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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

Completing the Better Regulation Agenda: Better solutions for better results

{SWD(2017) 675 final}

1. INTRODUCTION: BETTER REGULATION IN THE COMMISSION

This Commission is half-way through its mandate. It remains focused on delivering the priority initiatives to support its 10 political priorities¹ for the benefit of the Union's citizens; to support growth and jobs, to make the internal market work better, to tackle security threats, to protect consumers and workers and to improve public health and the environment. The Work Programme for 2018² again demonstrates the Commission's focus on the big issues where European solutions are necessary. It includes measures to put in place the Digital Single Market and Energy Union, ensure fair taxation of companies and social fairness, complete the Capital Markets Union, strengthen the Economic and Monetary Union and banking union, further combat terrorism and establishing the blueprint for the Union's next multi-annual financial framework.

Better regulation underpins all the Commission's work to ensure the EU does what is needed and does it well. To this end, in 2015³, this Commission identified a set of balanced principles and measures revolving around three key pillars:

- **Impact assessment**: new proposals are accompanied by impact assessments which explore how policy goals can be achieved in the most efficient way without imposing unnecessary burdens.
- **"Evaluate first"**: all revisions of existing legislation would assess opportunities to simplify and reduce unnecessary costs based on analyses and stakeholder inputs.
- **Stakeholder engagement**: better regulation is underpinned by the active engagement of civil society, which invites inputs from stakeholders at all points in the policy cycle using a range of feedback tools and consultation activities.

This approach to better regulation has received wide support from stakeholders including the European Parliament⁴ and the Council⁵. Already in 2015, the OECD ranked the Commission's impact assessment and evaluation systems third and fifth respectively among OECD members⁶. Since this ranking was made, the Commission introduced further improvements in May 2015, and in 2016 the European Parliament, the Council and the Commission agreed on an Interinstitutional Agreement on Better Law-Making⁷. In addition, in December 2016, the Commission presented a more strategic approach to

¹ https://ec.europa.eu/commission/index_en

² COM(2017) xxx [to be completed when known]

³ COM(2015) 215 of 19 May 2015; *Better regulation for better results – An EU agenda*.

⁴ European Parliament resolution of 12 April 2016 on Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook;

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2016-0104>

⁵ Better regulation to strengthen competitiveness: Council conclusions 26 May 2016; <http://www.consilium.europa.eu/en/press/press-releases/2016/05/26-conclusions-better-regulation/>

⁶ OECD (2015), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris; <http://www.oecd.org/publications/oecd-regulatory-policy-outlook-2015-9789264238770-en.htm>

⁷ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making. OJ L 123, 12 May 2016, p.1. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2016:123:TOC>

enforcement of EU legislation⁸. In the course of 2017, there have been three further significant developments in how the Commission approaches better regulation.

- First, the Commission has pushed further with its efforts to increase the transparency, legitimacy and accountability of its work, in particular as regards the consultation process and the possibilities for stakeholders to provide feedback on its proposals (section 2.2 below). By the end of 2017, it will have rolled out the "contribute to law-making" website which will allow stakeholders to participate fully in the Commission's work throughout the policy cycle⁹.
- Second, in 2017, the Commission completed a major update of the guidelines and the tools for better regulation across the entire policy cycle¹⁰. While their primary function is to explain and exploit the linkages between the various steps of policymaking inside the Commission and to support its services in their better regulation work, they are also made available to the European Parliament, the Council, the Member States and all stakeholders. The aim is to facilitate further engagement of all these actors in the Union's policymaking process.
- Third, at the beginning of 2017, the Regulatory Scrutiny Board completed the recruitment of its staff, and now includes the three members from outside the European institutions. This independent Board¹¹ checks the quality of impact assessments and selected evaluations of existing legislation and makes public all its opinions. Each impact assessment will in principle need a positive opinion for the initiative to proceed. Should the Commission decide to take action in the absence of such an opinion, it publicly explains why it decided to proceed. In addition, the Board is providing practical methodological advice to Commission departments. The Board now also examines selected evaluations and systematically asks whether – in line with the 'evaluate first principle' - an evaluation has been done to support the impact assessment report where legislation is amended.

Figure 1 provides an overview of key activities of better regulation and shows the substantial work completed in the last twelve months. The rest of this Communication provides more detail on these developments, on the on-going work with the REFIT platform to collect, analyse and take forward stakeholders' views on how to simplify existing legislation. It also responds to the commitments the Commission made in the Interinstitutional Agreement on Better Law-Making (in particular paragraph 48) and to the conclusions of the Council¹² and it outlines further actions to deliver on the

⁸ C(2016) 8600 of 21 December 2016; *EU law: Better results through better application*.

