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COMMUNICATION FROM THE COMMISSION
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THE BUSINESS TEST PANEL

A PILOT PROJECT

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1. INTRODUCTION

Excessive regulation carries a high economic cost and endangers the competitiveness of industry and business and its employment potential¹. Unsuitable and imprecisely targeted measures may also adversely affect the functioning of the Single Market. All regulations must be fully justified, respect the principle of subsidiarity, be proportionate to their objectives and not impose excessive compliance costs and administrative burdens on enterprises, in particular on small businesses.

In recent years, the Commission has launched several initiatives to simplify and improve the quality of legislation in order to implement the orientations of its regulatory policy guidelines adopted in 1996². The SLIM programme has developed a new, targeted approach to reviewing and simplifying Single Market legislation, in partnership with the Member States and with those operators affected by the legislation. The Better Law Making report provides an overview and highlights Community action on simplification. The newly created Business Environment Simplification Task Force –BEST– will make a further contribution to improving the environment for business by proposing measures to reduce the unnecessary administrative and regulatory burdens which restrain the development of European business, particularly SMEs. Finally, the business impact assessment system which is an internal Commission procedure is intended to be a comprehensive analysis of the impact on business, in particular small firms, of those legislative proposals which are relevant for business. An important part of the process leading to the final impact assessment is the consultation procedure, both with outside interests, including business organisations, and informally with the Member States. Further improvements to the system and procedures have been sought, in particular, by business organisations and the Council. The Commission is currently preparing revised guidelines for its internal working procedures on the completion of the business impact assessments.

In the light of some developments at national level to improve the assessment of the costs and administrative consequences of proposed legislation, the Commission decided, in the Action Plan for the Single Market, to undertake pilot projects to improve consultation procedures with business on the costs of implementing certain new legislative proposals. As a pilot exercise, the European Business Test Panel was also proposed (pilot projects to be launched during 1998).

¹ The Special European Council on Employment in Luxembourg (November 1997) asked both the European legislator and the national legislators to press on with their efforts to simplify the regulatory and administrative environment for businesses and especially small and medium-sized enterprises

² SEC(95) 2255/7 of 18.01.1996.

Consultation of the panel

- does not aim at assessing the objective and merits of the proposed legislation. but at quantifying the compliance costs and assessing the administrative burdens for business of proposed new legislation within tightly defined time limits. This will allow the Commission to receive direct feedback from individual enterprises, including SMEs, and to judge whether it has achieved the necessary balance in terms of costs and benefits in its legislative proposals.
- will also aim at identifying alternative solutions which would achieve the same objective in a less burdensome way.
- will not entail circulation of draft proposals. Material will be limited to a synthesis of key elements which have a bearing on compliance costs.
- will be without prejudice to the Commission's right of initiative and competence.

On the basis of the results of these pilot projects, the Commission will consider whether to take this initiative forward and, in particular, the establishment of a European Business Test Panel at Community level.

2. THE OBJECTIVE

The ultimate objective of each initiative is to improve the Commission's regulatory impact analysis procedures and in this way adopt better quality proposals. The Business Test Panel should focus primarily but not exclusively on the compliance costs and the administrative burdens that may hinder the development of trade and industry. This would be useful and relevant information. The pilot phase will include proposals from a limited number of areas. In any event, given that Single Market legislation essentially aims at removing burdens and barriers for companies and that the Commission legislative activity has drastically reduced, the number of legislative proposals suitable for submission to the Business Test Panel will inevitably be small.

The Test Panel would not replace the normal consultation procedures but be a supplement to it in the final phase of preparing legislative proposal. As with other consultation procedures, recourse to the panel will be without prejudice to the Commission's right of initiative. The results of the consultation of the panel will be available to the Commission when it takes its final decision. Representative organisations and other interested bodies will thus continue to be consulted by the Directorate General concerned, and the Commission will continue with its normal practice of wide consultation, for example, through Green Papers, working documents and the holding of meetings with outside interests including business organisations.

