



OPINION OF THE HIGH LEVEL GROUP

Subject: Stakeholders' suggestions ('offline-consultation')

I. Background

- (1) The High Level Group of Independent Stakeholders on Administrative Burdens (HLG) was set up to *inter alia* advise the Commission on suggestions for administrative burdens reduction measures. In addition to the suggestions by consultants, via the online consultation or on the occasion of local workshops with businesses in Member States, the HLG members and the Commission receive occasional reports or letters by external stakeholders suggesting reduction ideas. These ideas have been labelled "offline suggestions".
- (2) Mr. Linschoten was appointed coordinating reporting member for these offline suggestions. The HLG works on these suggestions in the following way: at first the secretariat assesses the incoming proposals with the help of those Directorates-General of the Commission that are competent in the subject matter. At the same time suggestions are filtered out which do not concern European legislation at all. Secondly, the group's reporting members look at suggestions in their respective priority area for which first reactions from Commission services are available. The result of this process is an opinion of the group addressed to the Commission.
- (3) The HLG wishes to recall in this context that the mandate of the Commission as well as that of the European Parliament will come to an end in the second half of 2009. Legislative proposals will therefore have to be introduced as early as possible and in any case before March/April 2009 in order to make their adoption within this legislature technically feasible.
- (4) The HLG calls upon the college of Commissioners and Commission services to take all necessary steps to ensure that legislative proposals are introduced in time. The HLG wishes to underline that achieving the aim of a reduction of administrative burden by 25 % by 2012 will only be feasible with as many concrete reduction measures as possible.

II. General comments

- (5) So far the HLG has received more than 200 ideas from stakeholders. The HLG has adopted the first opinion on the offline consultation in its meeting of 18 September 2008.¹
- (6) The Commission has already taken forward 18 of these ideas (cf. Annex A). In view of the HLG there is no need for an elaborate advice on suggestions that are already picked up by the Commission. However, the HLG would like to be informed on the concrete proposals that follow these offline suggestions.
- (7) Most of the ideas from stakeholders are still under consideration by the Commission. The group urges the Commission to come to a conclusion fast so that it is feasible to implement as many reduction measures as possible within this legislature.

III. Suggestions by Priority Area

- (8) *Priority Area: Company Law.* Suggestions 1, 2, 3 and 4 refer to Directives 78/855/EEC and 82/891/EEC (3rd and 6th Company Law Directives) regulating *inter alia* mergers and divisions and requiring special accounting statements or assessment reports to be issued for the information of the contracting parties in such an event. Stakeholders suggest abolishing these requirements in a number of cases, such as when all stockholders agree. The Commission adopted a proposal to simplify the reporting requirements in these directives on 24 September 2008 which is currently under consideration of Council and Parliament. A political agreement is expected by mid-2009. However, the Commission disagrees with the proposal that the written statement in case of a merger should be abolished or replaced by the draft terms as these documents serve different purposes. *The HLG recalls its opinion of 10 July on the priority area of Company Law and calls upon the Commission to act upon the remaining recommendations.*
- (9) *Priority Area: Employment.* Suggestions 5 and 6 concern Council Directive 90/270/EEC on the minimum safety and health requirements for work with display screen equipment. According to stakeholders some annexes of this directive do not reflect current technological standards and modern work environments any more, and thus should be either abolished or brought up-to-date. The Commission is currently considering a new initiative that would encompass the provisions of Directive 90/270/EEC (as well as those of Directive 90/269/EEC on manual handling of loads). *The HLG advises the Commission to review the added value of Directive 90/270/EEC and to at least adapt the above mentioned directives to technological developments without compromising on legitimate safety and health requirements.*
- (10) *Priority Area: Employment.* Suggestions 7 and 8 are related to Directive 2003/88/EC regulating *inter alia* the maximum working and minimum rest time of employees. Stakeholders ask for abolishment or alternatively more flexibility in the application of the rules (extension of the reference period to 12 months, allow for

