

MODELS TO REDUCE THE DISPROPORTIONATE REGULATORY BURDEN ON SMEs

EXECUTIVE SUMMARY

In March 2006 the **European Council** explicitly recognised the crucial role of SMEs in creating growth and better jobs in Europe and underlined the need for a regulatory environment that was simple and transparent and conformed to the principle "**think small first**". Accordingly, the Council invited the Commission "to bring forward specific provisions to encourage SME growth and development, such as longer transition periods, reduced fees, simplified reporting requirements and exemptions."

Following the mandate by the Council, the Commission and Member States nominated a **group of experts on regulatory issues** to collect and analyse information on the various methods that have been used successfully to reduce the burden of public regulation on small businesses.

The work of the expert group ties in with other activities that the Commission undertakes in the context of its **Better Regulation Strategy** and the various policies that target SMEs in particular, as outlined in the communication "Implementing the Community Lisbon Programme. **Modern SME policy for growth and employment**". Better regulation is a key topic of the **European Charter for Small Enterprises** and is embedded within the Commission's administrative structure in the shape of the **SME Envoy**.

Various studies find that small enterprises bear a disproportionate regulatory burden in comparison with larger businesses: **On average, where a big company spends one euro per employee to comply with a regulatory duty a medium-sized enterprise might have to spend around four euros and a small business up to ten euros.**

Several reasons are responsible for the disproportionate distribution of regulatory costs. First, a large part of **regulation** results in **costs** that are **fixed** or do not change much with the size of a business. Filling in a form takes a certain amount of time, and it makes no difference that a larger business might have to fill in bigger figures than a smaller enterprise. Second, larger businesses can employ specialists to deal with regulatory obligations more efficiently. For larger businesses, investment in computerisation and rationalisation of regulatory obligations will often be worthwhile because of the larger number of cases to be dealt with. This too results in higher efficiency. Third, in small enterprises the entrepreneur himself will often be responsible for taking care of the regulatory obligations. This means that the most valuable resource of the small business will be occupied with tasks that do not directly contribute to the success of the enterprise.

For its work, the expert group decided on a **broad definition** of the term regulatory burden, including all costs that result from mandatory obligations placed on businesses by public authorities on the basis of a law, decree or similar act. The group wanted to ensure that potentially interesting initiatives and measures to improve the regulatory environment for small enterprises would not be excluded because of too narrow a definition.

The main purpose of the report is not scientific rigour but the collection and dissemination of **good practices** and an exchange of ideas and experiences across the European Union. In order not to overlook useful initiatives, the group accepted that some measures could be included which were not closely connected to regulatory issues. While the fiscal burden on enterprises is not considered in this report, certain regulatory obligations connected to taxes such as filing tax statements, keeping records etc. will be discussed.

The experts collected a total number of around 100 good practice cases from the participating countries. From these, the group selected around 30 cases to be presented in this report.¹ Ideally, a selected measure should have a clear focus on smaller businesses, be well established, and be backed up by some empirical evidence regarding its positive effects. The most interesting measures are those that are transferable to other countries. Last but not least, the group tried to find measures that were relatively original or outstanding in one or more respects. It should be noted that the good practices presented in this report are just examples of what can be done to help small businesses to cope with regulation. The selection should not be viewed as a ranking of countries.

The models presented here can be grouped into the following ten categories:

1. Size-related exemptions
2. Reduced obligations (i.e. partial exemptions)
3. Simplified obligations
4. Temporal exemptions
5. Administrative coordination, especially one-stop shops
6. Common commencement dates
7. Tailor-made information, coaching, training
8. Electronic services
9. Privileged treatment of small businesses
10. Early evaluation of regulatory impact on small businesses

1) **Exemptions** are the most widely used method to reduce the regulatory burden for small enterprises and can be found in almost all areas of regulation. Exemptions are either applied directly (i.e. businesses below certain thresholds do not have to comply with certain rules) or indirectly (i.e. the exemption depends on a criterion strongly correlated with size such as economic sector or legal form).