3. THE APPROACH

The Business Test Panel will have the following characteristics:

- It should be representative. It should therefore comprise firms of all sizes, including, but not exclusively, SMEs, and should have a sufficiently broad geographical and industrial coverage, including the retail and the services sector;
- It should provide reliable results. Firms that take part in the Test Panel will need to understand the implications and be ready to undertake the necessary work. Participation will be on a voluntary basis.
- It should itself impose very light administrative burdens for the Commission departments (and national administrations) and for the Test Panel's member firms. Existing structures will therefore be used as much as possible.
- It should be operational in order to meet exactly short timescales and thereby avoid delaying the legislative process.
- Confidentiality should be assured. Consultation will meet existing Commission confidentiality rules. Businesses will respond to the questionnaire anonymously.

4. SETTING UP THE PANEL

Various options for the form of the Test Panel can be considered:

- A European Business Test Panel, under the Commission's direct management and responsibility. This would imply the need to consult many thousands of firms to get a statistically valid result.
- We could rely on the main representative business organisations at European level, working through their existing networks to contact firms in the fifteen Member States;
- We could use existing national panels, or those to be set up within national administrations or national business organisations;
- We could create a network of specialist institutions or consultants.

After consultation of the members of the Internal Market Advisory Committee, the Commission considers that a decentralised approach should be pursued as far as the launching of pilot projects is concerned. For this trial period, each participating Member State (many of which already have a consultation structure) is invited to set up a panel structure which takes account, where appropriate, of its own consultation traditions and procedures or bodies. Each Member State will have the responsibility, within the criteria defined above and in particular with regard to representativeness, to decide the size and composition of the panel. Panels could be set up either directly by the national administration, or in collaboration with national business organisations. Each Member State must designate a correspondent in their administration (or business organisation), who would liaise with the Commission, be responsible for organising the consultation at national level and ensure that the strict conditions set by the Commission, in particular on the time limit for consultation, are respected.

5. ORGANISATION

Member States will be responsible for the practical organisation of the consultation process with the companies. The Commission will be responsible for the selection of each proposal for Test Panel consultation and the assessment and processing of the results of the consultation. The Commission will make the necessary material available (summary of proposed legislation, questionnaire) to Member States. The results of the consultation will be made public.

5.1. The choice of legislative proposals

The Business Test Panel will be invited to consider certain proposals only from those that are likely to have a significant impact, including in terms of compliance costs and administrative burdens, on business. The Commission will choose on the basis of its annual work programme the indicative list of envisaged legislative actions that will be subject to consultation of the Test Panel and a business impact assessment.

The Business Test Panel will initially be consulted on those draft proposals for legislation which affect a wide range of sectors and a significant number of businesses in the panel, rather than on legislation that concerns a very small number of sectors.

5.2. The consultation

For the measures selected the Test Panel will be consulted within defined deadlines before a formal proposal is adopted by the Commission. This could mean that consultation of the individual enterprises which are members of the Panel on aspects such as compliance costs and administrative burdens could be launched in parallel with possible consultation of European business organisations concerned which aims at a much broader, sometimes political objective. This consultation must not hold up the legislative process.

Consultation will be based on short explanatory memorandum of the draft proposal indicating the main legislative provisions that may necessitate internal adjustments for the enterprises concerned (in each Community language). A standard questionnaire which will also be developed in each Community language, will focus on quantifying compliance costs. It will draw a distinction between recurring and non-recurring compliance costs and administrative burden. The questionnaire may also offer respondents the opportunity to propose alternative solutions which would achieve the same ends in a less burdensome way. Total time spent by any individual enterprise to complete each exercise should be kept to the minimum necessary.

Each national correspondent will be responsible for receiving and distributing to the Panel members all the necessary material. The Test Panels will normally have three weeks to respond, although in some cases, a shorter deadline may be set. Individual businesses' responses to the questionnaire will be forwarded directly to the Commission.

Electronic transmission systems, such as the Internet, will be used to speed up the process.

