



EUROPEAN COMMISSION

High Level Group of Independent Stakeholders on Administrative Burdens

## OPINION OF THE HIGH LEVEL GROUP

### Subject: Stakeholders' suggestions ('offline-consultation') – V

#### 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 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

- (4) So far the HLG has received several hundred ideas from stakeholders. The HLG has adopted four opinions on the offline consultation in its meetings of 18 September 2008, 20 January, 16 April and 7 July 2009<sup>1</sup>.

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<sup>1</sup> Cf. [http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index\\_en.htm](http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index_en.htm)

- (5) For most priority areas the HLG strived to integrate the offline suggestions into the respective sectoral opinions. However, where this had not been possible due to time constraints or other obstacles, the suggestions were taken up in offline opinions. Since the HLG has already delivered opinions on each priority area,<sup>2</sup> in particular suggestions received after the adoption of the respective sectoral opinions are dealt with in offline opinions.

### III. Suggestions by Priority Area

- (6) *Priority Area Food Safety.* Stakeholders argue in suggestion 1 that the current legislation regarding animal protection is too rigid and complicated. In their view the directives regulating animal welfare and protection should be simplified and modernised.<sup>3</sup> The Commission points out that Community legislation on the protection of animals will be subject to an evaluation in 2010. The evaluation will consider the issues raised in this suggestion. *The HLG welcomes the evaluation planned in 2010 and notes that the respective directives were adopted in the early or late 1990s and have not changed substantially since. The HLG urges the Commission to study the simplification and reduction potential in this field in a holistic manner taking into account the interests of farmers as well as animal welfare. Furthermore the HLG calls upon the Commission to examine best practices of less burdensome implementation and to exchange these between Member States.*
- (7) *Priority Area Food Safety.* In suggestions 2, 3, 4 and 5 stakeholders complain that the European regulations and directives<sup>4</sup> on labelling lack a proper and coherent structure. Hence, it is often unclear for smaller enterprises which requirement applies to a particular case. According to the Commission the reduction of administrative burdens regarding labelling obligations was foreseen in a proposal for a regulation on the provision of food information to consumers.<sup>5</sup> New labelling rules will enable the industry to innovate on food labelling and to adapt swiftly to changing markets and consumer demands. *The HLG welcomes the Commission's aim to simplify the legislation on labelling and reduce burdens for businesses while safeguarding the consumers' interests in appropriate information. The HLG recalls its previous opinion on stakeholders' suggestions dealing inter alia with similar issues concerning Directive 2000/13/EC. In the HLG's view the Commission should strive for a coherent*

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<sup>2</sup> Cf. the Intermediate Report of the HLG adopted at its 17 September meeting: [http://ec.europa.eu/enterprise/policies/better-regulation/files/180909\\_hlg\\_ab\\_\\_intermediate\\_report\\_incl\\_annexes\\_en.pdf](http://ec.europa.eu/enterprise/policies/better-regulation/files/180909_hlg_ab__intermediate_report_incl_annexes_en.pdf)

<sup>3</sup> Council Directive 98/58/EC concerning the protection of animals kept for farming purposes, Council Directive 91/629(630)/EEC laying down minimum standards for the protection of calves (pigs), Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens

<sup>4</sup> Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs, Directive No 95/2/EC of 20 February 1995 on food additives other than colours and sweeteners, Regulation (EC) No 258/97 of the European Parliament and of the Council concerning novel foods and novel food ingredients

<sup>5</sup> Proposal for a Regulation of the European Parliament and of the Council on the provision of food information to consumers COM(2008) 40 (Awaiting decision of the European Parliament, 1st reading or one reading only)

*approach with regard to labelling obligations taking into account the burden reduction potential by way of enabling digitalisation of information as well as more structural simplifications.*

