

Position on the application of the SME Test

EUROCHAMBRES, the Association of European Chambers of Commerce and Industry, believes that policymaking should be based on transparency, accountability, inclusion and consultation. It must also, critically, be evidence-based.

Chambers are strong proponents of the rigorous application of the Think Small First principle for an SME-friendly regulatory environment. However, despite a strong emphasis in recent years on better regulation and on the economic importance of small businesses, the persistence of flaws in the application of the Think Small First principle prior to the tabling of legislative proposals undermines the correct identification of SMEs' needs and increases the risk of excessive and unnecessary burdens for the European business community.

The SME Test Benchmark study conducted by EUROCHAMBRES in 2017 revealed that, in most impact assessments (IAs) analysed, the views of SMEs were not adequately represented. The Commission services often failed to apply the Better Regulation guidelines when it comes to assessing policy impacts on SMEs. In particular, the application of the SME Test tool by the European Commission has been weakened by the absence of a thorough cost-benefit analysis, a low level of quality control, detail, accuracy and insufficient attention to the differences between SME size-classes (micro, small, medium).

The 2017 EUROCHAMBRES SME Test Benchmark¹

This study – based on 13 Impact Assessment reports on initiatives of relevance to the SME community² - was cross-checked against the European Commission's 2015 Better Regulation guidelines, following the four steps of the SME test:

1. Consultation of SME stakeholders
2. Identification of affected businesses
3. Measurement of the impact on SMEs
4. Assessment of alternative options and mitigating measures

The study was prepared in close consultation with the European Commission's Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs. It was subsequently presented to the Network of SME Envoys and the Council's High Level Group on Competitiveness and discussed with the European Commission's Secretariat General.

¹ <https://ec.europa.eu/transparency/regexpert/?do=groupDetail.groupMeetingDoc&docid=11369>

² E-Card, Notification procedure, Insolvency, Geo-blocking, Contracts for the supply of digital content, Cross-border portability of inline content services, Regime for the control of exports, transfer brokering, technical assistance and transit of dual -use items, Blue card, Posting of Workers, CCCTB, General reverse change mechanism, Promotion of the use of energy from renewable sources, Cost-effective emissions reductions and low-carbon investments

Main findings:

- The SME Test Benchmark reveals that less than half (6) of the analysed IAs included an SME test of an acceptable level or higher and less than 1/3 performed it to a good level;
- Weaknesses in the collection of the views of SMEs persist, with open public consultations not being carried out for two dossiers despite being compulsory and no targeted consultation of SMEs undertaken in the majority of IAs;
- Although most consultation questionnaires allowed respondents to identify themselves as SMEs, in over three-quarters of the IAs their views were not properly presented. Furthermore, some IAs do not specify which type of stakeholder (e.g. business community, civil society, public administration) expressed which view, making it impossible to understand the position of SMEs and whether it was taken into consideration;
- There is a significant shortfall in the quantification of the impact, with the costs and benefits regarding SMEs almost never or insufficiently quantified and monetised. The lack of quantification is also rarely justified;
- Insufficient differentiation between the size-classes of SMEs (micro, small, medium).

Recommendations

The lack of thorough SME Tests in IAs undermines the correct identification of SMEs' needs and has a knock-on effect on the competitiveness, employment levels and value added of Europe's economic ecosystem. It is crucial that proposed or existing legislation relevant to SMEs is based on an effective analysis of its impact ex ante, throughout its monitoring and ex post evaluation. Furthermore:

- The units responsible for the application of the SME Test should apply more scrupulously the Commission's guidelines on this matter including mitigating measures e.g. exemptions, reductions of fees or levies, simplified reporting, inspections or information;
- To ensure an effective consultation of SMEs and their representatives, adequate time and funding for the consultation process should be ensured. A 12-week open public consultation, available in all EU official languages and extended if run over main holiday periods, should be combined with targeted consultation methods, so as to enhance the quality of the data collected and fill information gaps. Furthermore, consultation responses should be weighted based on the nature of the respondents (e.g. a response from a single enterprise should have less weight than an association representing thousands of businesses), and presented distinctly from those of large companies or of the totality of respondents;
- SMEs' views, including on its different size-classes, should be clearly presented in the IA, including its summary;
- The analysis of the impact on SMEs should be more accurate and include a thorough cost-benefit analysis. The assessment should clearly and systematically differentiate between SMEs and large companies, as well as between the different size-classes of SMEs. Without this information, policymakers will not be able to factor in SMEs' views, needs and concerns while assessing the impact of the various policy options, as well as in defining accurately the body of SMEs affected by the proposed initiative;

- Further efforts should be made to quantify and monetise the potential impact of proposed initiatives on SMEs. Statistics provided by Eurostat or data presented in internal or external studies should be used more systematically to better estimate costs and benefits;
- Relevant units across the European Commission's services should receive more assistance in the application of the SME test before an IA is submitted to the RBS;
- On the other hand, the RBS should more systematically verify that the SME test is properly carried out before issuing a positive opinion on an IA.

Conclusions

The 2017 SME Test Benchmark was the third edition of this survey. EUROCHAMBRES intends to prepare a further edition in the course of 2021, once the 2019-24 Commission has prepared an adequate number of impact assessments on SME-relevant dossiers on which to base the analysis.

The European economic crisis caused by the COVID-19 pandemic and the containment measures introduced in response put a huge strain on our SME community. This necessitates an even more rigorous approach by officials and politicians at all levels, not least EU, to the way in which they evaluate the implications of initiatives on smaller businesses. The effectiveness of a policy proposal that fails to consider the situation of the SME community is undermined from the start and risks jeopardising the recovery process.

By the same logic, it is also imperative that the Commission's co-legislators demonstrate more commitment to the 2016 Interinstitutional Agreement on Better Lawmaking³, which clearly highlights the importance of considering SMEs' needs. SMEs interests need to be taken into account throughout the whole legislative process, starting from roadmaps, inception impact assessments, IAs, when drafting delegated and implementing acts, and whenever substantive changes are made to already existing legal acts.

EUROCHAMBRES will be conveying these messages to the Council and Parliament as they handle the many legislative proposals that the Commission is due to present during the coming months and years.

EUROCHAMBRES – The Association of European Chambers of Commerce and Industry represents over 20 million enterprises in Europe – 98% of which are SMEs – through 45 members and a European network of 1700 regional and local Chambers.

Further information: Mr Frederico Martins, Tel. +32 2 282 54, martins@eurochambres.eu
Press contact: Ms. Agatha Latorre, Tel. +32 2 282 08 62, albuquerque@eurochambres.eu

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016Q0512%2801%29>