5.3. The analysis of the results

The Commission will analyse and evaluate both the compliance costs and the administrative burdens of the proposed legislation, identifying any provision of the draft legislation, which have been indicated as problematic. Compliance costs linked with the proposed legislation will also be quantified.

Any Member State may itself analyse the results of the consultation undertaken at national level.

5.4. The follow up

The Directorate General initiating the proposal will assess whether amendment is required to the draft proposal for legislation to take account of the possible concerns expressed by the enterprises consulted. The results of evaluation report will be included with the business impact assessment as part of the COM document sent to the Council and European Parliament. The Directorate General concerned will indicate to what extent the results of the consultation have been taken into account. Business organisations at European and national levels will also be informed of the results of the consultation, which should also be made available on the Internet.

6. TRIAL PERIOD - PILOT PROJECTS

In the initial phase, pilot projects will be launched on a voluntary basis, in each Member State that so wishes. A broad geographical coverage will be sought. Discussion at the informal meeting of the Ministers responsible for the Internal Market on 13 February identified Member States that are willing to participate in this trial period.

A thorough evaluation of the process as well as the pilot projects themselves would be made in 1999. This evaluation will involve the Member States which have participated in the pilot phase and the businesses that took part in the panel and representatives from business organisations.

Following this thorough evaluation, the Commission will consider whether it is worth taking this initiative forward, and, in particular, the establishment of a European Business Test Panel at Community level.

Financial Statement

1. TITLE OF THE ACTION

The Business Test Panel – A pilot project.

2. BUDGET HEADING CONCERNED

B5-3000.

3. LEGAL BASIS

Treaty establishing the European Union and in particular articles 8a, 30 to 36, 52 to 66, 99, 100, 100a, 100b, 113, 169 and 171 thereof.

4. DESCRIPTION OF THE ACTION:

4.1 General objective

The Action Plan for the Single Market envisages the creation of a panel of European companies, consultation of which will supplement consultations usually carried out by the Commission in the preparation of its legislative proposals. The work of the panel will concentrate on the compliance costs and likely administrative implications of proposed new legislation. The Commission will begin pilot consultation of the panel during 1998.

The consultation will enable the Commission to evaluate the compliance costs and the administrative implications likely to result from proposed new legislation by means of direct dialogue with companies, including SME's.

4.2 Period covered and arrangements for renewal or extension

The pilot projects will initially run for a period of ONE YEAR.

During this initial phase, pilot projects will be launched in those Member States who want to be involved. Participation will therefore be voluntary. The informal meeting of 13 February 1998 of the Ministers responsible for the Internal Market showed that a number of Member States were already willing to take part in these pilot projects.

Pilot projects will be subject to an in-depth evaluation in 1999. This evaluation will involve the Member States involved in the pilot phase, the companies which are member of the panel and the representatives of business organisations.

5. CLASSIFICATION OF EXPENDITURE

NCE; CD.

6. TYPE OF EXPENDITURE

Operational expenditure essentially comprises financing for analysis of results as well as evaluation of projects, enabling the Commission to control costs and the administrative consequences of the application of new legislation for companies.

7. FINANCIAL IMPACT

7.1. Method of calculation of the cost of the action

The creation and consultation of the panel will be assured and financed by the Member States. The action will not require additional financial and other resources.

7.2. Itemised breakdown of costs

EC in ECU (current prices)	
Breakdown	12 months
Analysis of the results and evaluation of the projects	100,000
Total	100,000

8. FRAUD PREVENTION MEASURES

The Commission departments will check the studies and evaluations requested before payment, taking into account contractual obligations, economic principles and the principles of sound financial and general management. Anti-fraud provisions (supervision, submission of reports, etc.) are included in all agreements or contracts between the Commission and recipients of payments.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

9.1. Specified and quantified objectives; target population

The pilot projects to be launched by the Commission in 1998 will concentrate on the question of the compliance costs and the likely administrative implications of new Commission legislative proposals.