- (8) *Priority Area Food Safety.* Suggestion 6 concerns Regulation (EC) No 1924/2006 on nutrition and health claims made on foods. According to this legislation when the food industry wants to use health claims not permitted by the Regulation i.e. claims not being on the positive list, they should apply for authorisation. This procedure consists of different steps involving the competent national controlling authorities, the European Food Safety Authority (EFSA) and the European Commission. According to the stakeholders this procedure presents a disproportionate burden for SME's, since product innovations with health benefits need to be substantiated with scientific evidence. The Commission points out that the current system provides benefits to small SMEs, as usually bigger companies will invest and take the initiative to ask for authorisation of health claims. Once the health claim is authorised these claims can be used by any business who can demonstrate the relevant conditions of use. *The HLG acknowledges the consumers' interest in correct and adequate information on nutritional and health claims. The HLG asks the Commission to examine the possibility of a simplification or an exemption for small enterprises which do not have sufficient scientific expertise and financial research resources needed to provide the scientific dossiers required for an application for health claim authorisation. In these cases the Commission could for instance require small enterprises to amend the respective health claim stating that the health claim is not proven by scientific research.*
- (9) *Priority Area Food Safety.* In suggestion 7 stakeholders ask for more and clearer guidance from the Commission on various aspects of two regulations dealing with traceability and hygiene of foodstuffs.<sup>6</sup> According to measurements of administrative burdens for businesses the two regulations had proven to be the most burdensome of the regulations related to food measured in Sweden. The Commission is currently reviewing the guidance documents with Member States in order to improve, clarify and complete them taking in consideration the experience gained. *The HLG welcomes the initiative to improve the guidance and asks the Commission to make sure that the guidance is as effective and simple as possible.*
- (10) *Priority Area Statistics.* Suggestion 8 concerns statistics on the cost of labour and on the structures of workers in enterprises.<sup>7</sup> According to the stakeholders the related surveys should only be carried out in enterprises with more than 20 workers. This could reduce costs by €540,000 – €750,000 per survey. In addition, the amount of the requested information could be reduced or the content simplified (e.g. employers' canteen subsidies). The Commission rejects the suggestion to exempt enterprises with less than 20 workers and points out that a considerable part of small enterprises (less than 10 employees) are not surveyed. Raising the coverage threshold for the surveys (which are carried out every 4 years) even further would significantly reduce the usefulness of the results. In particular in smaller Member States and in specific

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<sup>6</sup> Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety; Regulation (EC) No 852/2004 on the hygiene of foodstuffs

<sup>7</sup> Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs

branches there are only a few companies with more than 20 employees. Exempting smaller companies would thus reduce the representativeness of the data and could imply a risk of disclosure of confidential data. In addition, the Commission draws the attention on Article 7 of Regulation 53/1999<sup>8</sup> which explicitly provides the opportunity for national authorities to (re-)use of existing data by in order to reduce burden on enterprises. *The HLG acknowledges the need for information on smaller enterprises – in particular in cases where differences between small and large businesses are to be expected. Nevertheless, the HLG sees some reduction potential with respect to the extent of information requested and asks the Commission to examine the need for specific information and reduce, as the case may be, the amount of information requested. In addition, the Commission should study whether the frequency can be further decreased. The information requested and the process of the survey itself should coincide with the information already available and in line with the business process. Furthermore, the HLG calls upon the Member States to consider (re-)use of data collected from other sources such as tax declarations or registers on employers' contributions instead of specific surveys, and likewise examine and reduce, as the case may be, the need for specific information.*

