

# Stocktaking of the Commission's 'better regulation' approach

Fields marked with \* are mandatory.

## Introduction

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The European Commission is committed to being 'big on big things' and smaller on things where EU action does not add value. To help to deliver on this commitment, the Commission has put in place a 'better regulation' agenda based on three key pillars: stakeholder engagement throughout the policy cycle; evaluation to ensure that the current body of EU law remains fit for purpose; and impact assessment to ensure that new proposals reach their policy goals in the most efficient way without imposing unnecessary burdens.

Since 2015, the Commission has revamped the 'better regulation' framework to make it more effective. The results of this revision include:

- *further efforts to increase the transparency, legitimacy and accountability of our work, in particular as regards the consultation process throughout the policy cycle, including the possibility for the general public and interested parties to provide feedback on proposals, and increased availability of languages*
- *an independent Regulatory Scrutiny Board which checks the quality of the Commission's impact assessments and major evaluations*
- *a new online tool – 'Lighten the Load' – which enables those affected by EU legislation to put forward their views, plus any criticisms and ideas for improvement they may have, so as to simplify and improve existing EU laws*
- *a platform of experts including representatives of NGOs, interest groups and national governments – the 'REFIT platform' – to advise the Commission on how to make EU laws simpler and less costly without watering down the intended objectives*

**The Commission is aware that further improvements can be made. We would like to hear your views on those aspects of the better regulation framework that work well and those where you think it should be improved.**

The results of this public consultation will inform the Commission stocktaking of its better regulation framework which it will publish in Spring 2019.

The questionnaire is divided into 7 short sections. Most questions are optional. You can upload a position paper at the end should you so wish.

Relevant links:

- the Commission's 2017 communication on ['Completing the Better Regulation Agenda: Better solution for better results'](#)
- the Commission's [better regulation agenda](#)

- the Commission's [better regulation guidelines and toolbox](#)
- the Commission's [central consultation page](#) ('Have your say')
- [Regulatory Scrutiny Board](#)
- the Commission's [REFIT Programme](#)
- [REFIT platform](#)
- [Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently'](#)

## About you

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\*1 You are replying

- as an individual in your personal capacity
- in your professional capacity or on behalf of an organisation

\*8 Respondent's first name

Nikolai

\*9 Respondent's last name

Pushkarev

\*10 Respondent's professional email address

nikolai@epha.org

\*11 Name of the organisation

European Public Health Alliance (EPHA)

\*12 Postal address of the organisation

Rue de Treves 49-51, 1040, Brussels

\*13 Type of organisation

Please select the answer option that fits best.

- Private enterprise
- Professional consultancy, law firm, self-employed consultant
- Trade, business or professional association
- Non-governmental organisation, platform or network
- Research and academia
- Churches and religious communities

- Regional or local authority (public or mixed)
- International or national public authority
- Other

\* 22 Is your organisation included in the Transparency Register?

If your organisation is not registered, we invite you to register [here](#), although it is not compulsory to be registered to reply to this consultation. [Why a transparency register?](#)

- Yes
- No
- Not applicable

\* 23 If so, please indicate your Register ID number.

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\* 24 Country of organisation's headquarters

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

\*26 Your contribution,

Note that, whatever option chosen, your answers may be subject to a request for public access to documents under [Regulation \(EC\) N° 1049/2001](#)

- can be published with your organisation's information** (I consent the publication of all information in my contribution in whole or in part including the name of my organisation, and I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication)
- can be published provided that your organisation remains anonymous** (I consent to the publication of any information in my contribution in whole or in part (which may include quotes or opinions I express) provided that it is done anonymously. I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

## 1. The Commission and better regulation – general questions

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*This section focuses on the Commission's general approach to improving regulation (later sections will go into more detail).*

\*27 **Are you informed about the Commission's plans early enough to be able to take part in the policy-making process?**

- Yes, fully
- Yes, mostly
- Sometimes
- No, not usually
- No, not at all
- Don't know

\*28 **Are you satisfied with how the Commission involves members of the public, businesses, non-governmental organisations and other interest groups?**

- Yes, very satisfied
- Yes, satisfied
- Neither satisfied nor dissatisfied
- No, dissatisfied
- No, very dissatisfied
- Don't know

\*29 **Does the Commission provide enough evidence (e.g. evaluations, impact assessments) to back up its proposals?**

- Yes, always
- Yes, mostly
- Partially
- No, not usually
- No, not at all
- Don't know