⁹ "Contribute to law-making": https://ec.europa.eu/info/law/contribute-law-making_en

¹⁰ https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox_en

¹¹ https://ec.europa.eu/info/law/law-making-process/regulatory-scrutiny-board_en

¹² Council conclusions of December 2014 (Doc 16000/14): "...call on the Commission to develop and put in place - on the basis of 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."; and Council conclusions of 26 May 2016 on better regulation to strengthen competitiveness which "urge the Commission to rapidly proceed on [...] the introduction of reduction targets in 2017, whilst always taking into account a high level of protection of consumers, health, the environment and employees and the importance of a fully functioning Single Market."

Commission's ambitious Better Regulation Agenda. The staff working document linked to this Communication provides additional information on simplification efforts.

Figure 1. Overview of better regulation activities since their launch in the Commission

	<i>As at 31 August 2016</i>	<i>As at 31 August 2017</i>
Evaluations	688	798
Impact assessments	975	1028
Public consultations	704	814
REFIT Platform opinions	17	58

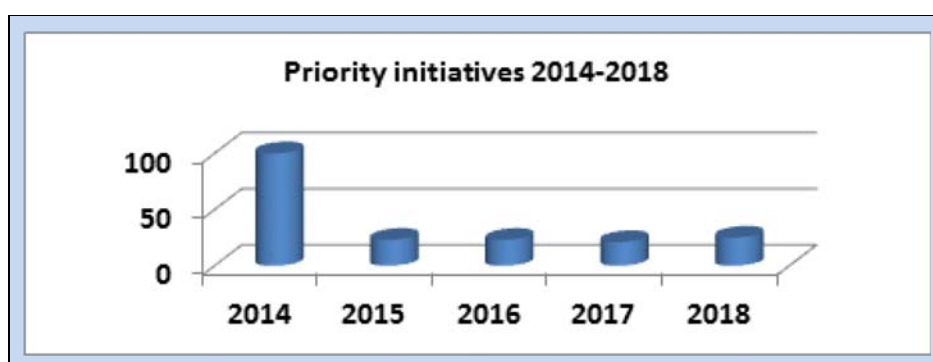
2. APPLICATION OF BETTER REGULATION: KEY RESULTS

2.1. Being big on the big things: respecting subsidiarity and proportionality

The Juncker Commission focuses on a core set of ten political priorities, and remains committed to acting only where necessary at EU level and to propose only what is essential to deliver the results we want. Based on evidence gathered through the various better regulation instruments, it acts where it needs to and where it adds value. Figure 2 illustrates this Commission's focus which also facilitates the mainstreaming of horizontal objectives, like sustainability, across all policy fields. Finally, where sectoral approaches have been pursued in a number of areas, such as energy and climate, transport, the digital single market and the internal market, better regulation instruments have been applied to ensure coherence and avoid unnecessary and overlapping costs within these sectors.

Impact assessments have been prepared for the vast majority of these initiatives. However, the input and evidence needed for an impact assessment cannot always be obtained for actions where an immediate policy response is needed. This has been the case over the last year in the fields of migration and security, for example. In these cases, the Commission has nonetheless provided evidence to the extent possible to support what it proposes, and in the few cases where this has not been possible, it has explained why.

Figure 2. The number of priority initiatives in the Juncker Commission 2015 – 2018 compared to the last year of its predecessor



In addition to focusing on key priorities, the Commission also continues its efforts to ensure that the actions it takes are proportionate. The Commission reports annually on the substantial work it undertakes in the field of subsidiarity and proportionality. An important tool is the independent scrutiny of policy options by the Regulatory Scrutiny Board before the Commission adopts its proposals. The Board checks the options explored to simplify legislation and all relevant impacts (such as those on SMEs) which

can lead to more effective, efficient or proportionate approaches that avoid unnecessary costs. Box 1 provides examples.

Box 1. Examples where better regulation led to more proportionate approaches

- **Proposal on the free flow of data in the digital single market (COM(2017) 495).** The Regulatory Scrutiny Board raised concerns about the necessity and proportionality of the option of intervening into business-to-business contracts to make the transfer ("portability") of data between providers of cloud services more efficient. The Commission therefore chose to rather encourage self-regulation by codes of conduct on information to be provided to users of data storage or other processing services. It also decided that the modalities of switching and porting should be addressed through self-regulation to define best practices.
- **Proposal for a Directive on the promotion of renewable energy (COM(2016) 767).** As explained in the proposal's explanatory memorandum, less intrusive measures were proposed following concerns expressed by the Regulatory Scrutiny Board about the proportionality (and conformity with the subsidiarity principle) of measures to promote renewable energy in the heating and cooling sectors.
- **EU standardisation policy.** Stakeholders rely on EU harmonised technical standards for their operations. The timely publication of references to these standards in the Official Journal of the EU has been problematic. Based on the recommendations of the REFIT Platform, the Commission and the European Standardisation Organisations have agreed upon an action plan to resolve the issue.

