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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**

Better Regulation For Better Results - An EU Agenda

1. DELIVERING BETTER RESULTS: CHANGING HOW WE WORK AT EUROPEAN LEVEL

The Commission is determined to change both what the Union does, and how it does it. The EU, its Institutions, and its body of law, are there to serve. Citizens and businesses must be able to see that in their daily lives; we must restore their confidence in our ability to deliver.

The Juncker Commission represents a new start for Europe. Our priority is to deliver European solutions to the big issues which cannot be tackled by the Member States alone: an investment plan to leverage €315 billion to boost jobs and growth; an energy union to deliver secure, affordable and sustainable energy; an internal security agenda to tackle common threats like terrorism and organised crime. Our new initiatives flow from genuine European political priorities. The Commission cannot, and should not, be involved in every issue in Europe. The Commission's first Work Programme reflects this change of approach. That 2015 Programme includes just 23 major new initiatives that are closely aligned with the agreed political priorities. The additional and more routine actions that follow during the year will also reflect the same sense of focus and purpose.

Policy priorities drive Commission action. Better regulation is a tool to support the delivery of decisive and effective action on the challenges that Europe is facing today.

Today we outline further measures to deliver better rules for better results. To open up policy making and listen and interact better with those who implement and benefit from EU legislation. To take a fresh look across all policy areas to see where existing measures need to be improved.

We will continue as we have started: focusing on the things that really do need to be done by the EU and making sure they are done well. Applying the principles of Better Regulation will ensure that measures are well-designed and deliver tangible benefits for citizens, business and wider society.

This applies to new EU laws, and existing ones which are now considerable. These rules are essential for sustainable development, for the single market that drives our economy and for unlocking the investments needed to support growth and jobs. They underpin the European social model and give meaning to the rights and freedoms Europeans cherish, including their security and right to justice. They help us respond to common challenges such as energy security, a high standard of environmental protection, and climate change. In many cases one EU law replaces a patchwork of 28 different national laws, so making life easier for citizens as well as businesses, simplifying the legal framework and reducing regulatory burdens across the single market.

The body of EU law is not only necessary, but it is our great strength — the thing that makes our Union qualitatively different from any other model of collective governance in the world. That is why it is so important that every single measure in the EU's rulebook is fit for purpose – modern, effective, proportionate, operational and as simple as possible. Legislation should do what it is intended to do, it should be easy to transpose and avoid any undue burden. Sensible, realistic rules that do their job to meet our common objectives: no more, no less.

Over the last decade, the EU has introduced a comprehensive set of tools and procedures to ensure this. This is a decisive change that is delivering results. But this Commission has decided to go further. Better regulation is not about "more" or "less" EU regulation; nor about deregulating or deprioritising certain policy areas or compromising the values that we hold dear: social and environmental protection, and fundamental rights — to name just a few examples. Better regulation is about making sure we actually deliver on the ambitious aims we have set ourselves.

Our commitment to Better Regulation must apply across the board. EU policies should not be imposed but be inclusive, based on full transparency and engagement, listening to the views of those affected by legislation so that it is easy to implement. We should be open to external feedback and external scrutiny to ensure we get it right. And EU policies should also be reviewed regularly: we should be honest and accountable about whether we are meeting our policy objectives — about what has worked well and what needs to change. And it is a commitment that must be shared and pursued by all of the EU Institutions and the Member States.

Better Regulation is not merely a bureaucratic exercise. Citizens and businesses judge the Union – rightly - based on the impacts of EU action: not just new initiatives, but, even more importantly, the laws already agreed and in effect. The European Commission commits to taking political responsibility for applying Better Regulation principles and processes in its work and calls on the other EU Institutions and Member States to do likewise.

2. LISTENING OPENLY AND TRANSPARENTLY

2.1. Consulting more, consulting better

Opening up policy making can make the EU more transparent and accountable: but also more effective. At all levels – local, regional, national and European - those affected by laws understand best the impact those rules have, and can provide the evidence needed to make them better. And they want their voice to be heard.

