing legal clarity (such as the Regulatory Sandbox in the UK, Green Deals in the Netherlands and Innovation Deals),³ and flexibility possibilities for more flexible regulation and agile governance⁴ (such as the Right to Challenge and the use of sunset clauses). **INVITES** the Commission **to assist in collecting the outcome of this exploration** and Member States to report back on this in the first half of 2017, including on the experience of using **the** research and innovation **and ICT assessment** tools⁵ in Impact Assessments.
- 4) **WELCOMES** the Commission's commitment to address the issue of future proof, **fit for purpose** and research and innovation-friendly legislation also when dealing with existing legislation in the framework of the REFIT programme; **SUGGESTS** a review (for instance by a fitness check) on how regulation can be made more innovation-friendly and on how the regulatory framework can be made more supportive for the digitization of industry, also on the basis of input from stakeholders on identified EU-regulatory barriers to their innovation projects and actions, and (new) business models, such as through the recent call from the Commission on this topic. **CALLS** on the Commission and Member States to include the perspective of research and innovation-friendly and future proof regulation as part of their discussions on existing regulation within REFIT. **HIGHLIGHTS the importance of single market rules that facilitate the scale-up of innovative European businesses that wish to offer goods and services across borders and/or establish in other Member States;** **WELCOMES** the Commission's intention for the REFIT platform to **promptly assess suggestions from stakeholders** on **regulatory** barriers to digitisation and innovation.

³ **Such as the Regulatory Sandbox in the UK, Green Deals in the Netherlands and the Commission's intended Innovation Deals.**

⁴ **Such as the Right to Challenge and the use of sunset clauses**

⁵ **Impact assessment toolbox 18 and 23.**

Impact Assessment and Quantification of costs and benefits

- 5) **UNDERLINES** the importance of measuring the ~~effects~~ **impact** of EU regulation, taking into account both the costs and benefits, including **long-term benefits for both society and business and** whenever possible the cost of non-Europe **and the impact on competitiveness and the administrative burdens of the different options and with full respect given to the principles of subsidiarity and proportionality,** in line with the Inter-institutional Agreement on better law-making. **STRESSES** the need for ~~that~~ **quantified estimates of effects should not be a goal in itself but be a tool for better policy-making and should** as much as possible **be** available at the early stage of consultation. **RECALLS** the importance of cooperation between the Commission and Member States in ensuring that the information and data needed to monitor and evaluate the implementation of EU law is obtained **while avoiding additional administrative burden for business and Member States.**
- ~~6) **ENCOURAGES** the Commission to develop a guideline which defines, when an EU regulation has significant impact and therefore an Impact Assessment should be undertaken. **ENCOURAGES** the Commission to develop a guideline which defines, when a quantification of costs and benefits is reasonable and therefore should be undertaken within an Impact Assessment.~~
- 7) **WELCOMES** the Commission's commitment **in the Interinstitutional Agreement** to further quantification of its ~~burden~~ **simplification and administrative burdens** reduction efforts ~~and,~~ to present an annual burden survey, ~~quantifying~~ **and, where possible, to quantify** the regulatory burden reduction or savings potential of individual **REFIT** proposals or legislative ~~legal~~ **acts**; **INVITES** the Commission to include in the annual burden survey ~~comprehensive~~ **aggregate** figures on the increase or reduction in burden of new ~~Commission proposals~~ **legislation** over the previous year.

- 8) **CALLS** on the Commission to continue its work on quantification of the burden reduction efforts by quantifying ex ante the expected results of the proposed ~~measures~~ **initiatives** in the REFIT scoreboard, based ~~primarily~~ **inter alia** on ~~its own~~ impact assessments and existing methods, and making good use of available information from Member States and stakeholders. **CALLS** on the Commission to present ~~its~~ **the** first ~~quantification~~ results **of its efforts to quantify the REFIT scoreboard** and **its** annual burden survey in ~~its Work Programme~~ **for the first half of 2017**.

Reduction Targets/Objectives

- 9) **RECALLS** the Council Conclusions of December 2014⁶ that call on the Commission to develop and put in place – on the basis of **quantitative and qualitative** input from Member States and stakeholders – reduction targets in particularly burdensome areas, especially for SMEs, within the REFIT Programme, which would not require baseline measurement and should consider at the same time the costs and benefits of regulation; **WELCOMES** the Commission's ~~commitment to assess the feasibility of the introduction of objectives for burden reduction~~ **recent commitment** in the ~~Interinstitutional Agreement~~.
- ~~10)~~ **CALLS** ~~on this regard, and~~ **URGES** the Commission to ~~include concrete~~ **rapidly proceed on this to enable the introduction of** reduction targets **in 2017**, ~~as part of its working method~~, whilst taking into account proper protection of consumers, health, the environment and employees. **UNDERLINES** that such targets should be well-defined, pragmatic and sound, and ~~when possible~~ should focus on sectors or sets of regulation that are particularly burdensome, areas relevant for SMEs and with strong potential for innovation, and fitting within the current REFIT priorities. ~~CALLS on the Commission to start using reduction targets – for instance as pilots – in its Work Programme for 2017.~~

⁶ Doc. 16000/14

Better Regulation and SMEs & micro-enterprises

- 10) **STRESSES** the economic importance of SMEs and micro-enterprises, notably for the creation of jobs. **STRESSES** the need for the better regulation policy and REFIT actions to address the needs of SMEs and in particular micro-enterprises; and **UNDERLINES** the importance of the rigorous application of the “Think Small First” principle and SME tests throughout the whole EU policy cycle; **in an integrated and balanced way** and **SUGGESTS** for the the European Parliament, the Commission and the Council to exchange information on best practices, methodologies and data in this area.

- 11) **WELCOMES** the Commission’s commitment to assess the impacts on SMEs in all impact assessments, and **UNDERLINES** the importance for the Commission in principle not to adopt legislative proposals in the absence of a positive opinion of the Regulatory Scrutiny Board on the **respective draft Impact Assessments regarding the** impact on SMEs.

- 12) **CALLS** on the Commission to ensure that measurements of ~~effects~~ **impact** of regulation on SMEs **and micro-enterprises** are consistently made and that all SME tests in Impact Assessments are robust, including consistent consultation of SMEs as part of all Impact Assessments, promoting ~~representative~~ **broad and inclusive** participation by SMEs **and micro-enterprises** in consultations, clear reporting in the Impact Assessment on the outcome of the SME **and micro-enterprises** consultations, and ensuring that Impact Assessments are easy to read for SMEs **and micro-enterprises**, both in terms of lay-out and language.

- 13) **INVITES** the Commission and Member States to explore the possibilities to support the development and use of digital tools making it easier to understand complex regulation and ~~explaining how to comply with regulation once implemented.~~