\*30

**Does the Commission take environmental and social impacts sufficiently into account when putting forward policy proposals (in addition to economic impacts)?**

- Yes, always
- Yes, mostly
- Partially
- No, not usually
- No, not at all
- Don't know

**\* 31 Does the Commission take [subsidiarity](#) and the role of national, regional, and local authorities sufficiently into account when putting forward policy proposals?**

- Yes, always
- Yes, mostly
- Partially
- No, not usually
- No, not at all
- Don't know

**\* 32 Are you satisfied with the Commission's efforts to simplify existing EU laws and to reduce costs where possible (REFIT)?**

- Yes, very satisfied
- Yes, satisfied
- Neither satisfied nor dissatisfied
- No, dissatisfied
- No, very dissatisfied
- Don't know

**33 Please feel free to explain your answers. We would like to know what works well (and should be kept) and what doesn't (and needs review).**

*3000 character(s) maximum*

Epha welcomes this opportunity to respond and will focus its observations on the topic of impact assessment.

Epha agrees that impact assessment is an important stage in the policy-making process. Impact assessment is of particular relevance for public health and the implementation of Article 168 TFEU: health outcomes are shaped by multiple determinants and are linked to multiple policy areas.

In its better regulation guidelines on impact assessment the European Commission refers to the need to assess for health impacts. General guidance on implementing such assessment is available. Tool #31 on health impacts provides that "health impacts should be examined if a proposal affects or could affect in the short or/and long term the health and safety of individuals or populations or the national healthcare systems."

Health is a core value for Europeans and a major societal challenge. Across Europe, health and social security is now the second most important national concern [Eurobarometer 89 (2018) Spring]. Nearly 10% of EU GDP is spent on healthcare [OECD/EU (2016) Health at a Glance: Europe 2016]..

Despite the above-mentioned references, Epha regrets that in practice, health impact assessment often falls significantly short of providing the insights needed for a well-informed policy debate.

In the framework of the current stock-taking exercise, Epha recommends the Commission to revisit and improve how health is addressed in EU impact assessments.  
(more examples below)

## 2. Consulting the public and interested parties

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When preparing new or revising existing laws and regulations, the Commission asks interested parties for their ideas and views as well as for factual information. The idea is to give those likely to be affected by EU policies an opportunity to be heard.

Members of the public and representatives of interest groups can provide input throughout the policymaking process in a number of ways (all of which you can find on the Commission's central consultation page, Have Your Say). They can:

- comment on roadmaps and inception impact assessments (these documents present the Commission's initial ideas, announce the launch of an impact assessment process or explain its absence and also provide an overview of the planned public and targeted consultations)
- participate in public consultations
- comment on legislative proposals
- comment on draft delegated or implementing acts (these acts complement existing laws to update them or to help implement them)
- suggest ways to improve existing laws, via the 'Lighten the Load' tool

Individual Commission departments also regularly hold targeted consultations of stakeholders through events, working groups, or questionnaires published on the respective department's web page or sent to experts.

The aim of this section is to identify what parts of the stakeholder consultation processes are working well and find out how the Commission can improve them further.

**\* 34 Are roadmaps and inception impact assessments useful to help you prepare your participation in the policy-making process?**

- Yes, fully
- Yes, mostly
- Partially
- No, mostly not
- No, not at all
- Don't know

**35 Please feel free to explain your answer.**

*2000 character(s) maximum*

36 Are you satisfied with the following opportunities to contribute to the policy-making process?

	Yes, very satisfied	Yes, satisfied	Neither satisfied nor dissatisfied	No, dissatisfied	No, very dissatisfied	Don't know	I am not aware of this tool / opportunity
* Opportunity to <b>comment on roadmaps and inception impact assessments</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* <b>Public consultations</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Opportunity to <b>comment on draft delegated and implementing acts</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Opportunity to <b>comment on Commission legislative proposals</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Opportunity to <b>suggest ways to improve existing laws (Lighten the Load)</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>



**37 Please feel free to explain your answer.**

*2000 character(s) maximum*

38 Are you satisfied with the following aspects of the Commission's *public* consultations?

	Yes, very satisfied	Yes, satisfied	Neither satisfied nor dissatisfied	No, dissatisfied	No, very dissatisfied	Don't know
* Clarity of questionnaires	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Length of questionnaires	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Neutrality of questionnaires	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Opportunity to make relevant comments or provide supporting material	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Availability of different language versions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Length of consultation period (12 weeks)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

