

## Eurochambres position on Better Regulation

The European regulatory framework must enable the creation of a business-friendly environment and the establishment of a level playing field for SMEs so that they can adapt to unforeseen changes and contribute to job creation and economic growth.

Eurochambres welcomes the Commission's effort to improve its better regulation agenda by complementing good governance procedures with appropriate law-making tools and instruments that increase the quality of impact assessments.

The COVID-19 outbreak, and the containment measures introduced to mitigate its effects, severely impacted the small business community. EU officials and politicians must carefully evaluate the implications of relevant legislative initiatives for SMEs and should work towards alleviating unnecessary regulatory burdens that may jeopardise the recovery process.

Eurochambres advocates for a simpler, fit-for-purpose and proportional law-making approach for small businesses to thrive and for better enforcement of EU rules within and beyond European borders.

### 1. General comments

- Eurochambres overall welcomes the Commission's [Better Regulation Communication](#) and the efforts to maximise the benefits of EU law for people and businesses **while removing red tape and reducing burdens** imposed by existing and upcoming legislation.
- Chambers believe that **adequate time, funding, and staff are needed** to ensure that impact assessment result in well-scrutinised, cost-effective, future-proof laws. National business associations are also willing to support the Commission in the process of gathering relevant data.
- We welcome the **simplification of the consultation process** in the Commission's "Have Your Say" portal. This will ensure greater participation by companies and citizens. We recommend the publication of summary reports of the consultations to show the usefulness of these procedures.
- Eurochambres also supports the creation of a "**common evidence register**" to all EU institutions, including the EESC and the Committee of the Regions, as this will support the compilation of much-needed information.
- In the past, the Commission services often failed to apply the **better regulation guidelines and toolbox** when it comes to assessing policy impacts on SMEs. The services must regularly update the existing guidelines and rigorously apply them when assessing the effectiveness of a proposed/existing law.
- The **SME test** is a compulsory part of the impact assessment exercise and remains the main instrument to assess the impact of regulatory changes on small

businesses. However, there is an evident need for improvement as the last [Eurochambres SME Test Benchmark](#) shows. The SME Test should be mainstreamed across the Commission and thoroughly applied by the leading units in order to guarantee a high-level of quality control, detail and accuracy in addition to a thorough cost-benefit analysis. For more information on this, please consult our [position paper on the application of the SME Test](#).

- Chambers agree on the need to gather more knowledge in terms of **territorial proofing** and to assess the impact of specific EU laws on SMEs operating from insular, rural, and outermost regions.
- Chambers believe that the commitment to **better regulation** should be seen as a crucial step towards a more effective decision-making at the EU level. Well executed and transparent impact assessments have the potential to improve regulatory outcomes if they are accompanied by other regulatory considerations.  
**EU law-making can be enhanced by focusing on:**
  - Better implementation of the 2016 Inter-Institutional Agreement on Better Law-Making. The IIA mandates the European Parliament and Council as co-legislators to conduct impact assessments on substantial amendments. Too often amendments are pushed with little regard to their intended or unintended consequences in their subsequent implementation. This is a situation which is unacceptable and must be rectified **without delay**. The co-legislators have a duty towards EU citizens in ensuring that their respective legislative processes do not detract from the quality of legislative proposals and the intentions of the Commission's policy objectives. Within the European Parliament for example, the EPRS could be much better mobilised to transparently assess the impact of compromise amendments.
  - Inciting the European Parliament and the Council to perform ex-ante and ex-post reviews of existing legislation,
  - Introducing more transparency surrounding trialogues' meetings,
  - Engaging regularly with stakeholders at different stages throughout the decision-making process,
  - Appropriate and transparent screening of draft delegated and implementing acts with specific impact assessments,
  - Avoiding gold-plating and ensuring the correct implementation and enforcement of EU legislation at national level.
- Eurochambres regrets that the Communication does not reference the widely recognised **think small first** principle, which often fails to be applied by policymakers in practice. SMEs can play a stronger role in the Single Market if full attention to their needs is given at an early policy development stage.
- Small businesses are particularly sensitive to the impact of regulations and red tape. **SMEs call for the development of short, simplified regulatory forms and carve-out approaches**. Consistent with the principles of subsidiarity and proportionality, overregulation can be avoided and a business-friendly environment established.
- Finally, Eurochambres calls for the swift appointment and confirmation of the **EU SME Envoy** on a full-time basis. SMEs face a long list of challenges that can only be addressed by engaging a high-level advocate with coordinating powers across

all DGs, access to Commissioners' cabinets, and who has a say in the Regulatory Scrutiny Board's appraisals and the Fit for Future Platform discussions.

## 2. The “one in, one-out” approach

Eurochambres believes that the introduction of the “one in, one out” (OIOO) approach is a step in the right direction, but this should not be seen as the instrument that will reduce administrative burdens for companies. Instead, it should be seen as a tool – even when working efficiently – to maintain the status quo. It is also important to highlight that the significant costs linked to the lack of legal harmonisation within the Single Market are not likely to be tackled by the implementation of the OIOO approach.