The Commission intends to listen more closely to those citizens and stakeholders, and be open to their feedback, at every stage of the process – from the first idea, to when the Commission makes a proposal, through to the adoption of legislation and its evaluation. The Commission intends to establish a web portal where each initiative can be tracked.

Building on the existing minimum standards for consultations,¹ the Commission's new Better Regulation Guidelines strengthen our commitment to consultations that are high-quality, transparent, and reach all relevant stakeholders. This will be done in two key ways.

First, consultations will cover the entire lifecycle of a policy. "Roadmaps" and "Inception Impact Assessments" will give stakeholders the chance to provide feedback, right from the very start of work on a new initiative.² 12-week public consultations will be held when

¹ COM(2002) 704 complemented by COM(2012) 746, SWD(2012) 422 and COM(2014) 368

² Such roadmaps and inception impact assessments will be circulated via an automated alert system at <https://webgate.ec.europa.eu/notifications/homePage.do>; <http://ec.europa.eu/transparencyregister/public/homePage.do>

preparing new proposals, during the impact assessment process, and when we evaluate and "fitness check" existing laws. And, after the Commission has adopted a proposal, any citizen or stakeholder will have an 8-week window to provide feedback or suggestions: the Commission will collect, summarise and send those suggestions to the European Parliament and Council, feeding into the legislative debate. This will complement the opinions on subsidiarity received from the national parliaments.

Second, consultation will cover secondary rules setting out technical or specific elements that are needed to implement the main legislation decided by the European Parliament and the Member States in the Council, such as measures that determine the exact content of information required by a basic act and the format for its provision. For the first time the draft texts of delegated acts – measures which amend or supplement the main rules with elements that are non-essential – will be open to the public at large on the Commission's website for 4 weeks in addition to the consultation of experts in the Member States. Important implementing acts – setting out the detailed or specific application of the main rules - which are subject to Committee opinion will be made public for 4 weeks, allowing stakeholder comments before any vote by the Member States in the Committee³. The Commission will publish an indicative online list of any such acts in the pipeline, so stakeholders can plan ahead. Impact assessments will also be prepared wherever impacts are likely to be significant.

2.2. Better explaining what we are doing, and why

In every case, we need to be more clear and honest about why we are acting, what results we hope to achieve, and what the impacts might be. An improved explanatory memorandum will accompany each Commission's proposal. In addition to explaining the purpose of the proposed measure, it will explain how Better Regulation principles have been applied: why the initiative is needed, why it is the best tool for the EU to use, what stakeholders think and what the likely environment, social and economic impacts are particularly those on competitiveness and SMEs. It will also include a more thorough explanation of how the initiative meets the twin tests of subsidiarity (why the goal cannot be achieved at national level but needs a European intervention) and proportionality (how the measure proposed does not go further than what is needed to meet the goal). This is essential to promote accountability.

2.3. How EU law affects you – your chance to have your say

The Commission wants stakeholders to be able to provide feedback — not just at fixed "checkpoints" as a particular policy is developed — but on any aspect of EU law, at any time. We want to know how EU law affects you, and how we can make it work better.

A new "Lighten the Load - Have Your Say" feature on our Better Regulation website will give everyone the chance to give his or her views and comments on EU laws and initiatives. Tell us what you find irritating, burdensome, or in need of improvement. We commit to

³ Certain exceptions will apply to both draft delegated and implementing acts: when the draft implementing acts concerns financial management and, for both types of acts, when no discretion exists on the content; when extensive consultation has already taken place during the preparation of the act (such as that undertaken by an EU Agency); when urgency prevents such consultations; or for other duly justified reasons.

respond (for example, by following up directly, or sending it for further consideration by the new stakeholder platform set out below). This will give European citizens and companies a genuine avenue to understand and influence EU policy, using interactive tools for the digital age.