2.2. Transparency, legitimacy and accountability

In the course of 2016 and 2017, the Commission has put particular emphasis on increasing the legitimacy of what it does. The Commission is committed to the highest standards of transparency and accountability in the interests of democratic legitimacy, in line with Priority 10 of its Political Guidelines ("A Union of Democratic Change"). The public and stakeholders rightly expect to be able to influence decision-making themselves, to examine the evidence, and to know who else is seeking to influence decision-making. The Commission has led by example on transparency on interaction with interest representatives by applying the principle that Commissioners, Members of their Cabinets and Directors-General will only meet lobbyists who are on the Transparency Register, and who publish information about these meetings on their websites. In addition, registration in the Transparency Register is now also a requirement for stakeholder organisations and individual experts representing a common interest to be appointed as members of expert groups advising the Commission. In September 2016, the Commission put forward a proposal for a legally-binding Interinstitutional Agreement for a mandatory Transparency Register which would cover the Commission, the European Parliament and, for the first time, the Council. This would be a major step forward towards stronger lobbying transparency.

The Commission is strongly committed to engaging with stakeholders and citizens throughout the policy cycle¹³ and has invested significantly in a range of tools to engage better about its activities. Despite the availability of these tools, it is clear that the level of participation has not reached its full potential and some stakeholders are still unwilling or able to engage. The Commission has taken additional measures to tackle this problem. In particular:

¹³ OECD pilot database on stakeholder engagement practices: <http://www.oecd.org/gov/regulatory-policy/EC-Stakeholder-Engagement.pdf>

- To respond to concerns from stakeholders, including the REFIT Platform¹⁴, that it is often not clear what use the Commission makes of their input, the Commission will provide better feedback on stakeholders' views in its impact assessments, evaluations and consultation reports to show how their inputs have been used.
- To ensure that the right stakeholders are targeted in the most-effective manner to gather their views and important data, the Commission has strengthened its guidance to Commission services on preparing a clear consultation strategy for each initiative which will be presented in roadmaps and inception impact assessments.
- To reach the widest possible audience and to facilitate feedback, the public consultation for important initiatives will now be available in all official EU languages while others will appear in at least English, French and German. This responds to concerns expressed by the European Parliament, the European Ombudsman, stakeholders and citizens.
- On 1 July 2016, the Commission launched a website that is a central entry point for citizens and stakeholders to find information about policy-making and to participate in the process¹⁵. This makes it easier for them to express their views. It makes policymaking more transparent as contributions are published automatically. This fulfils an important commitment of the 2015 Better Regulation Agenda.
- Feedback can now be given on a single website on the Commission's early ideas for new initiatives (roadmaps and inception impact assessments), adopted proposals, and on draft tertiary legislation (delegated acts and implementing acts). The latter is a significant improvement in transparency and consultation in what traditionally has been a complex and opaque process involving only experts and representatives of the Member States. Figure 3 provides an overview of the state of play.

Figure 3. "Contribute to law-making" website: Overview from its launch on 1 July 2016

<i>Acts posted to the Europa website for stakeholder feedback</i>	<i>As at 31 August 2017</i>
Draft delegated acts	98
Draft implementing acts	126
Roadmaps and inception impact assessments	225
Legislative proposals adopted by the Commission	194