¹ Complete list of cases at:
http://europa.eu.int/comm/enterprise/entrepreneurship/support_measures/index.htm.

2) Applying a **reduced** set of regulatory **obligations** for smaller businesses is often used as an alternative when a complete exemption is not possible without jeopardising the original purpose of the regulation (e.g. reduced obligations for taxation and record-keeping).

3) **Simplified obligations** for small businesses may be achieved by introducing simpler formal requirements or “standard treatments” (e.g. a forfeiture tax).

4) **Temporal reductions or exemptions** do not appear to be used very often. Possibilities include longer intervals for certain obligations (e.g. annual instead of quarterly tax payments), a lower frequency/probability (e.g. for audits) or longer transitional periods (e.g. for new regulation).

5) Typical forms of improved **administrative coordination** benefiting small businesses are one-stop shops where businesses can take care of different obligations with different authorities at one local point. The majority of one-stop shops currently address start-up businesses.

6) One or two annual **common commencement dates** for all new rules and regulation (including changes to existing rules) can greatly facilitate life for small businesses, since businesses can concentrate search, information and learning activities at certain times of the year.

7) Small businesses need to be informed about the regulations that apply to them in a way that is understandable and straightforward. Typical **information activities** include websites, helpdesks, handbooks and brochures, but can involve coaching and training activities as well.

8) Adapting information to the needs of small businesses requires some omissions and simplifications. Yet it has to be avoided that a business does not receive all the necessary information to comply with regulation. **Electronic services** with databases that provide specific information on the basis of a relatively detailed profile of the individual business provide a solution to this problem.

9) **Privileged treatment** of small businesses by the public authorities (e.g. lower fees, shorter periods for processing applications) appears to be only rarely used.

10) General impact assessments are used by an increasing number of governments to estimate the likely effect of new regulation. Given the disproportionate burden on small businesses, it is important to ensure **early evaluation of the specific regulatory effects on small businesses**. In some countries, the general impact assessments already take into account the special situation of small businesses. Moreover, impact assessments can be used to judge the possibility of introducing special measures for small enterprises into the new rules.

On the basis of the analysis of good practice cases, the expert group also put forward a set of **recommendations** on how to improve the regulatory environment for small enterprises in particular:

1. Think small first. Embed this principle **systematically** in all new policies that bear on businesses.
2. Evaluate the special impact of new rules on small businesses and systematically include an evaluation of special options for small businesses in impact assessments.
3. Make simplification and improvement of the regulatory environment a permanent task.
4. Exempt small businesses whenever possible. Use partial or at least temporal exemptions if a full exemption would defeat the purpose of the regulation.
5. Simplify regulatory obligations for small businesses.
6. Introduce common commencement dates for all new laws, regulations and directives that bear on businesses.
7. Give small enterprises enough time to adjust to new regulation.
8. Provide unambiguous, tailor-made information for small enterprises.
9. Coordinate and streamline administrative activities (e.g. audits) and requests for information.
10. Create one-stop shops for typical administrative/regulatory obligations.
11. Give businesses the possibility to interact with government and take care of administrative duties electronically.
12. Consider reduced fees, faster service and similar forms of privileged treatment for small enterprises.

RECOMMENDATIONS

The models described in chapter 3 of the report show what can be done and what is available in order to help small enterprises better cope with their regulatory burden. In addition, following an analysis of the examples, the group has drawn some more general conclusions as to how the regulatory environment for small businesses can be improved.

The recommendations are in the first place addressed to public administrations, law makers and regulators. Yet the group believes that they could also be of interest to other parties involved in better regulation, notably business organisations. For example, the group hopes that the good practice cases and recommendations will assist the representatives of businesses in playing an active part in consultation procedures and inspire them to contribute concrete and tangible proposals for improving the regulatory environment.

1. Think small first. Embed this principle systematically in all policies that bear on businesses.

After the political endorsement of the "think small first" principle at the 2006 Spring Council, this principle now needs to be applied by regulators throughout the public sector. Ideally, regulation — if necessary at all — should right from the start be designed so that even a small business can cope with it easily and efficiently without being greatly disadvantaged in comparison with larger companies that can employ specialists or procure help from external experts.

