

Opinion on the European Commission Communication on long term competitiveness (COM (2023) 168 final)

RegWatchEurope, RWE, welcomes the Communication of the European Commission, stressing the importance of a growth enhancing regulatory framework (chapter III), and would like to take the opportunity to comment on some of the main elements.

A new competitiveness check

The Commission envisages the introduction of a new competitiveness check that will ensure that impact assessments of legislative proposals present, in an integrated manner, the expected impacts of each proposal on cost and price competitiveness, international competitiveness and the capacity to innovate and on SME's competitiveness.

RWE welcomes this ambition. Although the assessment of various aspects of competitiveness should already be an integral part of any impact assessment and evaluation, this is not always the case. An increased political demand will hopefully lead to more multifaceted and in-depth analyses. The current proposal however lacks some crucial detail. RWE calls for further clarifications on the new check, especially whether it is presumed to contain any new elements besides the way assessments are to be presented (as described in the new annex to the revised Better Regulation toolbox).

RWE also encourages Member States to perform such analyses on a national level, adjusting them to national contexts as they see fit.

A methodology to better assess cumulative impacts

As legislation becomes increasingly complex, covering multiple areas and often leading to increased burdens for stakeholders, the ambition of the Commission to better assess the cumulative impacts of different policy measures at the EU level, with a view to develop a methodology, is very much needed and welcome. Cumulative impacts should be fed into the competitiveness check. Sound assessment of cumulative impacts is also crucial for the future proofing of regulation.

RWE stresses the urgency of this work and calls for more practical information – over and above what the Better Regulation toolbox contains - regarding concrete plans and timetables.

“One-in, one-out”

The principle, introduced at EU level in the Commission Communication on Better Regulation in April 2021, was evaluated for the first time in the Annual Burden Survey 2022.

RWE, as already stated in its [opinion](#) to this Communication, welcomes the commitment to further strengthen the burden reduction effort. However, if the principle is limited to administrative burdens, not taking into account other compliance costs, the result would only be partial, since most regulatory costs are perceived to arise from the latter cost categories.

That harmonisation of legislation in the EU can lead to significant burden reductions is undoubtedly true. However, RWE questions whether this should always be assumed, especially when considering the impacts at national level, but also on an aggregate EU level.

RWE is furthermore concerned that the OIOO has been applicable only to legislative proposals that have been accompanied by impact assessments. The lack of impact assessments, which has recently been the case for several major legislative proposals, (regrettable in itself), also means that many costs may not have been taken into account in the report.

In relation to this, RWE underlines the importance of the mandate of the Regulatory Scrutiny Board including the scrutiny of Commission decisions of not to conduct a full impact assessment.

Reporting burden reduction

The Commission announces that it will rationalise and simplify reporting requirements and will present the first proposals for the green, digital and economic thematic areas before the autumn, with the aim to reduce such burdens by 25 percent. Several such proposals have recently been announced in the Commission work programme for 2024, including the call for evidence on the Have Your Say portal.

Reporting is burdensome and every effort to reduce associated costs to a strict minimum is very welcome. Recognising these initiatives as a starting point for reducing reporting obligations, RWE stresses that it is important not to limit burden reduction efforts to just reporting requirements and the three aforementioned thematic areas, and that this new target should not detract from existing commitments. RWE also calls for further clarification on the methods and process,

including the baseline and target years. In order for the measure to result in a tangible burden reduction for European businesses, the Commission needs to follow a transparent process and actively work to achieve the reduction target.

Review clauses

The Commission commits to continue the regular assessment of EU legislation to see whether it remains fit for purpose. It announces that in areas subject to significant technological change, it will explore making better use of sunset and review clauses in its legislative proposals to ensure that regulation remains future proof.

RWE welcomes the ambition of the Commission to continue assessing EU legislation and is strongly in favour of the introduction of review clauses. RWE suggests that such review clauses should be introduced in every legislative act and standardised as far as possible.

RWE also underlines the importance of Member States providing the necessary input to the Commission as part of the review, in order to be able to properly assess the performance.

The transposition of EU legislation in Member States

The Commission commits to assist the Member States in transposing EU legislation correctly, fully and on time, in order to ensure that they refrain from the still frequent addition of regulatory or administrative burden beyond what is required, which can result in unnecessary burdens on business and citizens (so-called 'gold-plating').

RWE recognises that the Commission already puts some effort into this process, but is of the opinion that this work could - and should - be much intensified. At the same time, RWE encourages the Member States to be more active in sharing experiences, discussing and analysing transposition and implementation to a much greater extent than is the case today. RWE proposes to arrange transposition and implementations workshops more systematically, both before and after the final EU act has been adopted.

Key Performance Indicators

The KPI for all activities and targets in chapter III on a growth enhancing regulatory framework is a measurement of business' perception of how easy it is to comply with government regulation and administrative requirements. The ambition is for the figure in the single Market Scoreboard to go up.

RWE finds the KPI relevant, but since it is only one indicator and exclusively based on (arbitrary) perception of the overall regulatory situation it will have to be complemented by other KPIs. KPIs related to the competitiveness check, the target of 25 percent reporting burden reduction, gold plating, OIOO etc. should also be considered.

RWE would welcome further discussions and initiatives on how to follow up on the objectives in this chapter of the Commission Communication.