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Stakeholder Consultation on Smart Regulation

CECCM submission

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1. Do you think that the Commission's approach to improving existing legislation is appropriate, or do you believe there are more effective ways of doing so? Could you give us practical examples?

The better regulation agenda focuses on the simplification of existing legislation, the reduction of administrative burdens and integrated impact assessments with a view to achieving policy objectives in a more cost-effective way. It also aims at reinforcing the constructive dialogue between stakeholders and regulators.

CECCM fully supports the better regulation strategy and agrees that developing and improving it further is indispensable with a view to achieving sustainable and sustained growth in the EU and reaching the Europe 2020 objectives.

CECCM believes that setting concrete targets and timeframes for burden reduction has been a good way forward and should be pursued. Furthermore, the EU regulators must make sure that future regulation is fair, proportionate, effective and evidence-based.

3. Which good practices of ex-post evaluation in the Member States or elsewhere do you consider that the Commission should use in developing the evaluation approach? For example, is there a way to improve the involvement of Member States and stakeholders in the evaluation exercise?

CECCM would favour the development of a more systematic ex-post evaluation approach involving member states and stakeholders. Ex-post evaluations are instrumental in reassessing costs and benefits of legislation, in measuring effectiveness, efficiency and impacts, and in determining whether policy objectives and targets have been met. They can also help identify unintended consequences of legislation and implementation problems that need to be addressed. Ex-post evaluations are also important tools for informing future regulatory reviews and enhancing their quality.

5. Within the integrated approach, where all relevant impacts are assessed side by side, are there any specific issues on which the Commission should reinforce its analysis? If so, why and how?



CECCM is highly supportive of the better regulation agenda and integrated impact assessments and highly values the progress that has been made over the years in this area through concrete target setting, the establishment of the Impact Assessment Board and the refining of impact assessment guidelines.

The essence of the integrated approach is to equally assess the economic, social and environmental impacts of proposals - and this based on sound methodologies, science, fact and figures - with a view to facilitating the choice of the most efficient and effective policy option.

While the overall quality of impact assessments has been raised, CECCM sees additional room for improvement:

- Impact assessments should closely follow the Commission's Guidelines on Impact Assessments and truly serve the purpose of assessing in the most accurate and unbiased way the expected costs and benefits of different policy options, without any preconceptions. Baseline scenarios and the assessment of potential impacts of specific regulatory options should be objective and evidence-based. CECCM believes that an impact assessment should not aim at legitimising ex-post a policy decision that has already been taken.
- Impact assessments require the use of sound, up-to-date and relevant data from different sources. The quality of data should be a key consideration and will also determine its credibility. Data and information provided by relevant stakeholders should be examined based on its quality, and not dependent on the source. In particular affected stakeholders can deliver scientific and technical expertise.
- A critical examination of underlying methodologies used to produce data and evidence needs to be undertaken, and should determine whether data is taken into account. Methodologies should be tested against international best practice.
- Relevant stakeholders should have the opportunity to comment on final draft impact assessments before or while they are submitted to the Impact Assessment Board and share their comments on methodologies and the robustness of facts and figures.
- Impact assessments should systematically include an analysis of the wider impacts of various regulatory options, beyond the primarily concerned sector and the EU.

7. What concrete improvements could the Commission make to ensure that all relevant stakeholders are aware of and able to participate in consultations? Are there particular forms of consultation which you found useful when taking part in the Commission consultations (open internet questionnaires, stakeholder meetings, public hearings)?

Stakeholder consultation is a well-established mechanism based on the general principles and minimum standards for consultation of interested parties and is a crucial component of better law-making processes.

Wide consultations of all relevant stakeholders are very welcome. They necessitate nevertheless that the representativeness and relevance of stakeholders are well taken into account, and that in particular those that will be affected by regulation are not sidelined. In this context, we would also like to recall that the principles of inclusiveness and adequate coverage of relevant parties as highlighted in the 2002 Communication on general principles and minimum standards for consultation should be applied during impact assessment procedures.

Furthermore, CECCM would like to make the following recommendations to further improve stakeholder consultations:

- ensure involvement of stakeholders at very early stages and throughout the whole impact assessment process;
- be as transparent and clear as possible on the different steps of the consultation process, modalities and timing, leave relevant stakeholders sufficient time for fact-finding, inform of intermediate outcomes and how views expressed by key stakeholders have been taken into account;
- give preference to conducting proper consultations of relevant stakeholders and avoid consultations via online questionnaires only as they may be too simplistic and misleading;
- when commissioning external expert input, consult with key stakeholders on methodologies, deliverables, relevant data sources, etc.

Stakeholders can help improving consultation and impact assessment processes by providing meaningful data and evidence and not solely making contributions based on personal belief or opinion. When participating in consultations, all stakeholders, regardless of their status, should at the same time be transparent about the interests they represent and how they are funded.

8. Given that smart regulation can only be delivered if all institutions and Member States act together, what steps should be taken to ensure this happens?

Achieving smart regulation is a joint responsibility of all decision makers. When the Council or the European Parliament proposes substantial amendments to draft legislation, impact assessments should be undertaken.

Member states should give attention to implementing legislation in the most effective and efficient way and avoiding “gold plating”.