



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

Brussels,
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Opinion

Title

DG INFSO - Impact Assessment accompanying the proposal for a regulation of the European Parliament and the Council on a modernised Agency for Network and Information Security

(draft version of 23 February 2010)

(A) Context

The European Network and Information Security Agency (ENISA) was established in 2004 for an initial period of five years, with the main goal of ensuring a high and effective level of network and information security within the Community. In September 2008, the mandate of ENISA was extended, unchanged, for 3 years, and the European Parliament and the Council called for "further discussion about the Agency [and] the general direction of the European efforts towards an increased network and information security". This impact assessment accompanies the proposal for a modernised ENISA.

(B) Overall assessment

The Board is of the view that the report does not currently provide the evidence base necessary to underpin the proposed changes to ENISA. In order to do so, the report should in particular provide more detail on how ENISA is currently dealing with network and information security related issues, and explain why this is not considered to be sufficient. The report should be clearer about how the proposed changes to ENISA would address this situation, including the issues which were raised in the evaluation of the Agency. It should also provide a more comprehensive overview of the main expected impacts of the options and clarify on which basis the scores were assigned to different impacts.

Given the fundamental nature of the concerns raised above, the IAB invites DG INFSO to resubmit a new version of the IA report, on which it will issue a new opinion.

(C) Main recommendations for improvements

(1) Present a clearer and more focused discussion of the problems. While the report presents at length the general problems related to network and information security, it does not explicitly specify how these relate to ENISA and its current functions. The report should therefore (i) briefly summarise the tasks conferred on ENISA and how ENISA has delivered on them, (ii) explain the extent to which ENISA is already addressing the problem drivers identified in the impact assessment, and (iii) clarify why the current actions of ENISA are considered insufficient and no longer adapted to technology and market developments. The problem definition should explain upfront the relationship between ENISA and existing EU or national initiatives that aim to ensure network and information security, such as the critical information infrastructure protection initiative, the European Programme for Critical Infrastructure Protection or the CERTs.

(2) Be clearer about how the options deal with the problem drivers and with the issues raised in the evaluation of ENISA. Reflect clearly the positions of the relevant stakeholders in the main report. The report should explain clearly how the options which propose changes to the mandate of ENISA address the NIS-related problem drivers identified in section 2.2. The IA should also present the issues raised in the evaluation of the Agency and explain how the options attempt to address them. In particular, it should explain how the issue of the location of the Agency is addressed and discuss whether it might have impacts on the level of ambition of the proposal for a modernised Agency. When analysing the options, the report should be clearer about the positions of the stakeholders and the representativeness of their replies. In this context, it should clarify whether alternative types of organisational set-up mentioned in Annex 4 were discussed and considered by the stakeholders, and whether these alternatives were also assessed with regard to the concrete content of the initiative (i.e. to what extent the structures other than Agency would deliver on NIS-related objectives defined in this report).

(3) Provide a comprehensive overview of the expected impacts of the options. The report should present a brief qualitative assessment of the main expected impacts of the various options. By structuring the problem definition as per recommendation (1), the report could better identify the objectives and subsequently the impacts most relevant to the mandate of ENISA from the list of impacts in Annex 5. It should in addition explain on which basis the scores were assigned to different impacts in Annexes 6 and 7. The weightings assigned to impacts should reflect the fact that some of the expected impacts are more important and more likely to occur than others. If this cannot be done, then it is not appropriate to calculate an average of the scores assigned to impacts (table 5.2).

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The positions of the stakeholders should be presented more clearly in the main report, in particular in the section analysing different options. The executive summary should present the main impacts of each option and should include details on planned monitoring and evaluation. The summary of the evaluation results should be annexed to the impact assessment report. Where relevant, cross-references to previous impact assessments should be made in an effort to reduce the report to the recommended length of 30 pages.

(E) IAB scrutiny process

Reference number	INFSO/2010/020
External expertise used	No
Date of Board Meeting	24 March 2010