3. DOING IT BETTER: BETTER TOOLS FOR BETTER POLICIES

3.1. Achieving our objectives: Better Regulation as a balanced agenda

Better Regulation is not about favouring certain policies or objectives over others. It is about being clear on the objectives, whatever they are; ensuring that the policy solution is the best and least burdensome way to reach those objectives; and being honest about how well solutions are working. All significant impacts — whether positive or negative, quantifiable or not — should be analysed and considered.

The new, integrated Guidelines on Better Regulation that the Commission will apply in its work from today⁴ will ensure that economic, social and environmental impacts continue to be considered alongside each other in all of the Commission's analytical work. It will ensure that keeping the EU sustainable and competitive continues to be a priority in all that we do. The EU should only act where the EU adds value, and doing only what is needed to resolve the problem. And all preparatory analyses should consider impacts on fundamental rights.

When considering policy solutions, we will consider both regulatory and non-regulatory means as well as improvements in the implementation and enforcement of existing legislation. We will ensure solutions that take advantage of all the opportunities that today's digital and other technologies can offer and that operate effectively both in the digital and the physical world.

We are paying particular attention to the rules that affect small and medium-sized enterprises (SMEs), who too often feel shackled by red tape. Not all of these rules come from Brussels. And indeed many EU rules are as pertinent for smaller businesses as they are for other companies: a worker in a small business making artisanal products has the same right to proper health and safety protection as someone on the shop-floor in a huge factory. But if our framework is too complicated, too burdensome, or too bureaucratic, the risk is that the small business are simply not able to follow it — so workers are not protected, or scarce company resources are spent just applying the rules, rather than growing the business and creating jobs.

We will apply the "Think Small First" principle more thoroughly when preparing initiatives: keeping the interests of small- and medium-sized businesses into account when designing and evaluation policies, envisaging a lighter regime for small- and medium-sized businesses, and an outright exemption for micro-businesses, wherever it is possible and makes sense.⁵ And where either is not possible, the Commission will explain why.

⁴ A transitional period will apply for those initiatives which are already far advanced. Over the next six months, the new Regulatory Scrutiny Board will make a pragmatic assessment in its quality reviews taking into account where in the process each initiative is and the requirements of the new guidelines.

⁵ Definitions of small, medium and micro businesses are set out here: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm

3.2. A Commission that is open to scrutiny

The above commitments are an ambitious change to how we operate. Scrutiny can help us stick to them, ensuring proposals are based on the best available evidence and analysis.

Since 2006, the Impact Assessment Board has played this scrutiny role by ensuring the quality of the impact assessment work the Commission undertakes ahead of its decisions on new initiatives. As announced in December 2014⁶, a new and reinforced Regulatory Scrutiny Board will take the place of the existing Board. Impact assessments will require a positive opinion from the Board before the associated policy proposal is considered by the Commission.

The new Board will not just scrutinise impact assessments supporting new initiatives, but will also look at major evaluations and "fitness checks" for existing legislation. In addition to its Chair, the new Board will have six members who, for the first time, will work full time and be free of any policy responsibilities within the Commission. In addition, three of these members will be recruited for fixed term, non-renewable contracts from outside of the EU Institutions. All members will be selected on the basis of their expertise in methodology and good practice via rigorous and objective selection procedures.

3.3. A shared commitment from EU Institutions

Commission proposals are just that: proposals which are for the consideration and eventual adoption by the co-legislators – the European Parliament and the Member States' governments meeting in the Council. Proposals rarely emerge from the legislative process intact: amendments are made by the European Parliament and Council; and then the law is transposed nationally or regionally by the Member States. This can affect the impact and burden the law has — for better or for worse.

The Commission has a key role and responsibility on Better Regulation, but we cannot deliver it alone. The right to amend legislation naturally lies with the European Parliament and Council as part of the democratic process – but so does the responsibility to take account of the impact of amendments. The European Parliament and the Council should, therefore, mirror the Commission's commitment to Better Regulation, as must Member States when implementing Union law.