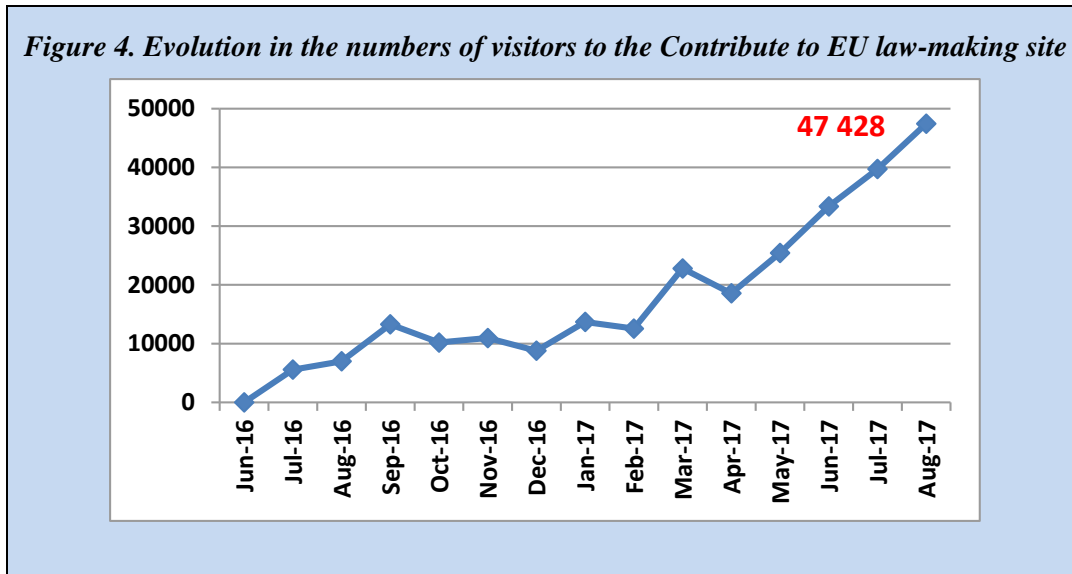
The Commission will also continue to encourage even greater participation by stakeholders, especially for priority proposals, through social media (#EUHaveYourSay). This has contributed to a steady increase in the number of visitors to the Contribute to law-making website, reaching more than 47,000 in August 2017 (Figure 4). Contributions received have for instance led to changes in the Commission's

¹⁴ https://ec.europa.eu/info/sites/info/files/xxii4ab_on_stakeholder_consultation_mechanisms.pdf

¹⁵ https://ec.europa.eu/info/law/contribute-law-making_en

proposal on rules about fair use of roaming of mobile telecommunications¹⁶ or have informed the legislator, as in the case of the public’s response on the Commission’s firearms proposal¹⁷.

The Commission will make further improvements to the website by the end of 2017. These will include a 'timeline view' which will provide earlier and more information on each upcoming initiative, and incorporate access to all on-line public consultations launched each year.



2.3. Simplifying legislation and tackling unnecessary costs

From the beginning of its mandate this Commission has emphasised that actively managing existing EU legislation is as important as preparing new initiatives. It is essential to ensure that legislation remains fit for purpose and delivers the results that EU law-makers intended. At the heart of its efforts to deliver simpler legislation, the Commission focuses on tackling unnecessary costs and eliminating administrative burdens without compromising policy objectives. Making legislation simpler and less burdensome also improves implementation and enforcement, and ultimately delivers better results.

The Commission is convinced that the reduction of unnecessary costs is most effectively done on a case by case basis so that the intended objectives of the legislation are fully maintained. The Commission has been consistent in its view that better regulation is not deregulation. Where there is a clear need to regulate to achieve important societal goals – whether, for example, in the field of labour markets, health and safety at work, environmental protection, or to deal with the impact of new technologies on privacy – it will do so with the appropriate ambition. Some costs will always be incurred to ensure that legislation is effective and these have to be seen in the context of the overall benefits the legislation will bring. To ensure democratic accountability and transparency, it is essential that a political decision on which costs are legitimate to achieve the policy objectives is based on evidence from a case-by-case assessment which responds to the concerns of stakeholders and citizens.

¹⁶ <https://ec.europa.eu/digital-single-market/en/news/roaming-implementing-regulation>

¹⁷ COM(2015) 0750. *Proposal for a directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons.*

The Commission's approach, unlike that in many Member States, is based on the "evaluate first principle". Before revising legislation or introducing new legislation the Commission has made a commitment to evaluate what already exists to identify the potential for simplification and cost reduction. These evaluations can be of individual pieces of legislation or of several pieces of legislation together covering a particular sector ("fitness checks") and they identify areas of possible cost savings for the specific legislation in question. This analysis is then carried forward in the impact assessment process which identifies how these changes can best be implemented, and quantifies wherever possible. These exercises are carried out on the basis of evidence, which is gathered through stakeholder consultations, the work of the REFIT platform, and input which can be submitted to the "Lighten Your Load" website¹⁸. This process is essential to ensure the overall legitimacy of the exercise and to ensure that policy objectives are not adversely affected by efforts to reduce costs. In 2016, evaluations were carried out for just under a half of the impact assessments and in 2017 this has risen to almost 70%. This is a significant achievement since the concept was introduced.