¹ This opinion can be found at <http://europa.eu.staging.entri.cec.eu.int/enterprise/admin-burdens-reduction/docs/OpinionOfflineSuggestions080918RevAfterMeeting.pdf>

longer periods when the workload is low as in the case of inactive time in emergency services). The Commission has already proposed to extend the reference period and also to allow for more flexibility regarding the minimum rest period, cf. COM (2005) 246. The proposal is currently before the co-legislator. *The HLG welcomes the proposed changes which will simplify the application of the directive. The Group calls upon the Commission to strive for further simplifications and reductions of administrative burdens and to avoid the introduction of more burdensome additional requirements in the ongoing legislative procedure.*

- (11) *Priority Area: Employment.* Suggestions 9, 10 and 11 concern safety and health at work (Directive 89/391/EEC). Stakeholders complain that definitions in this directive are not precise enough or lacking at all, and thus lead to burdensome implementation or gold-plating in the Member States. The Commission points out that a definition of self-employed was not in scope of the directive, as it deals with workers only. Concerning the other definitions, a certain kind of flexibility should be left to the Member States in view of the Commission. *The HLG advises the Commission to call upon the Member States to ensure a lean transposition and implementation of EU rules, in particular with respect to SMEs. The Group recalls that the Member States share the responsibility in reducing red tape for businesses.*
- (12) *Priority Area: Transport / Working conditions.* Suggestions 12, 13 and 14 refer to the use of digital tachographs in road transport. Stakeholders complain about additional costs associated with new rules, about a longer monitoring period, about the restriction of exemptions and about a lack of clarity related to the use of digital tachographs. The Commission defends the new rules, since they contribute to enhanced road safety, equal competition and social protection, while the administrative burden is less than before thanks to the new electronic and automatic digital tachographs. *The HLG calls upon the Commission to reconsider, and leverage, where possible the exemption for several branches for the use of the tachographs. In particular, the Commission shall consider a suitable extension of the exemptions covering all craft industry journeys irrespective of the approved total weight, within a radius of at least 150 km. Moreover, the HLG urges the Commission to research the current exemptions and thresholds for SMEs in order to minimise the administrative burdens without jeopardising road safety.*
- (13) *Priority Area: Financial Services.* Suggestion 15 points at the excessive burden of the Insurance Mediation Directive ('IMD', 2002/92/EC) particularly for insurance agents. The Commission stresses the merits of a level playing field and the goal of cross border trading. Still, the Commission suggests a thorough assessment in due time - postponing immediate action as the directive was implemented late. *The HLG does not regard late implementation in some Member States as reason to delay assessment. The HLG advises the Commission to make an immediate assessment in those Member States that have implemented the IMD, as the main picture seems to be that it hardly benefits cross border trading.*
- (14) *Priority Area: Financial Services.* Suggestion 16 refers to the flow of information on non-life and life insurances. The Commission is planning a study, probably in 2009, on information requirements across the body of financial services directives. The Commission admits that different information requirements have been imposed over time by different directives and there may indeed be certain

inconsistencies and overlap. *The HLG calls upon the Commission to carry out the planned study as soon as possible so that first steps for improvement can already be enacted in 2009.*

