



**European Committee  
of the Regions**

**ECON-VI/020**

**124th plenary session, 12-13 July 2017**

## **OPINION**

### **Smart Regulation for SMEs**

#### THE EUROPEAN COMMITTEE OF THE REGIONS

- points out the disproportionate impact of red tape on SMEs, with relative compliance costs in areas such as taxation or reporting obligations higher for SMEs compared with larger companies; therefore forcefully emphasises the need to make the European regulatory environment more SME-friendly by tackling barriers to business creation and growth at all levels;
- notes that the SME envoys network acts as main interface between the European Commission and national policy-makers; calls upon the Commission to formally and systematically include regional and local SME envoys in this network;
- underlines that overlapping and contradictory rules in different EU policies – regional policy, state aid, public procurement, environmental protection, tension between cluster support and competition and compliance rules – disproportionately affect SMEs;
- notes that the work of the REFIT Platform focuses primarily on specific issues within EU legislation that can be improved without fundamentally changing an entire piece of legislation; considers that this narrow focus should be complemented by a more ambitious approach, aiming for structural improvements to the EU regulatory framework in the medium term;
- calls upon public authorities at all levels to commit themselves to common standards of SME-friendly procurement;
- calls for further simplification of rules and procedures linked to different VAT regimes in cross-border trade, for an extension of the mini One Stop Shop principle, and for a common EU cross-border threshold below which VAT wouldn't be applied;
- stresses the importance of innovation-friendly rules that create room for experimentation where appropriate; stresses the need to encourage entrepreneurial thinking at all government levels.

Rapporteur

Christian Buchmann (AT/EPP), Member of the Styrian Regional Parliament

Reference document

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## Opinion of the European Committee of the Regions – Smart Regulation for SMEs

### I. POLICY RECOMMENDATIONS

#### THE EUROPEAN COMMITTEE OF THE REGIONS

##### An SME-friendly regulatory environment

1. underlines that SMEs, as Europe's main engines for creating growth and jobs, require a simple, clear, consistent and legally stable regulatory environment as well as an economic environment based on a sufficient level of public and private investment capacities;
2. points out the disproportionate impact of red tape on SMEs, with relative compliance costs in areas such as taxation or reporting obligations higher for SMEs compared with larger companies;
3. therefore forcefully emphasises the need to make the European regulatory environment more SME-friendly by tackling barriers to business creation and growth at all levels;
4. recognises the progress achieved through the Small Business Act for Europe (SBA) of 2008<sup>1</sup>, the SBA review of 2011<sup>2</sup>, and the Entrepreneurship 2020 Action Plan of 2013<sup>3</sup>;
5. reiterates its support for the Commission's goal to ease VAT registration and reporting obligations as part of the Single Market Strategy, expressed in its Opinion on Upgrading the Single Market<sup>4</sup>; regrets, however, that local and regional representatives were not formally consulted to ensure that their concerns – e.g. regarding needs of SMEs in cross-border regions – are fully taken into account;
6. underlines the persistent need for a coherent, visible and updated European SME policy, oriented towards results and implementation, building upon and strengthening previous initiatives, and mainstreaming the "Think Small First" principle across all government levels and policies;
7. therefore reiterates its call for a revised and strengthened SBA and for a stronger role for regions and cities in implementing SBA principles; restates its own commitment to promote SBA implementation through its European Entrepreneurial Region (EER) scheme;
8. notes that the SME envoys network acts as main interface between the European Commission and national policy-makers; calls upon the Commission to formally and systematically include regional and local SME envoys in this network;

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<sup>1</sup> Commission Communication: "Think Small First" – A "Small Business Act" for Europe, 25 June 2008 (COM/2008/394 final).

<sup>2</sup> Commission Communication: Review of the "Small Business Act" for Europe, 23 February 2011 (COM/2011/78 final).

<sup>3</sup> Commission Communication: Entrepreneurship 2020 Action Plan – Reigniting the entrepreneurial spirit in Europe, 9 January 2013 (COM/2012/795 final).

<sup>4</sup> CoR Opinion on Upgrading the Single Market, CdR 6628/2015, 12.

