



Background Paper No 2: Better Regulation

This paper provides an overview of the Commission's policy of better regulation and how this policy supports evidence-based policymaking and the principles of subsidiarity and proportionality. It also explains the role of stakeholders in the policymaking process.

General

Better regulation is a framework to deliver evidence-based policymaking. It promotes transparency, accountability and informed decision-making. The Commission's approach to better regulation explicitly recognises the policy lifecycle and its different steps from inception, preparation, implementation, evaluation and subsequent modification. Better regulation is built on three key pillars which are complementary and closely related:

- Impact assessment;
- Evaluation; and
- Stakeholder consultation.

Stakeholder consultation

Consulting stakeholders allows views to be expressed and hard evidence to find its way into the preparation of new initiatives or the evaluation of existing policies. Consultation is underpinned by a strategy to identify the information which is required, the stakeholders from whom relevant information can be obtained and the methods by which stakeholders will be engaged. The initial description of the initiative and consultation strategy will be published in the roadmap or inception impact assessment. This allows all stakeholders to comment at an early stage and to prepare themselves for the more detailed consultation activities which follow. All consultations and feedback opportunities are accessed through a single web-based portal (see section on "*Contribute to law-making*").

Evaluation and impact assessment depend on good quality stakeholder consultation and will generally be accompanied by a web-based public consultation of 12 weeks duration as part of the consultation strategy. For major initiatives in the Commission's work programme, the Commission aims to consult in all official languages and at least in English, French and German in other cases.

Impact assessment

Impact assessment assesses a range of policy solutions that could address an identified problem and its underlying causes. It also tries to ensure respect for the Treaty principles of subsidiarity, proportionality and sustainable development and to ensure that the most relevant and important impacts are identified and assessed. The assessment should also provide information about the views of the different stakeholders. Finally, an impact assessment

should make the link to a future evaluation by identifying the benchmarks and arrangements to monitor the practical implementation of the legislation or policy.

Evaluation

Evaluations look back at what the impact assessment and to see whether the changes that were expected to happen actually occurred. There will always be unexpected events or problems, particularly in fast moving policy areas, and a mechanism is needed to correct policy implementation early. However, timely information about how a policy performs is absolutely necessary for evaluation but is currently not always available.

the performance of the policy in practice. Such monitoring and evaluation will provide the crucial information for any subsequent revision of the policy and potential problems to be addressed by a future impact assessment.

Stakeholder participation: Contribute to law-making (“Better Regulation Portal”)ⁱ

Stakeholders are able to provide feedback on policy preparation and implementation throughout the policy cycle. Via the “Contribute to law-making” website, stakeholders are able to:

- Provide comments on Commission roadmaps and inception impact assessments which are published at the very outset of a new initiative (during a period of 4 weeks);
- Participate in public consultations accompanying new initiatives or evaluations of existing legislation or policies (generally during a 12-week period);
- Provide comments on proposals adopted by the Commission during a period of 8 weeks following adoption. These will be aggregated by the Commission and transmitted to the European Parliament and the Council; and
- Provide comments on the legal texts of draft delegated acts and implementing acts before finalisation by the Commission (during a period of 4 weeks);
- Provide comments and suggestions about how to simplify specific legislation. These suggestions are then taken up by the REFIT Platform who may adopt opinions and recommendations to the Commission.

All stakeholders are able to participate in such activities and can request to receive automatic notifications when new documents are uploaded to the portal website. Stakeholders can also submit views and other evidence to the Commission outside of the formal consultation and feedback processes.

Better Regulation Guidelines and Toolboxⁱⁱ

The Commission has developed and published Guidelines which direct Commission staff on how to apply better regulation in their work. These capture all phases of the policy cycle including planning, impact assessment, preparing proposals, implementation and transposition, monitoring, evaluation and stakeholder consultation. They also address how the Commission will assist Member States in their national implementation of Union legislation. The Toolbox contains 65 separate tools which provide more detailed assistance on how to tackle specific issues such as subsidiarity and proportionalityⁱⁱⁱ.

Quality checking

The President of the Commission established a new Regulatory Scrutiny Board^{iv} in May 2015. The Board is comprised of a chairperson and six members. They all work full-time for the Board and do not have any responsibility for policymaking. Three of the members are recruited from outside of the institutions while the remaining four come from within the Commission services. The Board checks the quality of all impact assessments and selected evaluations against the requirements of the Commission's better regulation Guidelines. It issues positive and negative opinions. Initiatives accompanied by an impact assessment will generally require a positive opinion from the Board in order that the file can proceed to the College of Commissioners for decision.

Interinstitutional Agreement on Better Law-Making

The Interinstitutional Agreement on Better Law-Making entered into force in April 2016^v. It sets out the commitments of the European Parliament, the Council and the Commission on many aspects regarding the preparation and implementation of Union legislation. Paragraphs 12 and 25 are particularly relevant in respect of ensuring respect for subsidiarity and proportionality via impact assessments and presenting the Commission's justification in the explanatory memorandum accompanying its legislative proposals.

i https://ec.europa.eu/info/law/contribute-law-making_en

ii https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox_en

iii https://ec.europa.eu/info/files/better-regulation-toolbox-5_en

iv https://ec.europa.eu/info/law/law-making-process/regulatory-scrutiny-board_en

v <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2016:123:TOC>