The Commission should take bold moves towards cutting red tape for SMEs across all EU policies. This would ensure enhanced awareness by policymakers that **regulatory burdens on SMEs cannot be allowed to accumulate endlessly**.

Furthermore, the **efficiency of the OIOO approach will depend on the implementation of a solid methodology** for calculating the compliance costs that will need to be offset vis-à-vis the savings in other regulatory areas, when and how the offsets will take place.

The Chamber network is concerned about how the Commission will find the data to analyse the implications of regulatory trading, the potential inconsistencies linked to introducing changes on different policy areas, as well as with the list of exemptions attached to overarching political decisions or other “exceptional circumstances” which carry the threat of rendering the OIOO exercise largely ineffective.

The results of the “one in, one out” pilot tests, which was expected to be done by the end of 2021, must be reported and communicated before the process advances throughout 2022 to assure policy coherence, flexibility, procedural transparency and to guarantee that potential trade-offs in legislative proposals effectively result in lower costs and regulatory risk reductions for SMEs.

## 3. Better communication with stakeholders

Stakeholders' views play a crucial role in assessing the impacts of legislative proposals. European institutions should communicate with businesses about how the EU addresses their challenges. This can only be ensured through active cooperation with well-established channels that reach down to grass roots level, notably the Chamber network. Transparent procedures for well-arranged consultation processes will raise the acceptance of new legislative acts and will subsequently also facilitate their implementation by companies.

On the other hand, and throughout the years, we have noticed **persisting flaws in consultation procedures** that hinder the EU decision-making process:

- Questionnaires of public consultations tend to be formulated on a specific policy option or pre-determined outcomes, rather than on accurately gauging the nature and cause of the perceived problem. Questions are often biased and not neutral. An independent monitoring of the questionnaire might help improve these aspects.
- Open public consultation questionnaires remain written largely from the

perspective of the policymaker, not the end user, thereby making it more difficult for a non-expert audience to participate and express their views. More support for tailored outreach activities should be envisaged.

- The 12-week open public consultation is not always respected, and many consultations still often run in parallel and over holiday periods without their timeframe being extended. This reduces the possibility for stakeholders' participation.
- Consultations are often available in English only and/or tend to be provided in other languages after the 12-week consultation period started. The 12-week period should only begin when all language versions are available.
- Evaluation reports and Commission staff working documents often show some inattention to SMEs' views, with specific concerns often being overlooked, even though the costs of proposed legislation tend to be much higher for SMEs than for larger business counterparts. The views of SME representatives should be clearly reported in the summary of consultation responses and in relation to the various policy options presented in the impact assessment as distinct from the views of large companies or of the totality of respondents.

#### 4. Strategic foresight

The inclusion of strategic foresight, a relatively complex concept, in the better regulation agenda can be seen as the right step towards ensuring that EU decision-makers reflect upon relevant megatrends and pathways, anticipate long-term scenarios and design responses to challenges that may threaten the small business landscape.

To guarantee its success, strategic foresight should gather new insights on issues which may impact the future of Europe and contribute to better priority setting without overburdening EU decision-making procedures with peripheral considerations. At a moment when Europe's competitive edge is under threat, **strategic foresight should be steered towards effectively increasing Europe's leading role in the world while reducing obstacles in the Single Market.**

Public engagement and participatory governance need to be enhanced by regularly consulting with stakeholders, allowing them to support EU decision-makers in designing future-proof policies towards a more SME-friendly environment.

#### 5. Fit for Future Platform

Eurochambres regrets the Fit for Future Platform's initial mishaps and the difficulties its members had in covering all the topics mentioned in its first [work programme](#). The Fit for Future Platform should:

- Carefully consider its members' views when drafting the next work programme and not solely follow the Commission's preferred choices.
- Reflect upon the list of priority areas covered by the SME Envoy Network, in addition to regular exchanges of views between these two bodies.
- Ensure the coherence of the work done by the Fit for Future with the other EU instruments. The links between the fit for future platform and the other initiatives taken in the framework of better regulation are not currently clear.

## 6. Mainstreaming the twin transition

The green and digital transformations offer wide ranging opportunities for European companies, especially SMEs, to increase their innovation capacity, agility, and productivity. Eurochambres supports the aim to establish a regulatory framework that allows businesses of all sectors and sizes to innovate and create products and services that contribute to the objective of a sustainable economy, while effectively protecting their economic competitiveness.

However, Chambers are concerned with the intention to mainstream green, digital and UN SDGs objectives within the better regulation agenda. Regulatory development involves years of evidence-gathering, however very few pieces of legislation that were originally motivated by policy goals are well-suited to favour economic recovery when it is most needed.

Better law-making mechanisms can support growth, investment, and innovation if they focus on reducing unnecessary burdens for SMEs. As such, **the better regulation agenda must remain factual and policy-neutral to ensure coherence and quality.**

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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.

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