They will be carried out in a limited number of Member States and will involve panels of several hundred companies, sufficiently representative in terms of company size, sector and geographical coverage.

The consultation will enable the Commission to obtain a better evaluation of the likely cost and administrative consequences of proposed new legislation by direct dialogue with individual companies, including SME's and, if necessary, to adjust such legislation to encourage competitiveness and the creation of new jobs.

The evaluation will be carried out on a case-by-case basis by analysis of results received from the hundreds of companies in the panel from the various participating countries.

The pilot projects are directed, via the Member States, at companies of any size likely to be affected by the proposed legislation subject to consultation, and which need to base their activities on clear and simple legislation geared to their needs in order to exercise their rights within the Single Market without running into unnecessary restrictions or bearing excessive expenses.

9.2. Grounds for the operation

The ultimate objective of the creation of the panel of European companies is to allow companies to benefit fully from the advantages of the Single Market by improving relevant legislation. It will concentrate on the compliance costs and administrative implications likely to result from the new proposed legislation. The economic advantages which will result from this evaluation should achieve fully justify the proposed intervention.

It is advisable to consider this action in the light of the Commission's other activities regarding the simplification and consolidation of legislation (SLIM, Business Impact Assessment)

The creation of the "panel of companies" was prompted by the need to confront the different perspectives of legislators and those who are directly affected by the legislation, namely companies, and was particularly aimed at the costs likely to result from the application of certain proposed new legislation.

The Commission examined several options for the establishment of the panel of companies:

- Statistically sound representativeness. This representativeness, however, would require the involvement of thousands of companies.
- The Commission could have made use of the networks of organisations of the most representative companies at European level to contact companies in the 15 Member States. This approach would have been relatively complicated and very costly.
- The Commission could have used existing national panels or those to be established in national administrations or company organisations.
- The Commission could have created networks of specialised agencies or consultants.

After consultation with the members of the Consultative Committee of the Internal Market, the Commission decided that decentralisation was the best approach because it involved lower administrative costs, greater reliability and greater effectiveness in managing the panel.

This decentralised approach, however, should be accompanied by centralisation at Commission level of the processing and analysis of the results of consultation, which would involve low financial expenditure.

9.3 Monitoring and evaluation of the operation

There will be an in-depth evaluation during 1999 involving the Member States taking part in the pilot projects, as well as the companies on the panel and representatives of company organisations.

A decision, to be forwarded to the Council if necessary, to extend the pilot projects of the panel of European companies will be taken in light of this evaluation.

10. ADMINISTRATIVE EXPENDITURE (PART A OF SECTION III OF THE GENERAL BUDGET)

The administrative resources necessary will be provided by the annual Commission decision on resource allocation taking account of the staff and supplementary amounts accorded by the budgetary authority.

10.1 Effect on the number of posts

Types of post		Staff to be assigned to managing the operation		Source		Duration
		<u>permanent posts</u>	<u>temporary posts</u>	Existing resources in the DG or department concerned	Additional resources	
Officials or temporary staff	A	1		1		1 YEAR from the launch of the pilot project
	B	1		1		
	C	1		1		
Other resources						
Total		3		3		

10.2 Overall financial impact of additional human resources

	(ECU's)	
	Amounts	Method of calculation
Officials Temporary staff Other resources (indicate budget heading)	324,000	108,000 x 3 = 324,000
Total	324,000	

By use of existing resources to be assigned to administration of the action (calculation based on titles A1, A2, A-4, A-5, A-7)

10.3 Increase in other administrative expenditure as a result of the operation

(ECU's)

Budget heading (no. and title)	Amounts	Method of calculation
A-701 Missions	8,000	Missions (800 x 10) (8 Member States have already registered to take part in this initial phase. Greater participation may be expected: 2 more missions are expected)
Total	8,000	(6,317/8= 807 ECU/average; 807 x 2: 1,614 ECU).....8,070.24

Expenditure will be financed within the total budget allocated to DG XV.

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