Box 2. Important evaluations and fitness checks 2016-2017

- Fitness check on monitoring and reporting obligations in EU environment policy.
- Evaluation of the External Borders Fund 2011-2013.
- Evaluation of the Horizon 2020 programme.
- Evaluation of the Regulation on the mutual recognition of goods.
- Evaluation of the market surveillance provisions of Regulation (EC) No 765/2008.
- Fitness check on consumer law.
- Sectoral fitness check of the construction sector.
- Call for evidence on the functioning of the EU regulatory framework for financial services.

A key challenge is to quantify sufficiently accurately the costs and benefits of proposed changes. This quantification is challenging not least because the data which are available – including data which Member States might collect on the performance of legislation – are often limited. This makes it difficult to produce rigorous estimates of impacts across 28 Member States. In spite of the challenges, the Commission nevertheless presents quantified information in about half of its impact assessments and in almost all of those included in the REFIT programme. Overall the Commission's practice in terms of quantification is very much in line with approaches elsewhere, and is well advanced in relation to estimating the benefits of policies.

This approach is delivering results. Within its regulatory fitness programme, the Commission has launched 137 initiatives for simplification since 2015. The REFIT Platform has played an important role in focusing the Commission's work on what matters most for stakeholders. Since early 2016, the REFIT Platform has adopted 58 opinions and provided input notably to the simplification of the Common Agricultural Policy, the European Structural and Investment Funds, VAT rules and in the area of the single market. Box 3 provides a number of examples where the Commission has identified potential cost savings for businesses as well as citizens and national administrations, with the help of the REFIT platform. Further details on these and all other REFIT proposals are provided in the Staff Working Document published with this

¹⁸ http://ec.europa.eu/info/law/better-regulation/lighten-load_en

Communication. The Work Programme for 2018 lists the major proposals to reduce unnecessary costs the Commission intends to make before the end of its mandate.

Box 3. Examples of regulatory simplification of existing legislation¹⁹

- **Proposal to modernising VAT for cross-border B2C e-commerce (COM(2016) 757).** The proposal is designed to simplify complex VAT obligations relating to cross-border e-commerce and to create a level playing field for EU and third country businesses which often make non-compliant VAT-free sales. The proposal is expected to reduce VAT compliance costs for businesses by **EUR 2.3 billion a year from 2021** while at the same time increasing VAT revenues for Member States by **EUR 7 billion**.
- **Proposal for a Regulation establishing a single digital gateway to provide information, procedures, assistance and problem-solving services (COM(2017)256).** Significant obstacles exist for both citizens and businesses interested in moving to, selling products or providing services in another EU country. Finding relevant, accurate and understandable information online as well as being able to access and carry out administrative procedures online is crucial for those willing to use the advantages of the Single Market, but often remains complicated, time-consuming and expensive, if possible at all. As far as information is concerned, businesses could **save between EUR 11 and 55 billion annually** for researching just nine business topics. The preferred option would **reduce by 60% the 1.5 million hours** that citizens currently spend on researching online seven essential topics before going abroad.
- **Proposal for a Regulation on European business statistics (COM(2017) 114).** The current system for producing European business statistics is fragmented across domain-specific regulations. This leads to inconsistencies in the collected data and inefficiencies in their production. The new proposal will repeal 10 existing acts and provide a common legal framework for the production and compilation of business statistics. The proposal is expected to deliver better quality statistics and lead to a rationalisation of national statistical production processes and a reduction of the statistical burden on respondents who provide data. The new proposal is expected to generate an **administrative burden reduction for businesses of at least 13.5% annually** due in significant part to savings in the production of intra-EU trade statistics.
- **Revision of European Market Infrastructure Regulation (Rules on over the counter derivatives, central counterparties and trade repositories) (COM(2017)208).** The proposal sets out a number of targeted modifications of the existing regulation, in particular to simplify the rules and eliminate disproportionate costs and burdens for small companies in the financial sector without jeopardising financial stability. The combined effect of all preferred options, calculated solely for the purpose of the impact assessment, amount to **cost reductions ranging from EUR 2.3 billion to EUR 6.9 billion in fixed (one-off) costs and from EUR 1.1 billion to EUR 2.66 billion in operational costs**.
- **Proposal for a Regulation on the governance of the Energy Union (COM(2016) 759).** The proposal will result in significant reduction of administrative burden for the Member States, the Commission and other EU Institutions by rationalising the current planning and reporting requirements in the energy and climate fields which are spread over many different legal instruments with different reporting cycles. The proposal integrates, streamlines or repeals more than 50 existing individual planning, reporting and monitoring obligations. It is expected to deliver **in excess of EUR 3.4 million savings in administrative costs**.
- **Proposal for on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union (COM(2017) 280).** The proposal tackles poor interoperability of European road tolling systems and infrastructure by making it easier for new service providers to enter the market and by

¹⁹ Examples selected from the REFIT scoreboard. More information can be found in the linked staff working document.

allowing less technically complex on-board units to be supplied to vehicle owners (non-GPS). Poor interoperability is estimated to incur unnecessary costs of EUR 334 million per annum.