The 2003 Inter-institutional Agreement on Better Law Making set out how the European Parliament, Council of the EU and European Commission would cooperate to ensure the best possible preparation of EU law. But these good intentions were not implemented consistently. For example, between 2007 and 2014, the Commission produced over 700 impact assessments; in the same period, the Parliament assessed the impact of around 20 of its amendments, while the Council assessed none. Too rarely do the co-legislators begin their consideration of a proposal with a proper review of the impact assessment. And particularly in

⁶ See IP/14/2761.

the final stages of negotiations, deals are found in closed, informal meetings without taking full account of the impact or burden that compromise amendments may impose.

In the past, the European Parliament and the Council have also been at times hesitant to agree to measures which would reduce administrative burdens. For example, a proposal for a standard VAT declaration has been diluted and blocked by the Member States in the Council – putting at risk € 5 billion in savings. Member States also often go beyond what is strictly required by Union legislation when they implement nationally (so-called 'gold-plating') and so add to the burdens felt by businesses.

However, the Commission recognises that a new political mood in both Parliament and Council provides the opportunity for all, not just to commit to the idea of better law-making— but to make those principles stick.

Real change will only happen through a shared commitment between all EU Institutions, and with each and every Member State. Today the Commission has proposed a new Agreement with the European Parliament and the Council: with the aim that all parties commit to legislate better and to work together better so that citizens, businesses and society at large can look to the EU and see that it has improved things in their daily lives. So we see better regulation as a major political priority – for new proposals, and for existing legislation. Given our shared responsibility to the EU public at large, we call upon the other Institutions to do likewise, and work together with us to achieve it. In particular, today we are calling on the European Parliament and Council to:

- Prioritise initiatives that would simplify or improve existing laws — such as through the REFIT programme — to deliver the benefits more quickly;
- Carry out an impact assessment on any substantial amendments the Parliament or Council propose during the legislative process. Where the Parliament and the Council find an agreement significantly different from the initial Commission proposal, they should assess the likely impact and regulatory burden before any final decision;
- Agree that legislation should be comprehensible and clear, allow parties to easily understand their rights and obligations, include adequate reporting, monitoring and evaluation requirements, avoid disproportionate costs, and be practical to implement and that each institution has the right to call for an independent panel to carry out an assessment of these factors following any substantive amendment to the Commission proposal. Such an assessment should be finalised and made public within a reasonable amount of time and take into account any existing impact assessment work. Each institution would appoint a member to the panel;
- Make sure that the laws already in effect have been properly evaluated, to see whether existing tools could be used to do the job — before considering new initiatives;
- Systematically include — in every new law — provisions to allow monitoring and future evaluation;
- Urge Member States to avoid unjustified "gold plating" of EU rules, adding further provisions when transposing them into national law. While this may help achieving the legislation's objectives in the local context, this is not always the case and may impose

significant extra burdens. Member States should have to explain the reasons for any such gold plating;

- Be more transparent and participative;
- Commit to top-quality legal drafting so that EU laws are correct, comprehensible, clear, and consistent—so that everyone knows their rights and obligations with certainty;
- Promote "recast" legislation, so that laws remain clear and well-structured even after being amended; and
- Making EU legislation as accessible as possible: so every European can see the laws that affect them— on-line, up-to-date, reliable, complete and consolidated.

The Commission's proposal provides a solid foundation for negotiations and the Commission hopes the three Institutions can finalise a new Inter-institutional Agreement by the end of this year.

4. REFRESHING THE EXISTING STOCK OF LEGISLATION

Looking at burdens and impacts is not just a "snapshot" taken at the birth of a policy: assessment and evaluation should continue over a policy's lifetime to ensure it stays fit for purpose. This means looking backwards, after a policy has been implemented, at the impact the policy actually had on specific sectors, and suggesting ways to lighten the load without reducing the policy ambition. Such an evaluation will involve a public consultation.

