

## Better Regulation – BSP position paper

### *Summary and way forward*

Building on the experience of a broad range of industrial, technological and research-intensive sectors, Business & Science Poland underlines that Better Regulation is not an abstract principle, but a practical precondition for Europe's competitiveness, resilience and successful green and digital transitions. Regulations designed without a comprehensive understanding of real-world operating conditions, value-chain interdependencies and cumulative impacts risk undermining investment capacity, innovation and legal certainty across multiple sectors simultaneously.

BSP calls for EU regulations that are designed in a way that systematically incorporates the views, data and technical expertise of all relevant stakeholders across sectors and value chains from the earliest stages of policy development. By doing so, the EU can ensure that adopted legislation genuinely reflects the actual needs, constraints and transition pathways of European industry, research actors and infrastructure operators, while delivering the intended policy objectives in an efficient and proportionate manner.

That is why it is of utmost importance that, in order to effectively implement the principles of so-called *Better Regulation* at EU level, EU legislative processes should:

1. **Ensure a holistic and cross-sectoral approach to policy design**, including robust assessments of cumulative regulatory impacts, interactions between different legislative acts and effects across entire value chains, rather than treating sectors or policy objectives in isolation.
2. **Strengthen evidence-based policymaking and regulatory scrutiny**, by reinforcing the role of independent impact assessment, ensuring consistency between analytical findings and political conclusions, and complementing ex-ante assessments with systematic ex-post evaluations to identify unintended consequences and enable timely corrective action.
3. **Guarantee early, meaningful and transparent stakeholder engagement**, supported by adequate technical expertise on the side of regulators, realistic implementation timelines, and clear feedback mechanisms demonstrating how stakeholder input has been taken into account throughout the legislative process.

By embedding these principles into EU law-making, Better Regulation can evolve from a formal commitment into a practical tool that supports innovation, sustainability and long-term competitiveness across all relevant sectors of the European economy.

### *Introduction*

Business & Science Poland is grateful for the possibility to contribute to the ongoing consultation and would like to express its support to the initiative. In addition, BSP would like to support the current Commission's effort to create a win-win regulatory ecosystem for Europe and Europeans.

### *Who we are*

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Business & Science Poland is the largest Brussels-based association representing Polish companies in discussions with the EU institutions. It is a multi-sectoral business federation representing 230,000 jobs from industrial, chemical, transport, agricultural, pharmaceutical and digital sectors, dedicated to connecting leading Polish enterprises and the R&D community with the European Union's agenda. BSP is committed to upholding the EU's core values while actively contributing to its transformation in a responsible and effective way. All BSP members are very active in the field of decarbonisation and sustainable transition. The member companies are economic leaders not only in Poland but also in the Central and Eastern Europe operating complex supply chains from Germany to the Baltics and Nordics as well as globally. The member companies experts are also present in other European foras.

### ***Double the rules or double the efforts?***

As we consider the current European *acquis*, we face ourselves with a persistent dilemma which exposes the industry to the cumulative pieces of regulation which are issued by the multiple EU bodies. Yet, it appears that not always we can count on the effective coordination and joint assessment, which represents a structural risk. To illustrate it on the real market economy, sectors as diverse as mining, metallurgy, chemicals, energy, transport (including aviation and maritime), agriculture, pharmaceuticals and digital industries are regulated simultaneously under multiple policy domains such as safety, security, climate, energy and competition frameworks. When policies are developed in silos, regulatory requirements tend to overlap or even conflict. As a result, the implementation burden grows faster than the adaptive capacity of the infrastructure-intensive, energy-intensive and technology-driven sectors, creating risks for legal certainty, investment planning and long-term competitiveness. Hence, we advise to consider a more holistic approach to policy design which could be implemented for instance under a single package principle.

To further develop this study case, we would like to draw your attention to the fact that the environmental and climate-related requirements already operate *de facto* as sector-specific price instruments, across a wide range of industrial and transport sectors which directly significantly increase the operating costs through the mechanisms such as emissions trading and sustainable fuel mandates. Additional cost-based measures introduced without a comprehensive assessment of the cumulative effects may result in these measures starting to function as an implicit taxation tool targeted at individual sectors or specific segments of value chains. To conclude, the introduction of the further fiscal or *quasi*-fiscal burdens in isolation is therefore unlikely to improve policy effectiveness when existing sector-specific charges are not considered.

In our experience, we have also come across situations where a particular regulatory solution is deployed while frequently lacking practical rationale and/or consisted of the purely arbitrary nature. The industrial sectors are faced with aligning to the current regulations, maintaining some sort of degree of competitiveness and investing in break-through technologies which basically remain on TRL levels 1 or 2.

### ***'No value chain is an island'***

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Moreover, we would like to draw your attention to the fact that it would benefit the whole union to account for the fact that EU regulatory approaches must reflect the fact that many industrial, chemical, transport, metallurgical, agri-food, pharmaceutical and digital sectors operate in global markets, while EU measures apply only within Europe. In such a context, carbon leakage and operational shifts towards non-EU countries constitute foreseeable and material risks. If these effects are not fully integrated into holistic policy assessments, regulatory interventions risk penalising European operators and manufactures without delivering proportional environmental benefits, thereby weakening Europe's competitive position in global markets rather than enhancing it. This runs counter to the objective of strengthening EU competitiveness, which should remain a central policy goal. As highlighted in Mario Draghi's report '*The Future of European Competitiveness*', several strategic sectors — including aviation, energy-intensive industries, advanced manufacturing and digital technologies — constitute key pillars of Europe's technological edge and connectivity, and therefore legislators should therefore ensure a regulatory environment that allows different branches of the industry to adapt rapidly to the evolving market and technological conditions.

