

Brussels, 21 December 2012

Which are the TOP10 most burdensome legislative acts for SMEs?

The present position is drafted in the format of the European Commission's consultation document and includes the answers provided to the Commission's online consultation document while also completing this document with sufficient background information. For the sake of ease, the present position adopts the consultation's questions (in black) and answers (in green) format.

A. YOUR PROFILE

A.1 an organisation representing the interests of enterprises

Small enterprise (10-49 employees)

A.2 Please indicate your email address: Christoph.Riedmann@orgalime.org;

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A.3 You are based in the following country: Belgium

A.4 If your enterprise or organisation is registered in the European Commission Interest Representative Register, please indicate the identification number: 20210641335-88

B. CHOOSE HOW TO REPLY USING ONE OR SEVERAL OF THE FOLLOWING OPTIONS

B.1 Do you want to indicate the areas where EU regulation is the most burdensome? Yes

B.2 Do you want to indicate which pieces of EU legislation are the most burdensome? Yes

B.3 Do you want to explain what regulatory requirements you find the most burdensome? Yes

B.1 Please indicate the areas where EU regulation is the most burdensome (MAX 10!)

Consumer protection

- Other: GPSD

Employment and Social Affairs

- Health & Safety at work

Energy

- Energy efficiency

Environment

- Tackling climate change
- Air (air quality, air pollutants, etc.)
- Chemicals
- Waste

Orgalime, the European Engineering Industries Association, speaks for 39 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.2 million people in the EU and in 2011 accounted for some €1,666 billion of annual output. The industry not only represents some 28% of the output of manufactured products but also a third of the manufactured exports of the European Union.

Product safety

- Traceability obligations (under the draft RTTE directive)

Business environment

- Public procurement

Statistics

- Often requirements for statistics are not compatible with the organisation of a company. This is NOT national gold-plating. As an example, in the Netherlands CBS (Central Bureau for Statistics) has a lot of statistics-inquiries that SMEs are obliged to fill out due to EU-obligations. A lot of the questions do not correspond to the way SMEs organise their administration.

Here you can add "other" specific areas of EU legislation:

Eco design Directive – Resource Efficiency

We support the CSES study conclusions that there is no need for an immediate revision of the Ecodesign Directive or for the extension of the scope to non-energy related products.

Standardisation should be used better for the implementation of the Directive, especially between the development of implementing measures and must be in line with the New Legislative Framework

Horizontal standardisation mandates are useful, but ongoing standardisation work must be used more. Preparatory studies must be taken into consideration.

We are concerned with the following Resource Efficiency implementation activities. They lead to duplicating existing policy instruments and subsequent risks of inconsistencies and legal uncertainties for companies.

The methodological approach proposed by DG ENVI and the JRC for the “Development of resource efficiency and waste management assessment methods to identify eco design requirements” ignores the existing MEErP methodology that has been particularly established for the implementation of the Eco Design Directive. In this context we have severe concerns on the proposed methodological approach of the four parameters “RRR”, “recycled content”, “use of priority resources” and “use of hazardous substances”.

The suggested environmental footprint methodology and its proposed use in policy making, significantly increases complexity, costs and room for unfair competition, while providing questionable benefits for consumers and industry.

Waste & RRR

We are concerned that it is impossible to trace the use of recycled raw materials since they are in many different uses. Likewise, producers are liable for their products, any default, functional or other failure. This is particularly sensitive in applications that require particular safety and reliability performances (aerospace, transport or industrial).

Producers therefore must be able to obtain the necessary information on the materials (incl. components, parts, chemicals) that enter their final products.

B.2 Please select the specific piece/s of EU legislation which are the most burdensome (MAX 10!!)

Consumer protection

- General product safety - Directive 2001/95/EC

Environment

- Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) -Regulation (EC) No 1907/2006
- Restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) - Directive 2011/65/EC

Sectoral product safety legislation

- Construction products - Regulation (EU) No 305/2011

Here you can add "other" pieces of EU legislation:

- **Concerning REACH:** it is the implementation that is burdensome for SMEs, such as too often updates of the REACH candidate list and article 33 information requirements
- **Industrial Emission's Directive:** only shortly after the finalisation of the recast of the IED (former IPPC) the Directive requires rediscussing the scope of the directive to cover (very) small installations with a total rated thermal input below 50MW. This does not help legal certainty.
- Similarly, the recast of **WEEE and RoHS Directives** resulted in scope provisions that rather decrease than improve legal certainty and regulatory stability, while the Commission's impact assessment prior to the recast proposal did not justify any scope changes of the existing WEEE and RoHS Directives.

B.3 If there are other regulatory requirements you find burdensome

Mainly application problems:

- **RoHS and REACH implementation:**
 - RoHS exemptions versus REACH authorisation procedures: making sure that companies will not need to seek RoHS exemptions and REACH authorisations for the same substance use in the same appliance in parallel
 - The implementation of Article 6 ROHS methodology needs to ensure full coherence and maximise synergies with EU chemicals legislation, and in particular the REACH Regulation
- **CPR:** lack of guidance prior to entry into force on 1 July 2013 on the Declaration of Performance on internet which is one of the two options for issuing it. This requires a delegated act which may well not be ready by 1 July 2013. Doing it on paper is more burdensome.

Also an issue: the application of the **GPSD** hazard based approach onto products in the regulated sphere such as the LVD where the directive is meant already to cover all risks. This is overkill.

Potential issues under the alignment package of the 9 directives within the New Legislative Framework (hopefully to be resolved in the revision of the Blue Guide?):

- Unique identification number for each product in the DoC.
- The applicability of new legislative requirements to products already placed on the market
- Affixing the postal address of the manufacturer/importer on the product rather than reference to web site.
- Potential translation requirements of technical files

Other:

Orgalime strongly emphasises that, regardless which environmental aspect is regulated, the legislator should only prescribe the aim and leave manufacturer deciding how to reach this general goals. Implementation measures must neither discriminate, nor forbid a particular technology, but they must be neutral with regard to different technical solutions.

We welcome this initiative by the European Commission, which is to identify EU legislation that is particularly harmful to SMEs. However, a lot of burden for SMEs comes from the application – and non-application of EU legislation. Besides the traditional national gold-plating, often SMEs suffer from a difficult application of rules, as they must be in line with regional, national and EU provisions, such as for statistics.

Likewise, SMEs suffer greatly when EU legislation is applied in different ways among the EU countries. This is especially true for public procurement and product standards.

Finally, they also suffer from non-application of EU law, as is the case for lack of market surveillance.

C. SUCCESSFUL REVISIONS OF EU LEGISLATION

C.1 Can you give an example of a piece of legislation which has been successfully revised and which is now less burdensome?

No (unfortunately)