

Impacts on SMEs:

Due to their size and scarce resources, SMEs can be affected by the costs of regulations more than their bigger competitors. At the same time, the benefits of regulations tend to be more evenly distributed over companies of different sizes. SMEs may have limited scope for benefiting from economies of scale. SMEs in general find it more difficult to access capital and as a result the cost of capital for them is often higher than for larger businesses.

The Commission in the **Small Business Act** has made a commitment to implementing the "**Think Small First**" principle in its policy-making, to assess the impact of forthcoming legislation and administrative initiatives on SMEs (the "SME-test"), and to take the results of this analysis into account when designing proposals.³¹ Your IA should reflect this in each of the analytical steps.

The IA should analyse whether SMEs are disproportionately affected or disadvantaged compared to large companies and if so, options should cover alternative mechanisms and flexibilities in approach that might help SMEs to comply. Annex 8.4 provides further guidance on assessing impacts on SMEs and on possible mitigation measures. Unit E4 of DG Enterprise and Industry will provide advice and support on all issues related to impacts on SMEs.

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8.4. Impacts on SME's (the "SME-test")

You should take SME's into consideration in each of the analytical steps when carrying out an impact assessment. For particularly relevant steps more specific guidance is provided below:

(1) Consultation with SMEs representatives

The following suggestions on how to consult SME representatives complement the general guidelines on the consultation of interested parties.

The 2005 Report on the consultation of stakeholders in the shaping of small business policy at national/regional level provides examples of good practices¹:

- round table discussions with stakeholders,
- test Panels of entrepreneurs to check new initiatives in flexible and quick manner,
- specific committees,
- use of IT tools (on-line consultations, forum),

Other specific suggestions for consulting SME stakeholders with the support of DG ENTR:

- if stakeholders hearings are organised, ensure that SMEs representatives are invited (DG ENTR SME services could help in this sense),
- the regular meetings between the SME Envoy team in DG ENTR and SME organisations can be a useful and relatively quick way of getting feedback from this sector,

¹ http://ec.europa.eu/enterprise/entrepreneurship/support_measures/stakehold/index.htm

- the Enterprise Europe Network can be used to obtain direct feedback from SMEs from across the EU (DG ENTR unit E2 can be contacted for more information). The Network offers support and advice to businesses, especially SMEs, across Europe. It is made up of close to 500 partner organisations in more than 40 countries.
- the European Business Test Panel (EBTP), although not explicitly focused on SMEs is also an alternative to consider (managed by DG MARKT)²

(2) Preliminary assessment of businesses likely to be affected

During this stage, you should establish whether SMEs are among the affected population. You should identify the characteristics of the businesses / sector(s) likely to be affected. Relevant sources of information should be explored including SME representatives. A non-exhaustive list of elements to consider includes, when applicable

- number of businesses and their size (micro, small, medium or large enterprises)
- proportion of the employment concerned in the different categories of enterprises affected
- weight of the different kind of SMEs in the sector(s) (micro, small and medium ones)
- links with other sectors and possible effect on subcontracting

If the preliminary assessment leads to the conclusion that SMEs are amongst the affected parties, further analysis should be carried out and – where appropriate – taken into account when defining the objectives and developing the policy options in the impact assessment.

(3) Measurement of the impact on SMEs

The distribution of the potential costs and of the benefits of the proposals with respect to the business size, differentiating between micro, small, medium and large enterprises should be analysed qualitatively and, if possible and proportionate, quantitatively.

It is important to establish to which extent the proposal affects SME's competitiveness or the business environment in which it will affect their operations.

It is likely that an EU measure would have direct and indirect beneficial effects on SMEs. The direct benefits such as improved working conditions, increased competition etc. should (at some stage) be reflected in reduced costs to SMEs. Yet, these benefits may be offset by various costs, some of which may be disproportionately felt by SMEs, notably:

- Financial costs – created by the obligation to pay fees or duties
- Substantive costs – created by the obligation to adapt the nature of the product/service and/or production/service delivery process to meet economic, social or environmental standards (e.g. the purchase of new equipment, training of staff, additional investments to be made)
- Administrative costs – created by the obligation to provide information on the activities or products of the company including one-off and recurring administrative costs (e.g. resources to acquire or provide information)

Cost and impacts identified for SMEs should be compared with those of large enterprises. For this purpose, one can for instance compare the overall costs identified to the number of

² http://ec.europa.eu/yourvoice/ebtp/faqs/index_en.htm

persons employ to obtain the average cost per employee³. One could also compare the costs identified to the total overhead or turnover of the company⁴.

In addition, it would be useful to consider the following additional elements:

- possible loss of competitiveness due to external factors such as the availability of finance, tax regimes, access to resources or skills, etc.
- possible changes in the behaviour of competitors, suppliers or customers
- possible impacts on barriers to entry, competition in the market and market structure, for example in terms of possibilities for SMEs to enter markets.
- possible impact on innovation, understood as both technological and non-technological innovation (process, marketing, etc.)
- benefits, if applicable, coming from the proposal (burden reduction, improved productivity and competitiveness, greater investments or innovation etc.)

(4) Assess alternative options and mitigating measures

If the abovementioned cost/benefit analysis shows that SMEs are facing a relatively higher burden, one might consider the use of SME specific measures in order to ensure a level playing field and the respect of the proportionality principle. When the analysis made under the previous section shows that SMEs are disproportionately affected or disadvantaged compared to large companies, one should consider using possible mitigating measures.

The choice of specific measures to use will be made on a case by case basis. A non-exhaustive list of measures to be considered includes:

- **complete or partial size-related exemptions for SMEs or micro-businesses** (Example: businesses below certain thresholds do not have to comply with certain specific obligations when this does not invalidate the original purpose of the legislation)
- **temporary reduction or exemptions** (Example: transition periods during which SMEs are exempted or longer intervals for certain obligations)
- **tax reductions or direct financial aid** to compensate costs incurred provided this is compatible with existing legislation (on competition or international trade).
- **reduced fees** (Example: when these fees are particularly high and/or represent a fixed cost that would will be felt disproportionately by SMEs)
- **simplified reporting obligations for SMEs** (Example: in the area of statistics, explore possible synergies with already existing reporting obligations)
- **specific information campaigns or user guides, training and dedicated help-desks/offices** (Example: specific SME help-desks providing tailored information for small businesses)
- **systematically consider general simplification initiatives which can particularly benefit SMEs** (Example: possibility to use on-line facilities, simplified inspections)

When assessing possible mitigating measures for SMEs, it is important that the costs this could produce are also fully considered and included in the final assessment.

³ One could use for instance the thresholds of the SME definition: 10, 50 and 250 employees.

⁴ Representative samples containing both SMEs and large companies can also be used.