- ***Proposal to amend restrictions on the use of hazardous substances in electrical and electronic equipment (COM(2017) 38)***. The proposed measures would restore the secondary market and increase spare part availability for certain equipment. There would be reduced costs and administrative burden for business and public authorities, additional market opportunities for repair industries and secondary selling, positive social impact, including for EU hospitals, **which would save about EUR 170 million after 2019**, from maintaining the possibility to resell and buy used medical devices. The exclusion of pipe organs from the Directive's scope would also help avoid the loss of up to 90% of jobs in the sector and the annual loss of up to EUR 65 million by 2025.

2.4. Assessment of alternative approaches for simplification and reducing costs

Reducing unnecessary regulatory burdens is a political priority of this Commission which is being delivered thanks to an approach which addresses actual stakeholders concerns, ensures proper democratic accountability and fosters accurate quantification without depending on it. In line with the commitment in the Interinstitutional Agreement on Better Law-Making, the Commission has nevertheless assessed alternative approaches, including that of fixing burden reduction objectives in specific sectors. Its conclusions are summarised in Box 4 and presented in more detail in the accompanying Staff Working Document.

Box 4. Alternative approaches to regulatory simplification

- One approach to reducing regulatory costs is by fixing ex ante burden reduction targets either for the economy as a whole or for sectors. To be credible and effective such targets need to be based on a methodology to establish the overall level of costs and an assessment of what can realistically be reduced (the 'baseline'). Gathering this evidence is expensive, takes significant time to complete, and does not necessarily produce an accurate representation because data is often limited. This uncertainty makes it very difficult to calibrate the ambition of any ex-ante objective, whether for the economy as a whole or for a specific sector. This is even more so at European level as demonstrated by the Commission's own experience with reducing administrative burdens in the period 2007-2013²⁰.
- Some stakeholders have suggested that targets should be set 'politically', rather than on the basis of a methodology, with no clear justification for how they would be calculated or why they should be applied only in specific sectors. The Commission is concerned that such an approach would create deregulatory pressures and impair its political responsibility to deliver what needs to be done when it needs to be done (consider for instance the past need to respond to the financial crisis and more recent efforts to address security issues, the challenge of migration, or to privacy issues raised by new technologies). It is also not convinced that such an approach would be broadly acceptable to stakeholders. The diversity of views on this issue of ex ante targets is well illustrated by the results of the consultation of the REFIT platform²¹.
- The same considerations apply to the system of "one-in-one out" where a new act or the additional costs introduced by a new piece of legislation have to be accompanied by an equivalent reduction through the revision of an existing piece of legislation or its withdrawal. Regulatory costs should be reduced on the basis of evidence, not simple numerical targets.

²⁰ <https://publications.europa.eu/en/publication-detail/-/publication/257ede84-dd11-4873-be36-77aaca2faeab> (ABRplus programme)

²¹ https://ec.europa.eu/info/law/law-making-process/overview-law-making-process/evaluating-and-improving-existing-laws/reducing-burdens-and-simplifying-law/refit-platform/refit-platform-recommendations_en

While the Commission makes a proposal to withdraw a piece of legislation, the Legislator may not agree; and the withdrawal itself could result in 28 different, and potentially divergent, national approaches.

The Commission's own experience, and the evidence it has seen from other systems, does not suggest that an approach based on ex ante reduction objectives will produce better results in terms of tackling unnecessary costs and providing tangible benefits for stakeholders than its current approach. This approach is based on a case by case evaluation of existing pieces of legislation to identify concretely what can be simplified, streamlined or eliminated. The Commission's approach is evidence-based, and legitimacy is provided by the fact that it actively involves stakeholders. It ensures that there is no risk of undue deregulation or having a negative impact on key policy objectives.

The Commission will therefore focus its efforts on improving this approach. In particular, building on its evaluations of legislation, the Commission commits to ensuring that each impact assessment supporting a legislative revision presents clearly what the potential cost savings are, quantified as far as possible, thereby setting a clear burden reduction objective for the European Parliament and the Council to take account of in their work²². Where they change the Commission's proposals and reduce or add simplification elements, the Commission will urge both institutions to explain transparently why this is necessary and to assess the impact of their amendments in line with the Interinstitutional Agreement on Better Law-Making. This burden reduction objective would also guide the Member States when transposing and implementing Union legislation.