We should be clear about where there have been disappointing results and unintended impacts, whether economic, social or environmental; we should be prepared to reconsider and improve where needed. We also need to find new ways to discuss and agree with the European Parliament and Council about what has worked and what has not. Without this, there can be no meaningful attempt to cut red tape or make the necessary changes to laws.

The natural tendency of politicians is to focus on new initiatives. However, the EU is – rightly – judged not just on those new political initiatives, but on the impact and burden of existing EU laws. As such, actively managing existing EU laws is just as important politically as preparing new initiatives.

In some cases, existing laws may pre-date the Commission's current Better Regulation policy. In others, they may have been well-designed at the time: but even well-designed rules may become more burdensome than they need to be, or cease to achieve their objectives. For example: changes in the market may mean the law is no longer useful, relevant, or serving its purpose; changing technology may offer the opportunity to deliver the policy goal in a better way – for example, allowing a form to be submitted online; or lessons learned from implementing a policy may provide fresh evidence of which policy solution is the best.

5. STRENGTHENING THE COMMISSION'S REFIT PROGRAMME

The Regulatory Fitness and Performance Programme (REFIT) sets out how the Commission makes sure that EU legislation is still fit for purpose and really delivers the results intended by EU law makers. REFIT is not aimed at deregulating but rather at regulating better to deliver

the benefits of EU law in the most efficient and effective way while removing red tape and lowering costs if possible. REFIT is an on-going effort. A scoreboard, the latest version of which is published today, tracks the progress made⁷.

As part of its ongoing efforts to demonstrate and quantify tangible results the Commission has decided to strengthen REFIT, to make it more:

- *Targeted* —by focusing on specific sources of inefficiency. We will ask the same of all those providing suggestions for new REFIT measures;
- *Quantitative* — by giving estimates of the benefits and cost reductions of each REFIT proposal and by publishing an update of the estimated cost reductions following legislative adoption by the co-legislator;
- *Inclusive* — with a new REFIT stakeholder platform (detailed below) to collect specific suggestions to improve EU laws;
- *Politically prioritised* – REFIT will play a central role in the work of the Commission. It will be a fundamental component of each year's Work Programme, and of the political dialogue the Commission holds with other EU Institutions.

[New Initiatives]

[Repeals]

[Evaluations, fitness checks and their follow up]

[Simplification and reduction of reporting burdens]

[Implementation support]

5.1. An inclusive approach

The Commission will actively seek stakeholder input on how to improve EU laws:

Alongside the new website "Lighten the Load - Have Your Say" detailed above, a new "REFIT stakeholder platform" has been established today and will soon give people the chance to have their voice heard and provide a basis for inclusive work on a common agenda. The Platform will involve high level experts from business and civil society stakeholders as well as all 28 Member States appointed through an open and transparent process. Any stakeholder with concerns or suggestions will be able to present their views on the impact of EU laws to the Platform and suggest how the legislation can be improved. The Platform will consider those suggestions, prompt views on specific themes, such as "barriers to digitization", and make concrete suggestions to the Commission.

The First Vice-President of the Commission will chair the Platform. The Commission will react to all suggestions and systematically explain how it intends to follow up. The

⁷ SWD(2014)192 final

Commission will invite Member States to do the same in cases where suggestions relate to national transposition and implementation.

6. CONCLUSION

This Communication sets out a series of actions which demonstrate the Commission's renewed commitment to apply Better Regulation to its everyday work. The aim is to work more transparently and inclusively to produce higher quality proposals, and ensure that existing rules deliver important societal goals more effectively.

However, the Commission cannot deliver Better Regulation on its own. The European Parliament and the Council also have a responsibility to produce better regulation. The Commission invites them to start negotiations rapidly on the basis of the Commission's proposal for a new inter-institutional agreement – with the aim to deliver an agreement for "better results through better regulation" before the end of 2015.