9. recognises that the EU has a fundamentally business-friendly regulatory environment; stresses, however, that differences persist as to the time, cost, and number of procedures required to set up a company; calls upon Member States to commit themselves to aligning their respective rules with the best performers, while respecting the subsidiarity principle and after checking suitability; points out that good practices such as, among others, *Iniciativa Lisboa*, which allows a company to be started in 36 minutes, can serve as inspiration in this respect;
10. points to the role of clusters in helping small businesses scale up through market testing and analysis, innovation generation, and qualification, and recommends focussed support for these activities through programmes such as COSME;
11. underlines the results of the ECON seminar "Smart Regulation – Smart Growth" in Seggau, Styria, and the subsequent citizens' dialogue, which point to the need for achieving concrete results through new and innovative approaches;

#### Mainstreaming the "Think Small First" principle

12. stresses the importance of mainstreaming the "Think Small First" principle across EU policies and the entire decision-making process; calls for weighting impact assessment criteria more strongly in favour of SMEs and considering the territorial impact of rules more systematically;
13. underlines that overlapping and contradictory rules in different EU policies – regional policy, state aid, public procurement, environmental protection, tension between cluster support and competition and compliance rules – disproportionately affect SMEs;
14. is concerned about bottlenecks due to incoherent requirements and conflicting definitions across EU sectoral policies, such as separate sets of rules linked to procurement, regional and competition policy<sup>5</sup>, or diverging definitions of innovation in regional and competition policy<sup>6</sup>;
15. is convinced that the burden of reporting requirements on SMEs cannot be addressed by simplifying a single piece of legislation; therefore urges the Commission and Member States to adopt a holistic approach, based on a comprehensive assessment of all reporting requirements faced by SMEs;
16. suggests exploring options to lighten the load on SMEs through actions such as creating a threshold below which companies have to provide less information, limiting the number of mandatory questionnaires, and avoiding the creation of new questionnaires by incorporating, for example, statistical information into existing ones;
17. welcomes the fact that in the new generation of EU free trade agreements specific chapters are to be dedicated to SMEs with a view to facilitating their access to the other market, including by increasing legal certainty, reducing or removing non-tariff barriers, extending the awarding of

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<sup>5</sup> Cf. Europa Decentraal (2016). *Bridge! – Better EU regulation for local and regional authorities*.

<sup>6</sup> Cf. House of the Dutch Provinces (2015). *Dutch Provinces for Better Regulation*.

contracts on the basis of the best tender, and strengthening protection of intellectual and industrial property rights; draws attention to its opinion on TTIP of 12 February 2015;

Focussing the Better Regulation Agenda and REFIT more strongly on SMEs' needs

18. welcomes efforts to reduce burden on SMEs in the framework of the Better Regulation Agenda, the REFIT programme, and the Inter-Institutional Agreement on Better Law-Making (IIA);
19. reiterates its concern, expressed in its Opinion on the REFIT Programme<sup>7</sup>, that elected representatives of local and regional authorities, as well as the CoR as their institutional representation, are not included in the IIA despite the mandate and weight conferred on them by the Lisbon Treaty;
20. welcomes mainstreaming better regulation principles across the policy cycle and extending Impact Assessments (IAs) to the Parliament and Council; regrets that the IIA does not include a commitment by the Council and the Parliament to systematically carry out IAs;
21. stresses that the introduction of amendments or additional rules at later stages of the legislative process or during transposition of EU directives by Member States should go hand in hand with a commitment to conduct IAs, in order to prevent gold-plating and ensure that the REFIT element of a given rule is not watered down;
22. recognises the importance of stakeholder consultations in preparing legislative proposals; notes, however, that once consultations have taken place, contributors may be left wondering to what extent their concerns have been taken on board; suggests associating local and regional representatives to IA Boards, to allow them to provide additional scrutiny of Commission proposals;
23. stresses that the institutional role of the CoR within the REFIT Platform should not be confused with other stakeholders; therefore considers that representatives of the CoR commissions should be able to support the CoR representative to the Platform by taking part in Platform meetings concerning dossiers related to their remits;
24. commits itself to mainstreaming better regulation principles across its own work by drawing upon the expertise of relevant thematic commissions when issuing an opinion on a dossier affecting SMEs;
25. notes that the work of the REFIT Platform focuses primarily on specific issues within EU legislation that can be improved without fundamentally changing an entire piece of legislation; considers that this narrow focus should be complemented by a more ambitious approach, aiming for structural improvements to the EU regulatory framework in the medium term;
26. considers that specific priorities in Smart Regulation for SMEs can be identified in SME access to public procurement, and in VAT and taxation rules; also sees a clear need for action in SME

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<sup>7</sup>

CoR Opinion on The REFIT Programme: the local and regional perspective, CdR 983/2016, 5.