- (11) *Priority Area Tax Law and Customs.* In Suggestion 9 stakeholders question the necessity of the “long-term suppliers’ declaration” required by Council Regulation (EC) No 1207/2001 related to preferential trade between the EC and certain countries. In their view a lot of the information required by businesses for this declaration is difficult to produce, if at all. Furthermore, this declaration has to be made up on an annual basis. According to the Commission a long term supplier's declaration is a simplification which can be used by supplier supplying an exporter with goods whose originating status remain constant for a significant period of time. This declaration in turn makes it possible for the enterprise to benefit from tariff preferences when exporting its products. If a long term supplier’s declaration does not apply a normal supplier’s declaration for each consignment of goods should be issued. *The HLG acknowledges the evidential requirements related to the preferential origin rule based on the respective free trade agreements. HLG asks the Commission to consider to prolong the current limited validation period of 1 year.*
- (12) *Priority Area Working Environment.* In suggestion 10 stakeholders call for an exemption of SME’s from Directive 91/533/EC relating to the obligation of the employer to inform the worker of the conditions applicable to the contract or employment relationship. The directive obliges employers to hand out a written document with the important content of the employment conditions to the employee within two months after starting work. Alterations in the employment conditions are to be indicated in written form within one month. In the stakeholder’s opinion major administrative efforts are needed to be able to meet these deadlines, while the purpose of the regulation (employee information) can be achieved in direct dialogue between employer and employee in SMEs due to their manageable structure and size. In the Commission’s view the directive is sufficiently flexible allowing, for example, the Member States to exclude certain categories of workers. Regulations to protect employees should in the Commission’s view in principle apply equally to large and small businesses. *The HLG is of the view that interactive tools aimed at creating a written statement of employment tailored for an individual employee such as those*

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<sup>8</sup> Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs

*developed in the UK can help reduce burdens for companies. Nevertheless, in the HLG's view the Commission should consider extending the deadlines in combination with giving companies the choice of means on how to inform their employee in the meantime. Furthermore, the Commission should examine the possibility to exempt micro entities from the written obligation following the principles of the Small Business Act without damaging the protection of employees.*

- (13) *Priority Area Working Environment.* Suggestion 11 concerns workers representation structures in enterprises with more than 50 workers. In some stakeholders' view the thresholds in Directive 2002/14/EC on informing and consulting employees are too low. In a recent review of the directive<sup>9</sup> the Commission noted that, while a majority perceived the impact of the directive positively, more time was needed to make a definite assessment. Therefore, the Commission currently does not envisage proposing amendments to the directive. *The HLG encourages the Commission and the Member States to thoroughly assess the full impact of the directive and in particular the effects on SMEs.*
- (14) *Priority Area Working Environment.* Suggestion 12 concerns the requirement to inform fixed-term workers on vacancies of employment.<sup>10</sup> Stakeholders complain about the burdens involved for those companies that often have variations in the number of employees due to seasonal changes. They consider this burden disproportionate for SMEs. The Commission emphasises that the directive does not require employers to advise workers individually. On the contrary, such information may be provided by way of a general announcement at a suitable place. *The HLG acknowledges the importance of good and complete information for employees. Nevertheless, the HLG is of the opinion that the Commission should consider an exemption from the rule for SMEs in view of the Small Business Act and advises the Commission to analyse the possibilities with the relevant stakeholders.*
- (15) *Priority Area Working Environment.* Suggestion 13 concerns health checks in civil aviation. Stakeholders argue for abolishing the requirement for health checks included in Directive 2000/79/EC<sup>11</sup>, since it only duplicates industry standards already in place. In the Commission's view free health assessment before the assignment and at regular intervals thereafter is an essential condition to protect health and safety for mobile workers. The provisions had been agreed upon by the civil aviation sector. *The HLG does not question the objective of the directive. In its view the Commission should nevertheless check the necessity of the provisions in light of the existing industry standards.*

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<sup>9</sup> COM(2008)146 (Procedure ended)

<sup>10</sup> Council Directive 1999/70/EC concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP

<sup>11</sup> Council Directive 2000/79/EC concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA)

#### **IV. Conclusions**

- (16) *The HLG takes note of the suggestions made by stakeholders and encourages the Commission to take a proactive approach, as specified in the HLG's conclusions on the suggestions above. The HLG would appreciate to be informed about the steps taken by the Commission to address stakeholders' concerns.*
- (17) *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.*
- (18) *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.*
- (19) *The HLG signals that some of the stakeholder suggestions dealt with in this opinion fall outside the scope of the Action Programme. Sometimes proposals refer to administrative burdens in legislation that is not measured, or refer 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.*
- (20) *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.*

Stockholm, 12 November 2009

Annex A: Overview of the suggestions