This implies that all regulation, after having passed a thorough test whether it is necessary at all, has to be limited to the minimum extent compatible with its effectiveness. Moreover, regulation has to be regarded from the point of view of the enterprise. For example: How will a business obtain the information it has to pass on to a public administration? Will a small business be able to comply with regulation without external help? Will new investment be necessary? Will it be necessary to reorganise internal processes, etc.?

In designing new rules it has to be considered whether they will entail an additional burden, adding to the cumulative compliance costs that businesses already have to bear due to older regulation. For many businesses, it is not the individual regulation that poses a problem but the sheer mass of rules and obligations.

2. Evaluate the particular impact of new rules on small businesses and systematically include an evaluation of special options for small businesses in impact assessments.

(Ex ante) impact assessments and consultations should not only consider the general or average effects of new rules on businesses. The special problems of small businesses in dealing with regulation, which often result in relatively high compliance costs and a disproportionate distribution of the regulatory and administrative burden, should be systematically included in any impact assessment.

Regulation not only affects existing businesses. It can also constitute a barrier to new entrants into a market (and such newcomers are often SMEs) and to the creation of new businesses. This aspect requires particular attention from regulators when carrying out an impact assessment.

Moreover, impact assessments could also be used to judge how and to what extent special measures and models (such as exemptions, simplifications etc.) could be used to reduce the regulatory burden on small businesses: What would be the impact of a new regulation if small businesses were completely exempted? Could the purpose of the regulation be achieved if small businesses have to comply only partially or less frequently or in a simplified form?

All too often, special measures for small businesses are only introduced in the new regulation during the political decision-making process. It would be preferable to consider special rules right from the start: this could also reduce the uncertainty and apprehension of small businesses in the face of new regulation.

3. Make the simplification and improvement of the regulatory environment a permanent task.

Impact assessments for new regulation are only the starting point for developing an administrative culture of permanent evaluation, simplification and improvement of existing regulation. In general, it is difficult to link the administrative and regulatory problems of small enterprises to individual pieces of regulation. It is the bulk of regulation, the interplay of different rules and the resulting complexity that pose the biggest problems for small businesses.

Therefore, existing regulation needs to be permanently evaluated: Is it still necessary? Is it still effective, adequate and proportionate? Are there new and better ways to achieve the same purpose at a lower regulatory cost to businesses?

4. Exempt small businesses whenever possible. Use partial or at least temporal exemptions if a full exemption would defeat the purpose of the regulation.

Exemptions are always called for when the purpose of a certain regulation can be achieved sufficiently without creating obligations for small businesses. The possibility to exempt small enterprises should be considered right from the start in designing new regulations. For example, the possibilities and effects could be considered in the impact assessment. Existing regulation should be screened in order to find hitherto undiscovered possibilities for exempting small businesses.

Many European directives allow Member States to exempt small businesses when implementing the directive. These possibilities should systematically be considered in the implementation process. In particular, Member States should refrain from taking the opportunity when implementing European law to “gold plate” the core rules with additional requirements for businesses.

Thresholds have to be defined in a clear and transparent way. A business should be able to see without specialised help if a certain regulation applies to it or not.

The thresholds for exemptions should be regularly checked in order to avoid businesses “growing into” obligations due to increases in the general level of prices.

In many cases, the full exemption of small businesses might not be possible. However, it might be sufficient if only a certain number of such businesses were covered by the regulation.

The exclusion of small enterprises can be considered on the basis of different criteria, e.g. region, economic sector or legal form. Where a simple criterion does not suggest itself, small business might be excluded on a random basis. To maintain fair conditions for the competition, a mechanism to change the businesses coming under the regulation at regular intervals could be envisaged.

5. Simplify regulatory obligations for small businesses.

In designing new or screening existing rules, the viewpoint of small businesses should be systematically considered. Formal requirements should be reduced as far as possible (where compatible with legal certainty). For example, telephone, fax and email communication between businesses and public administrations should be possible as alternatives to written communication. Communication channels should allow for businesses to take care of procedures “after hours”.