In addition, the Commission has revamped its better regulation toolbox with detailed guidance to Commission services on quantification and has stepped up the internal training available. The Commission also intends to consult stakeholders more systematically about the need or potential to simplify legislation as part of its consultation activities accompanying evaluations and impact assessments.

The Commission will also work with the two institutions to give greater effect to paragraphs 22 and 23 of the Interinstitutional Agreement to establish a more systematic approach to monitoring and evaluating the performance of existing legislation to ensure that the data necessary for good evaluations and solid quantification is available. The Commission will include appropriate provisions in its proposals.

Moreover, Member States have considerable discretion on how to implement Union law at national, regional and local levels. Business perceptions of regulatory burdens vary significantly across the Union, which suggests that this discretion plays an important role. The Commission will continue to work with Member States on this issue, for example by providing implementation plans to facilitate implementation. In line with the call in the Interinstitutional Agreement, Member States should make clear when transposing Union legislation into national law when they add elements that are not related to that legislation.

2.5. New approach to enforcement of Union law

The effective application of EU law is essential to deliver its intended benefits. It is crucial that Member States live up to their responsibility to respect and enforce the rules

²² See Tool #12 on the format of the impact assessment report in the better regulation toolbox; https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox_en

they themselves have jointly put in place. The Commission will continue to support Member States in their efforts to transpose, apply and implement EU law. At the same time, as guardian of the Treaties, the Commission will increase its efforts to ensure compliance with EU law.

In line with the priority actions announced in 2016, the Commission presented its new enforcement policy in the Communication "EU law: Better results through better application"²³. The Communication sets out a more strategic approach to the Commission's infringement policy, focusing on systemic problems, where Commission's enforcement action can make a real difference. Priority will be to investigate cases where Member States incorrectly transpose EU law into national law or fail to do so at all. The importance the Commission attaches to the timely transposition of Union law is reflected in its strengthened approach to financial sanctions for such cases. The Commission will also rigorously pursue cases where Member States have failed to comply with a judgment of the Court of Justice, or where they have caused serious damage to EU financial interests, or violated EU exclusive powers. Such failures deny citizens and businesses the rights and the benefits they enjoy under European law. In line with this new policy, the Commission will close cases when it considers this appropriate from a policy point of view. A recent factsheet accompanying the President's State of the Union address illustrates the evolution in enforcement activity²⁴.

The objective of the Commission's new infringement policy is to ensure swifter compliance where it matters, to be able to deliver on its policy priorities. This new infringement policy is not a stand-alone initiative, but is firmly embedded in a series of other actions that the Commission will take to support Member States in implementing EU law and to work in close partnership with them to ensure that EU law is applied timely, correctly and effectively. The Commission will engage in a more systematic better law-making dialogue with the Member States on compliance with EU law and on broader enforcement issues and policy considerations, across the range of legislative areas.

Poor implementation of Union legislation means that the full intended benefits are not realised in practice. As an example, full implementation of EU environment legislation could save the EU economy EUR 50 billion every year in health costs and direct costs to the environment. The Environmental Implementation Review²⁵ was launched as a new tool to improve implementation of European environmental policy and commonly agreed rules. This is the beginning of a new process with the Member States to identify and address the causes of implementation failures, and to try to find solutions before problems become urgent. In February 2017, the Commission published the first set of 28 country reports mapping national strengths, opportunities and weaknesses regarding implementation, together with a Communication identifying common challenges and suggested actions for improvement for all EU Member States²⁶. Ultimately, this concept could be applied more widely in other policy areas if it is successful.

²³ C(2016) 8600, OJ C 18, 19 January 2017.

²⁴ https://ec.europa.eu/commission/sites/beta-political/files/better-regulation-factsheet_en.pdf

²⁵ Communication "Delivering the benefits of EU environmental policies through a regular Environmental Implementation Review"(COM(2016)316 final).

²⁶ Communication "The EU Environmental Implementation Review: Common challenges and how to combine efforts to deliver better results" (COM(2017)063 final).

2.6. Working with the other institutions

The Interinstitutional Agreement on Better Law-Making recognises the joint responsibility of all EU Institutions in delivering high-quality Union legislation. For its part, the Commission has progressively delivered most of its commitments under the Agreement over the last 12 months or so. The Commission looks forward to the first political stocktaking with the European Parliament and the Council to see where additional efforts are required to improve better law-making processes and the fitness of EU legislation.

