



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate C – Simplification, Implementation & Enforcement
The Director

Brussels
SG.C.2/SLG

Kenneth Haar
kenneth.haar@corporateeurope.org

Subject: Reply to the open letter to President von der Leyen and the Commission in response to the Communication ‘A Simpler, Clearer and Better Enforced EU Rulebook’

Dear Mr Haar,

Thank you for sharing your open letter to President von der Leyen and the Commission in response to the Communication ‘A Simpler, Clearer and Better Enforced EU Rulebook’ on whose behalf I reply.

The Commission welcomes your interest for Better Regulation and that of the 59 NGOs who signed the letter. Public scrutiny of European policies and initiatives is an essential part of a democratic decision-making process. However, it is critical that these policies and initiative are correctly apprehended. Therefore, I wish to clarify a couple of points in relation to the Communication and its actual purpose.

First and as the Communication clearly states, the Commission intends to prepare more impact assessments, not less.

Previous rules did not differentiate between major new legislative initiatives or revisions on the one hand, and more targeted initiatives on the other. While in the past the latter were usually granted a derogation, they will now be subject to an impact assessment. This was for example the case for the two simplification ‘omnibus’ proposals tabled after the Communication.

Furthermore, the new rules set specific criteria defining urgency and require recording the justification of the urgency. Most importantly, they provide for impact assessments scrutinised by the Regulatory Scrutiny Board even in case of urgent files. This takes account of the European Ombudsman’s recent recommendations on the matter.

In exceptional circumstances, where the need for urgent action is so acute that proposals must be adopted within an extremely compressed timeframe, derogations from the usual procedural standards will be possible. Such exceptions will be strictly limited and properly documented.

Second, the Commission aims at improving the quality of impact assessments, not reducing it.

The introduction of a ‘matrix of key impacts’ aims at identifying those impacts that are relevant for a specific proposal at an early stage and in a structured way. This is intended to improve the quality of evidence and analysis of the most relevant impacts, be they environmental, social, economic or other. The matrix is neither exclusively focussed on costs nor does it identify the same types of impacts for all initiatives.

Third, Better Regulation principles should apply during the whole legislative process.

There is some paradox in your call on the Commission to do more, and more detailed impact assessments while criticising the invitation to the co-legislators to deliver on the commitment they undertook in the Interinstitutional Agreement on Better Law making to assess their own substantial amendments. Better Regulation principles should apply to the whole legislative process. What matters for citizens is not the Commission proposal but the adopted legislation.

Fourth, the Communication confirms a broad and inclusive consultation framework in which no single group can dominate policymaking.

The Commission prepares proposals aiming at serving the EU’s general interest. The preparation process is transparent and based on numerous consultations tools, recognised as best in the OECD. The Communication builds on this and aims at facilitating consultation. Questionnaires are normally open for 12 weeks, while holiday periods do not count towards deadlines. Targeted consultations complement and do not replace public consultations and gather first-hand information on implementation hurdles and best practices. Implementation Dialogues and Reality Checks extend our toolbox of stakeholders’ engagement and do not withdraw from our other consultation tools. Civil society is also engaged through implementation dialogues and stronger use of consultative committees.

Fifth, on gold-plating, the Communication does not deny that Member States may go beyond EU minimum standards where the Treaties and EU legislation allow, including in areas such as social and environmental protection.

The Communication rather aims to prevent the addition of burdens at national level that are unnecessary or disproportionate to the achievement of the policy goal. The purpose is to work with Member States to identify and prevent such requirements that fragment the single market, distort competition, hamper business operations, unduly affect the rights of individuals and increase avoidable costs, especially for SMEs.

Finally, you fear that elements such as grandfathering or sunset clauses, ‘could come to detrimental use’. Grandfathering or grace periods are already regularly used and aim at ensuring realistic transposition and implementation timelines precisely to ensure the best implementation. Sunset clauses will be used where appropriate and in combination with well-timed monitoring and evaluation clauses. In any event, such clauses will be decided case by case by the co-legislators.

Yours sincerely,

Michael WIMMER