Rules and forms have to be drafted in a non-technical, comprehensible way. For forms that have to be filled in, explanatory guides should be available.

Especially where regulation is particularly complex (e.g. taxation), small enterprises should be able to opt for simplified standard procedures (e.g. simplified way of calculating taxable income).

Checks and audits could be replaced by self-declarations. Dates for different audits and inspections should be combined.

6. Introduce common commencement dates for all new laws, regulations and directives that bear on businesses.

One of the biggest problems for small businesses and one of the major reasons for high compliance costs are frequent changes in the regulatory environment. Changes should therefore be kept to an absolute minimum.

New regulation that bears on businesses should be implemented on only one or two dates a year and always on fixed dates. Exceptions to such "Common Commencement Dates" (CCDs) should be strictly limited. (Such rare circumstances may include e.g. obvious emergencies, urgent anti-avoidance measures, measures to remove significant risks from businesses or instances where the costs of timing a measure to meet a CCD would be wholly disproportionate for the public purse and/or the business).

An annual statement should be available to businesses at the start of each year, detailing which regulations or directives will commence and when. The statement should contain links to guidance to ensure that businesses are informed well in advance (minimum 12 weeks) of the new regulation coming into force, e.g. by a

"regulatory pipeline website" showing which rules are being prepared and the stage they are at.

This principle should be applied to all legislative and regulatory requirements affecting businesses at local, regional, national and European levels.

7. Give small enterprises enough time to adjust to new regulation.

Legislation introduced quickly may not leave the owners of small businesses enough time to prepare, absorb and implement the changes. When a new piece of legislation is introduced, businesses should be given enough time to adjust to it.

Businesses and small firms in particular should be allowed sufficient time to prepare for the implementation of new legislation. Guidance on new legislation should be issued at least 12 weeks before the legislation comes into force. Moreover, since smaller businesses will often have more difficulties in complying with new rules, they could be given more time to adjust than the average or large company.

8. Provide unambiguous tailor-made information for small enterprises.

Information regarding rules and regulation should be drafted in a clear and concise way. Communication specialists might be employed to ensure that the information is provided in the language of entrepreneur instead of the legal language of public administrations. Any exemptions, thresholds or specific issues for SMEs should be put “up front” in an “at-a-glance” format — making it easier for small businesses to understand and comply.

The information should be easy to find, and the planning of distribution channels should take into account how and where entrepreneurs usually look for information. For online information an obvious domain name should be used, which could also be publicised in special awareness campaigns. Ideally, all information should be accessible from one entry point in the public system (e.g. an internet portal).

The information provided should be structured from the point of view of an entrepreneur and should not simply reflect the organisation of public administrations. More than one information channel should be available. In particular, the entrepreneur should always be able to receive binding information on his/her particular case within a reasonable period (e.g. from help desks or one-stop shops). Standard information (brochures etc.) should always indicate where more precise information regarding individual cases can be obtained.

Good information is necessary. But good information does not replace good regulation. Simple, transparent and clear regulation comes first. An unclear form or a complicated procedure cannot be rectified by a five-page information leaflet.

9. Coordinate and streamline administrative activities (e.g. audits) and requests for information.

Public administration processes should be coordinated and streamlined, with information shared in order to avoid enterprises having to comply with identical or similar obligations for different purposes. The same type of information should e.g. not be asked twice from an enterprise by different administrations when the information could be exchanged between the public bodies concerned.

Dates for different audits should be combined. Decisions on audits and similar procedures should rely on a risk-based approach. A comprehensive risk assessment should be the foundation of all regulatory enforcement programmes. There should be no inspections without a reason, and data requirements for less risky businesses should be lower than for riskier businesses. Resources released from unnecessary inspections should be redirected towards advice to improve compliance. Regulators should produce fewer, simpler forms, and data requirements, including the design of forms, should be coordinated and shared across regulators. When new regulations are being devised, regulators should already plan for an efficient enforcement.