**39 Please feel free to explain your answer.**

*2000 character(s) maximum*

**\*40 Are you satisfied with how the Commission reports on the results of its public consultations and the other opportunities to comment?**

- Yes, very satisfied
- Yes, satisfied
- Neither satisfied nor dissatisfied
- No, dissatisfied
- No, very dissatisfied
- Don't know

**41 Please feel free to explain your answer.**

*2000 character(s) maximum*

**42 Do you have any other ideas for improving the Commission's stakeholder consultation practices? We would like to hear examples of good practice from both EU and non-EU countries.**

*3000 character(s) maximum*

### **3. Evaluating existing EU laws**

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The Commission regularly assesses how well existing EU measures - laws, policies, and financial programmes, for instance – are working.

An assessment of existing EU measures is called an '**evaluation**' (and, where several EU measures are examined collectively, a 'fitness check'). Assessments enable the Commission to decide whether particular EU measures are still justified, or whether they need to be simplified or improved (e.g. to cut out unnecessary regulatory costs or inconsistencies, adapt measures to take account of new developments, make them work better, or even repeal them).

The REFIT programme and the REFIT platform help the Commission identify the areas where it needs to focus its efforts, to simplify legislation and reduce any burdens caused by EU action. The state of play of such initiatives are tracked by the REFIT Scoreboard.

43 Are you satisfied with the following aspects of the Commission's evaluations?

	Yes, very satisfied	Yes, satisfied	Neither satisfied nor dissatisfied	No, dissatisfied	No, very dissatisfied	Don't know
* Transparent assessment of what works and what doesn't	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Usefulness of evaluations for policy-making	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Transparent information about all relevant impacts (benefits and costs) of existing legislation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Focus on simplification and cutting unnecessary costs ('REFIT programme')	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

**44 Please feel free to explain your answer.**

*2000 character(s) maximum*

**\*45 Is the REFIT platform effective in identifying areas where legislation can be simplified and unnecessary costs cut while preserving policy objectives?**

- Yes, fully
- Yes, mostly
- Partially
- No, not usually
- No, not at all
- Don't know

**46 Please feel free to explain your answer.**

*2000 character(s) maximum*

**47 Do you have any further ideas about how to improve the Commission's evaluations?** Please feel free to share examples of good practice from both EU and non-EU countries.

*3000 character(s) maximum*

## 4. Assessing new Commission proposals

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Impact assessments support the Commission's policy proposals. They assess:

- the pros and cons of a range of policy options designed to address one or more problems, using evidence from previous evaluations and consultations
- conformity with the principles of [subsidiarity](#) and [proportionality](#)
- potential for simplifying existing legislation and cutting any unnecessary regulatory costs, in line with the Commission's REFIT programme.

All impact assessments are published on a [central web page](#). Members of the public and people with a special interest in the issue at hand can comment on impact assessments accompanying legislative proposals.

48 Are you satisfied with the following aspects of the Commission's impact assessments?

	Yes, very satisfied	Yes, satisfied	Neither satisfied nor dissatisfied	No, dissatisfied	No, very dissatisfied	Don't know
* Transparent information about all the relevant impacts (benefits and costs) of different policy alternatives	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Assessment of the potential for simplifying existing legislation and cutting unnecessary costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Usefulness to inform the Commission's decision-making	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Usefulness to inform the European Parliament's and the Council's decision-making	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>



**49 Please feel free to explain your answer.**

*2000 character(s) maximum*

**50 Do the Commission’s impact assessments analyse the most relevant and important issues? (e.g. impacts on SMEs via the SME test, etc.)**

*2000 character(s) maximum*

Examples below illustrate three policy files where, from our perspective, the assessment of health impacts fell short on the basis of different criteria.

1. EU Common Agricultural Policy (CAP) (SWD(2018) 301 final). The impact assessment accompanying the reform of the CAP does include reference to several health dimensions, but is not built on a systematic exposition of the main links between agriculture and public health. Also, the outcomes of the assessment do not contribute to a clearer understanding as to "what extent different policy options would meet their objectives, with what benefits, at what cost, with what implications for different stakeholders, and at what risk of unintended consequences", as required under the better regulation impact assessment guidelines.
2. EU trade policy. The European Commission’s Handbook for Trade Sustainability Impact Assessment (SIA) references health, but effectively limits its focus to occupational questions. This appears inconsistent with the fact that non-communicable diseases (NCDs) represent the main burden of disease and mortality both in Europe and worldwide and that their risk factors are associated with many tradeable goods. SIA’s from different negotiations, such as with Mercosur, US and Japan provide little indication of a consistent or comprehensive approach towards identifying potential health risks.
3. Audiovisual Media Services Directive (AVMSD) (SWD(2016) 168 final). The impact assessment accompanying the revision of the AVMSD omitted to assess regulatory options to restrict the advertising of alcohol and ‘unhealthy’ foods to children and youth. Despite the existence of evidence that self- and co-regulatory codes lack efficacy and the existence of regulatory measures, particularly in the area of alcohol, the assessment did not evaluate these. The assessment therefore seems to have failed in promoting true policy debate by not providing sufficient relevant information for policymakers to make a choice.