Box 5. Implementation of the Commission's commitments in Interinstitutional Agreement on Better Law-Making (IABL)

- Together with the European Parliament and the Council, a joint declaration of political priorities was agreed for 2017 and is now being implemented.
- Proposals to update comitology rules in Union acts to the requirements of the Lisbon Treaty have been made.
- New rules on consultation of experts from the Member States during the preparation of delegated acts are now in force. Negotiations between the European Parliament, the Council and the Commission on establishing delineation criteria for delegated acts have been launched.
- The IT project to establish a new register for delegated acts is on track to be operating by the end of 2017 as envisaged.
- The three institutions have developed and are taking forward a plan for a new joint interinstitutional web-based portal to improve the transparency of the legislative process.
- Negotiations between the European Parliament, the Council and the Commission on establishing practical arrangements for the conduct of international negotiations have been launched.
- The Commission's better regulation guidelines and toolbox have been revised and now cover all issues covered by the IIA-BL such as recast, codification, "cost of non-Europe", monitoring and evaluation legal provisions, etc.
- An IT capacity has been created to accept Member State reports about those national transposing measures which go beyond the requirements of Union law.
- This Communication refers to commitments regarding simplification of legislation and assessing the feasibility of establishing objectives to reduce unnecessary costs in key sectors.

3. CONCLUSIONS AND NEXT STEPS TO COMPLETE THE BETTER REGULATION AGENDA

Today, more than ever, there is a need to ensure that policy-making is rooted in facts and evidence. The world and the problems we face are too complex for solutions to be found without looking first at the evidence in a structured and comprehensive way.

The Commission's approach works well and has achieved positive results. Better regulation is a tool that has provided a basis for timely and sound policy decisions delivering on the political priorities that drive the Commission's action to deal with the challenges that the EU faces today. Public consultations, evaluation, impact assessments and the REFIT programme have allowed the systematic appraisal of new proposals and existing legislation so that needed results can be delivered and unnecessary regulatory costs be avoided. This approach allows the merits of legislation to be assessed in a comprehensive, evidence-based and systematic manner. It is flexible and allows the

Commission to focus on specific acts which stakeholders highlight as needing to be improved.

This ensures that better regulation informs political choices and provides them with greater legitimacy and accountability. It forces policy-makers as well as stakeholders to argue on the basis of evidence and expected impacts and finally it provides a range of tools to engage meaningfully with all parts of society.

Notwithstanding this, the Commission is always ready to improve its better regulation policy. In particular, with regard to the REFIT programme, the Commission has decided to step up its efforts to quantify the impacts of its proposals and to ensure that all revisions of existing legislation look systematically to simplify and reduce unnecessary costs. This is set out in the revised better regulation guidelines and toolbox which entered into force in July this year. From the 1 November, all impact assessments should, as far as possible, quantify and present, in a consistent way, the results of the REFIT-related work and all information about the costs and benefits of the initiative.

The Commission will provide an overall assessment of how its Better Regulation Agenda has been implemented throughout this Commission mandate.

Box 6. Follow-up actions

- For revisions of existing legislation, each impact assessment will present clearly what the potential cost savings are, quantified as far as possible, thereby setting a clear burden reduction objective for the European Parliament and the Council to take account of in the legislative process and Member States in respect of their transposition and implementation of the legislation.
- In addition, there will be key proposals in 2017 and 2018 with a significant simplification dimension including:
 - **Taxation & VAT:** A package of initiatives on the definitive VAT system and simplification for SMEs which will reduce the administrative burden on small enterprises, to contribute to the creation of an environment favourable to their growth and cross-border trade and to provide a level playing field.
 - **Reducing burdens on business:** The *Company Law package* would simplify company law related procedures and reduce the related administrative burden for companies and public authorities (e.g. using digital procedures).
 - **Supporting public authorities:** Reporting requirements in environmental legislation would be rationalised based on the findings of the fitness check.
 - **Helping consumers:** Simplification of existing rules in the body of consumer-related law such as information requirements and distance communication with consumers. This would deliver some cost reductions and alleviate administrative burdens.
- Continue to evaluate Union legislation periodically with the aim to keep it fit for purpose. Important evaluations currently underway include those on chemicals legislation, maritime-related legislation and the general food law.
- Ensure that stakeholders are asked systematically for their views about the need and potential to simplify legislation (e.g. in public consultations accompanying evaluations and impact assessments).
- Together with the European Parliament and the Council, step up efforts to implement the provisions of the Interinstitutional Agreement on Better Law-Making to include proportionate monitoring and evaluation arrangements in new legislation.