access to the Single Market, access to finance, SME support from European Structural and Investment Funds (ESIF), and striking a better balance between SME needs and labour, consumer and environmental protection;

#### SME participation in public procurement

27. welcomes the simplification of European procurement law introduced through the new procurement directives and the European Single Procurement document<sup>8</sup>; calls upon Member States to ensure full implementation and correct application of the simplified European public procurement law system;
28. points out the significant role played by regional and local authorities in SME access to public procurement and thus considers reducing obstacles to SME procurement as particularly important for regions and cities;
29. is concerned that existing SME-friendly procurement rules are often not used fully; stresses that these rules need to be complemented by good implementation;
30. urges public authorities at all levels to ensure that their tenders are SME- and start-up-friendly in their eligibility requirements and payment modalities by tailoring required guarantees to the characteristics of SMEs, shortening payment delays, and enforcing payment discipline; calls upon public authorities at all levels to commit themselves to common standards of SME-friendly procurement;
31. highlights that good practices including, among others, the Public Procurement Service of the City of Paris, which has significantly increased SME access to public markets and reduced payment delays, can serve as good examples for public authorities at all levels;
32. calls upon all public authorities to promote SME participation in the procurement of innovation by avoiding over-specification, favouring outcome-based specification, making information freely available, and using options such as competitive dialogue and competitive procedure with negotiation, before specifying final terms;
33. highlights the simpler access for SMEs to financial instruments provided for in European programmes, in particular COSME. These programmes are much less complex for SMEs than more traditional funding sources. In this regard, the CoR underlines the importance of the dedicated SME window within the European Fund for Strategic Investments, which could also internally promote funding lines for start-ups and micro-enterprises in need of access to credit;

#### SME-friendly VAT and taxation rules

34. calls for further simplification and harmonisation of tax rules, which are seen as the most burdensome policy area by a majority of European SMEs;

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<sup>8</sup>

Directives 2014/23/EU, 2014/24/EU, 2014/25/EU, Implementing Regulation (EU) 2016/7.

35. reiterates its support, expressed in its opinion on the VAT Action Plan, for eliminating the VAT exemption for imports of small consignments from third countries and allowing for checks via a single audit of cross-border companies, to remove competitive disadvantages for EU SMEs compared to third-country SMEs resulting from this exemption<sup>9</sup>;
36. underlines that the fragmentation and complexity of the VAT system cause major compliance costs for SMEs involved in cross-border trade and have a particular impact on border regions; therefore calls for further simplification of rules and procedures linked to different VAT regimes in cross-border trade, for an extension of the mini One Stop Shop principle, currently limited to telecommunications, broadcasting and electronic services, to other distance sales of goods and services, and for a common EU cross-border threshold below which VAT wouldn't be applied;
37. calls for a reduction of administrative burden linked to VAT, such as reporting requirements, deadlines, and record retention periods, and for speeding up administrative practices in processing VAT returns;

#### SME access to the Single Market

38. observes that the Single Market for Services still suffers from many restrictions affecting SMEs, including occupational licensing, establishment rules, fixed or minimum prices, legal form requirements and sector-specific rules; calls for ambitious simplification and harmonisation in the services sector, to promote growth gains resulting from economies of scale, trigger innovation by strengthening import competition, and attract inward investment by reducing market fragmentation;
39. notes that differences in national product market regulations represent a major obstacle for SMEs, as they result in a need to run different product lines in different Member States and hamper the development of pan-European supply chains; calls upon the Commission and Member States to work towards stronger harmonisation in this area;

#### SME access to finance

40. points out the importance of alternative funding methods for new companies; is concerned that start-up access to crowdfunding has not been fully unleashed due to diverging national regimes making it hard for start-ups to raise funds cross-border, and to the limitations on offering equity to potentially large numbers of investors resulting from the "cheap" company regimes typically chosen by start-ups;
41. calls for a harmonised regulatory framework creating a European passport for crowdfunding platforms, requiring only a single authorisation from one competent authority within the EU to offer services cross-border, thus allowing for a genuine European crowdfunding market;

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<sup>9</sup> CoR Opinion on the Action Plan on VAT, CdR 2419/2016, 34.