**51 What more can the Commission do to justify its proposals with regard to [subsidiarity](#) and [proportionality](#)?**

*2000 character(s) maximum*

**52 Do you have any further ideas about how to improve the Commission’s impact assessments?**  
Please feel free to share examples of good practice from both EU and non-EU countries.

*3000 character(s) maximum*

As the Commission further elaborates its response to how to address the interface between chemical, product and waste legislation in framework of the Circular Economy Package, the options for moving towards a 'non-toxic' circular economy should be carefully considered.

A study from 2018 "Toxics in Carpets in the European Union" [1] found that over 50 chemical substances could be present in carpets on the European market, some of which are classified as, or are suspected to be, carcinogens, endocrine disruptors and/or causes of developmental harm. Many of these chemicals are also persistent environmental pollutants. In order to ensure such chemicals do not find their way into recycled content and thereby continue circulating throughout the future material supply, the policy options brought forward to address this question should be carefully considered for their potential health impacts. An incomplete analysis could endanger the legitimacy and public acceptance of the package.

[1] Onyshko & Hewlett (2018) Toxics in Carpets in the European Union. Anthesis Consulting Group for Changing Markets Foundation

## 5. Scrutinising the quality of impact assessments and evaluations

The Regulatory Scrutiny Board (RSB) became operational in 2016. It is appointed by the President of the Commission. It has 7 full-time members, of which 3 are externally recruited. The Board quality controls impact assessments and major evaluations. It ensures that facts and stakeholder views are fairly presented to decision-makers. Its opinions are published.

53 Please indicate the level of your agreement with each of the following statements:

	I strongly agree	I tend to agree	I tend to disagree	I strongly disagree	Don't know
<b>I am familiar with the Regulatory Scrutiny Board.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>There is sufficient regulatory scrutiny of EU impact assessments and evaluations.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>Regulatory scrutiny adds value to the overall regulatory process.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>The Regulatory Scrutiny Board is impartial.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>The Regulatory Scrutiny Board opinions are informative.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>The Regulatory Scrutiny Board opinions promote evidence-based policies.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>The Regulatory Scrutiny Board increases the quality of Commission proposals.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>The Regulatory Scrutiny Board increases transparency of Commission policy-making.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
<b>The Regulatory Scrutiny Board increases accountability of Commission policy-making.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

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**54 Do you have any comments on the Regulatory Scrutiny Board?**

*3000 character(s) maximum*

## 6. Final questions

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**55 Please select up to three areas where the Commission has made (relatively more) progress since 2014, if any.**

*at most 3 choice(s)*

- Transparency of the policy-making process
- Consultation
- Evaluation
- Impact assessment
- Scrutiny of regulatory proposals
- How the different 'better regulation' tools work together
- Other

**57 Please select up to three areas where the Commission should make improvements in the future.**

*at most 3 choice(s)*

- Transparency of the policy-making process
- Consultation
- Evaluation
- Impact assessment
- Scrutiny of regulatory proposals
- How the different 'better regulation' tools work together
- Other

**59 How could the Commission simplify its better regulation approach to ensure the timely development of proposals while ensuring that these continue to be based on evidence?**

*3000 character(s) maximum*

- 1) Ensure the elaboration, by independent experts, of an effective methodology/manual for health impact assessment for use across different policy areas.
  
  - 2) Ensure that the parties carrying out an impact assessment can attest for having sufficient expertise to assess health impacts, or to ensure the health component is assessed in partnership with competent parties.

## 7. Document upload and final comments

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**60 Please feel free to upload a concise document, such as a position paper. The maximum file size is 1MB.**

*Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this public consultation. The document is optional and serves as additional background reading to better understand your position.*

**61 If you wish to add any further information relevant to this questionnaire, please feel free to do so here.**

*3000 character(s) maximum*

## **Contact**

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