10. Create one-stop shops for typical administrative/regulatory obligations.

Typical examples for public coordination are one-stop shops for start-ups. Similarly, one-stop shops could also be created for certain activities such as employing staff (i.e. coordination of tax registration, registration for social security, accident insurance, medical check-ups etc.) or for investment purposes (procurement of different licences etc.).

Where a fully integrated one-stop-shop system is not possible, it can be helpful to establish a “one-window” or “one-contact” system, in which one public administration takes care of the coordination of all the various tasks. Ideally, the enterprise would have to deal with only one person representing the administration.

11. Give businesses the possibility to interact with government and take care of administrative duties electronically.

As a matter of principle, all printed information (brochures, forms and explanations of how to use them) should also be available on-line. Yet the mere

electronic availability of printable material is not sufficient, and the special opportunities that the electronic medium offers should be fully exploited. For example, businesses should be able to sign up to a (free) e-mail alert service when a regulation changes.

Electronic services can also be used to provide information that is more specialised and targeted to individual cases than brochures. Filter questions can eliminate information useless for the individual case in question. With filter questions that establish a particular profile (regarding e.g. size, sector, region, etc.), it is also possible to ensure that no important information is overlooked.

Apart from providing information, electronic services can be used for immediate compliance with obligations (such as filling in forms on-line etc.). This should always be as an alternative to other communication media. For small businesses electronic compliance should always be optional.

Electronic compliance mechanisms should use plausibility checks and electronic services should include a feedback mechanism to help improve the process.

The introduction of electronic services should always be considered as an opportunity for implementing simplification measures (e.g. shortening paper forms before they are converted into electronic form).

12. Consider reduced fees, faster service and similar forms of privileged treatment for small enterprises.

The smaller the enterprise, the more problems it will have complying with certain regulation issues and the more disadvantaged it will be in comparison with larger firms. Special, more favourable treatment of small enterprises by public administrations could to some extent alleviate these difficulties. Possibilities to be considered include: longer adjustment periods for new regulation (see above), reduced fees, faster treatment (e.g. faster return of tax prepayments), “small in — first served” (instead of “first in — first served”), special advice programmes, special coaching and training in new rules, etc.

GOOD PRACTICE CASES PRESENTED IN THE REPORT

Size-related exemptions

Exemption of small businesses from VAT registration in the UK

Exemption of small businesses from having to set up employee safety groups in Denmark

No prior authorisation for numerous trades and crafts in Germany

No duty to notify small mergers in Norway

Reduced obligations

Hazard analysis critical control points (HACCP) in Belgium (Federal level)

The Custom's Stairway in Sweden

The Osmotherly Guarantee to reduce statistical obligations in the UK

On-the-spot firm in Portugal

Simplified obligations

Simplified registration of employees in Belgium (Federal level)

Flat-rate tax expenses in Slovakia

Corporation tax prepayment in Ireland

Tax representative in Sweden

Temporal exemptions

EU Directives on working time for lorry drivers and on unit prices

Administrative coordination, especially one-stop shops

The Belgian one-stop shop for start-ups

The Swedish collaboration group on business start-ups

Common commencement dates

The common commencement dates initiative in the United Kingdom

Tailor-made information, coaching, training

The no-nonsense guide to government rules and regulations for starting and growing a business in the United Kingdom

The calendar of statistics in Luxembourg

The Startothek in Germany

The Swedish start-up information service

Coaching of young entrepreneurs in Italy

Mentoring business transfers in France

Electronic services

The Romanian SME portal

The E-depot in Belgium (Federal Level)

Setting up a new SME on-line in Spain

The personalised checklist of regulations in the United Kingdom

Privileged treatment of small businesses

The express patent search of the Austrian Patent Office

Reduced fees for student entrepreneurs in Romania

The Contribution Payment Centres in Bulgaria

Early evaluation of regulatory effects on small businesses

The UK Small Firms Impact Test

Impact assessment in Sweden