## SME support from ESIF

42. reiterates its warning, expressed in its opinion on the simplification of ESIF<sup>10</sup>, that procedures for using ESIF are getting more and more complex and cumbersome; therefore calls for an urgent simplification of the rules governing the set-up, reporting requirements and audit of financial instruments under ESIF;
43. points out that SMEs face particular difficulties in using ESIF resources, as shown by a survey of EER regions conducted in 2016, which identified the participation of SMEs in ESIF-funded projects as single most important priority in making life easier for SMEs;
44. recalls the importance of reducing the regulatory complexity, excessive audit pressure and high execution costs hindering SME support from ESIF, and of simplifying not only specific regulations, but the entire body of delegated and implementing acts, as well as "soft law" such as guidance notes, for both public authorities and SMEs;
45. underlines that, in order to achieve the objectives of both ESIF and EU SME policy, ESIF rules should be considered from a perspective of proportionality, creating a partnership for simplification taking the interests of all parties into account; calls for a relationship based on trust instead of the fundamental distrust often manifested by EU institutions towards national, regional and local authorities;

## Balancing SME needs with labour, consumer and environmental protection

46. stresses the need for a balance between workers' rights, health, safety, consumer and environmental protection on the one hand, and regulatory burdens on SMEs on the other hand;
47. notes that the hiring of a first employee can constitute a particular challenge to a company's growth and scale-up process, and that labour regulations have a greater impact on SMEs than on large companies, making SMEs hesitant about recruiting staff; underlines that new approaches in this area can make a valuable contribution notably to reducing youth unemployment;
48. therefore suggests the creation of a European "Take One" scheme encouraging the hiring of a first employee by a solo entrepreneur or micro-enterprise through financial incentives and flexible rules; considers that such a scheme could be funded through the COSME programme;
49. urges the Commission to promote measures to simplify regulation for the benefit of craft businesses and micro-enterprises, since currently the overly complex system jeopardises their viability and the important role they play in job creation and the economic development of regions and local communities, not to mention their role in protecting cultural and local heritage;
50. considers the scope of the definition of off-premises contracts in the Consumer Rights Directive as too broad, potentially harming craftsmen who are called into a home by a consumer;

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<sup>10</sup> CoR Opinion on the Simplification of ESIF, ref. COR-2016-00008-00-00-AC-TRA.



therefore calls for a more focused definition taking account of the needs of SMEs and micro-enterprises;

#### Innovative approaches to regulation

51. underlines that Smart Regulation does not necessarily mean less regulation, which may imply a risk of uncertainty and regulatory fragmentation, but rather clearer and simpler rules making life easier for SMEs while allowing policy objectives in a given area to be achieved;
52. stresses the importance of innovation-friendly rules that create room for experimentation where appropriate, including through the creation of limited-rules zones for pilot projects and the introduction of sunset clauses in innovative and fast-changing fields, as shown, inter alia, by the example of Flanders;
53. emphasises that approaches such as voluntary self-regulation – consisting of voluntary agreements, pledges or codes of practice – can foster a culture of cooperation between business and government; considers that the work of the Scottish Regulatory Review Group can serve as good example to public authorities at different levels;
54. highlights the Danish Burden Hunter project as good practice at national level that allows identifying barriers in direct dialogue and jointly seeking solutions; calls upon the Commission to take full account of examples of this kind and promote their use and transfer where possible;
55. stresses the need to encourage entrepreneurial thinking at all government levels and to enable innovative bottom-up solutions by creating a "right-to-challenge" mechanism allowing local and regional authorities to temporarily suspend existing rules to test alternative solutions, when there is evidence indicating that their objectives may be better achieved through an innovative approach.

Brussels, 13 July 2017

The President  
of the European Committee of the Regions

Markku Markkula

The Secretary-General  
of the European Committee of the Regions

Jiří Buriánek

## II. PROCEDURE

<b>Title</b>	Smart Regulation for SMEs
<b>Reference(s)</b>	/
<b>Legal basis</b>	Article 307(4) TFEU
<b>Procedural basis</b>	Own-initiative opinion - Rule 41 b) ii)
<b>Date of Council/EP referral/Date of Commission letter</b>	/
<b>Date of Bureau/President's decision</b>	10 October 2016
<b>Commission responsible</b>	Commission for Economic Policy
<b>Rapporteur</b>	Christian Buchmann (AT/EPP) Member of the Styrian Regional Parliament
<b>Analysis</b>	25 October 2016
<b>Discussed in commission</b>	2 December 2016
<b>Date adopted by commission</b>	1 March 2017
<b>Result of the vote in commission (majority, unanimity)</b>	Unanimous
<b>Date adopted in plenary</b>	13 July 2017
<b>Previous Committee opinions</b>	/
<b>Date of subsidiarity monitoring consultation</b>	/

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