Further, the cumulative regulatory burden often constrains investment capacity and slows down the technological deployment. In sectors characterised by intense global competition and rapid innovation cycles, financial resources that could otherwise be directed towards research and development (such as climate-neutral production processes, sustainable fuels, advanced materials, digital solutions or next-generation infrastructure), are increasingly absorbed by the compliance costs, overlapping carbon charges or offsetting obligations that are not always directly reinvested in sustainable innovations. We believe that Better Regulation should therefore ensure that high-tech, infrastructure-intensive sectors are supported through incentive-based frameworks that stimulate innovation, rather than relying predominantly on additional cost layers and regulatory barriers.

On that note, we have witnessed often that national requirements are being doubled to the ones of the EU, often as a result of the gold-plating and/or volatile interpretations of the European directives during the implementation process. At this point, we believe there is a need to limit the redundancy between national and EU-level requirements and to improve coordination of the reporting channels.

### ***Solutions not problems***

We would like to contribute in the constructive manner to the ongoing debate, thus we would like to kindly ask the European Commission to consider granting the Regulatory Scrutiny Board (RSB) a more prominent place in the regulatory processes. In this context, it may be even beneficial to weigh the pros and cons of the establishment of the equivalent of the Regulatory Scrutiny Board outside the jurisdictions of the European Union in order to provide the independent assessment by the highly selected non-politically affiliated experts. Upon the analysis of the impact assessments published by the European Commission, we have come across the cases in which the executive summary or its conclusions did not match entirely the contents of the impact assessment reports rather than follow a certain political decision or idea. While, we can fathom the rationale behind, we would advise to perhaps revisit such decisions and direct them to the scrutiny board for additional review instead of taking these forward due to the time pressure. We believe this approach could save a lot of time, resource and

enhance implementation of the regulations in place instead. Another aspect that could be considered in this regard is to introduce the *ex-post* assessment to complement the *ex-ante* one which by default may result in less clear view on the legislation and its impact. That is why regulation should not be considered complete at the moment of adoption. *Ex -post* evaluation and responsibility for real-world outcomes are essential. More frequent fitness checks and effective mechanisms to identify unintended consequences would step up the introduction of timely corrections and allow prompt identification of any shortcomings of a given legislation.

### ***Less is more or More is less***

We greatly appreciate the democratic policy-making in the European Union, however we would like to share observation that we have come to realisation that these stakeholder consultations often take place too late in the policy cycles, when key design choices are already politically decided upon. In addition, the absence of systematic feedback on how contributions are used creates stakeholder fatigue and undermines trust in the process altogether. We believe that taking into account the perspectives of industry, research organisations and other affected stakeholders across sectors at an early stage and engaging all relevant stakeholders in the dialogue has immense practical benefits for both regulators and the addressees of the regulations. Further, the impact assessments themselves could benefit from a more comprehensive approaches, including costs, feasibility, and available alternatives as this is the envisaged use of that particular tool.

This need is particularly evident in sectors requiring a high level of legal and technical expertise, where meaningful participation is limited or becomes disproportionately resource-intensive.

### ***Make it or break it***

Policy timing and transition periods are a particularly critical for infrastructure-based sectors and capital-intensive sectors, such as transport, energy, heavy industry, telecommunications and agri-food systems. Assets, infrastructure, certification procedures and supply chains in these sectors operate on long investment and compliance cycles, often spanning decades rather than years. Shortening transition periods or introducing overlapping requirements without adequate phasing risks undermines both compliance and proper budgeting. In order to succeed the transition of the European continent, Better Regulation must take sector-specific adaptation timelines into account and ensure realistic, predictable and proportionate implementation arrangements.

The transition will not take place overnight, however European industry is committed to take every opportunity to achieve the environmental goals and a neutral economy in line with the Paris Agreement. However, in order to facilitate the transition, the in-depth understanding of the industrial, technological and research-intensive sectors, as well as the technical and economic realities of their transition pathways is a must. Here, we would like to encourage the European Commission to draw on the appropriate experts and services within its walls. We have come to realisation that the lengthy consultation processes are obstructed not by lack of *bona fide* but rather a lack of the proper counter representation on the side of regulators. We have observed that sometimes almost years of work can be suspended or come to no fruition if the partners of the dialogues do not understand each other due

to the lack of either technical knowledge and/or awareness of the existing sophisticated architecture of the environmental legislation in place in Europe that is replicated all over the world.

***KISS principle not at all cost***

Hereby, we would also like to admit that we do not remain oblivious to the consequences of some communications' styles of the respondents of the stakeholders' dialogues. At this point, we would like to encourage corporate stakeholder proactivity in the regulatory process in order to enable the policy-makers to make informed choices. This translates into the earlier identification and communication of barriers, data, and proposed improvements, rather than reactive criticism.

While we believe the process and communication require simple understandable language, we would like to advocate proper representation that is mindful of the technical nature of the dialogues and familiar with the quality level of dialogue with the European Commission. Here, on the side of the stakeholders we believe a stronger substantive preparation and arguments grounded in the mechanics of the legislation, combined with at least a preliminary market impact analysis would have an added value in order to demonstrate where the Commission services may be addressing issues unnecessarily or not in an adequate manner.