- (15) *Priority Area: Financial Services.* Suggestion 17 refers to the excessive burdens of the Single Euro Payments Area (SEPA) Direct Debit Scheme. The Commission presumes that this additional cost relates to the hypothetical need to resign all direct debit mandates and encourages the Member States to find a pragmatic solution. Even though the described problem seems to originate from the combination of existing national law and the new SEPA debit scheme, *in view of the HLG the Commission could do more than point at the Member States. The HLG therefore calls for a longer implementation period as this will allow businesses to adjust their regular business procedures.*
- (16) *Priority Area: Environment.* Suggestions 18, 19 and 20 concern the so-called REACH-Regulation². As the regulation is extensive and large parts of the manuals are available in English only, stakeholders ask for guidance and translations for a better understanding of the documents and would like to see exemptions for SMEs. In addition, the suggestion is put forward to exempt recycled materials from registration. The Commission acknowledges that parts of the guidance documents for easy access and understanding are available in English only so far; however, translation of certain parts is under way. An exemption of SMEs would compromise the objective of ensuring a high level of protection for health and environment. Nevertheless, REACH already contains provisions which were designed to keep the burden for SMEs to a minimum (limited obligations, lower requirements for lower volumes, later registration deadlines, reduced fees etc.). Concerning recycled material a registration is only required, if a substance has not been registered previously by any other actor. Thus, most recycled materials will eventually be exempt from registration. *The HLG urges the European Chemicals Agency to provide the respective translations as soon as possible. The Group calls upon the Commission to take a closer look into the possibilities for further reductions of administrative burdens, in particular for SMEs.*
- (17) *Priority Area: Environment.* Suggestions 21 and 22 call for the introduction of minimum thresholds for SMEs or small electrical or electronic equipment in respect of producer responsibility within the Directive (2002/96/EC; Waste Electrical and Electronic Equipment). The Commission has adopted a revision of the WEEE-Directive. *The HLG stresses that introducing thresholds as an instrument for cutting administrative burdens should be considered in cases where this does not affect the effectiveness and credibility of EU legislation.*
- (18) *Out of scope of the Action Programme:* Suggestion 23 concerns the Medical Devices Directive (93/42/EEC). Stakeholders call for the mutual recognition regarding the approval procedures for clinical studies in order to avoid individual applications in every Member State. The Commission explains that the co-legislator has taken into account, when the text was adopted, that Member States are unwilling to delegate these sensitive issues related to patients' health and safety

² Registration, Evaluation, Authorisation and Restriction of Chemicals; Regulation No 1907/2006; out of scope of the present measurement exercise

to the competent authority of another Member State. In December 2009 the guidance (Guide for Competent Authorities in making an assessment of clinical investigation notification) will be endorsed to clarify and to harmonise the requirements of Annex VIII related to a clinical investigation notification. *The HLG supports the development of guidance, but calls upon the Commission to introduce a single approval procedure for clinical studies carried out in more than one Member State, taking due account of Member States' competence in public policy and ethical matters.*

- (19) *Out of scope of the Action Programme:* Suggestion 24 deals with the divergent obligations to publish the ingredients of tobacco products in the 27 Member States (Directive 2001/37/EC on the manufacture presentation and sale of Tobacco products). Producers plead for simpler procedures and suggest a single point of contact, consistent dates of submission and standardised requirements in all Member States. The Commission expects an easier procedure due to the introduction of a single format and a uniform electronic submission system which is to be introduced at the end of 2009. *The HLG welcomes the introduction of the electronic submission system, and advises the Commission to simplify the reporting requirements as soon as possible.*

IV. Conclusions

- (20) *The HLG takes note of the suggestions made by stakeholders and advises the Commission to take a proactive approach, as specified in the HLG's conclusions on the individual suggestions above.³*
- (21) *The HLG stresses the importance of common efforts to reduce administrative burden for businesses. These efforts must be extended and intensified both on the European and the national level, in order to reach the target of reducing red tape in a sustainable manner.*
- (22) *The HLG welcomes the active involvement of stakeholders. The HLG is of the opinion that many suggestions reviewed by the HLG prove that stakeholders have a vital role to play in the process of making European legislation less burdensome for business. The suggestions made by stakeholders should be taken as an incentive for new initiatives as well as an opportunity for the Commission to broaden existing initiatives to reduce red tape. The HLG would appreciate to be informed about the results of the Commission review of certain legislative acts mentioned above in due time.*
- (23) *The HLG signals that some of the stakeholder suggestions fall outside the scope of the Action Programme. Sometimes proposals refer to administrative burdens in legislation that is not measured, or refers to other costs that are not included in the definition of administrative burdens. In view of the HLG Better Regulation requires a mindset where all these efforts of stakeholders are seriously taken into consideration, and it asks the Commission to ensure an adequate follow-up.*
- (24) *The HLG is aware that for meeting the reduction target of 25 % it is crucial to keep the process going. Therefore, the HLG would appreciate more information from the Commission on the further proceedings of the stakeholders' suggestions including the selected suggestions and the HLG conclusions on these.*

Brussels, 20 January 2009

Annex A: Ideas taken forward by the Commission

Annex B: Overview of the suggestions

³ Ms Fritsch abstains, Mr Murray abstains concerning paragraph 12, Mr Hontelez disagrees with paragraphs 10 and 16.