

By Sally Brammer and Thomas Panayotopoulos

Better regulation has been central to the European Commission's work for over a decade. The Prodi and particularly Barroso Commissions attempted to restore citizen confidence in the EU and improve European competitiveness through promising regulatory reform. White papers, Commission Communications and an Inter-Institutional Agreement on Better Lawmaking were all commissioned and produced. Despite the high profile given to better regulation, success has been mixed and much criticism remains, including the feeling in the general population that the EU interferes too much in their daily lives.

Jean-Claude Juncker has continued the tradition of committing to better regulation, but with new energy and zeal. Central to his broader reform of the Commission is the mantra of better regulation. "I want a European Union that is bigger and more ambitious on big things, and smaller and more modest on small things."¹

On the 19th of May 2015 the European Commission adopted a Better Regulation Agenda and commenced negotiations for a new Inter-Institutional Agreement on Better Lawmaking (IIA). This package of reforms is part of the wider objectives of the Juncker Commission to improve the openness, transparency and efficiency of the Commission and its work. Central to this has been the re-structuring of the Commission, with Frans Timmermans as the First Vice-President for Better Regulation, Inter-Institutional Relations, the Rule of Law and the Charter of Fundamental Rights. This high profile position has created a first among equals, with other Commissioners expected to liaise with Timmermans.

The Commission's 2015 Work Programme's commitment to focus on priorities and results is also part of this broader narrative. Focusing the work of the Commission to the ten priorities and reinforcing the idea of big on big things, smaller on smaller things.

The Better Regulation Agenda and proposed IIA aim to increase the transparency and the quality of the impact assessment process, which is a central concept of better regulation. The Impact Assessment Board established by the Barroso Commission in 2006, will be replaced by the Regulatory Scrutiny Board, which is comprised of 3 'internal' members and 3 'external' members. In this way the Commission is opening its doors to external scrutiny. The proposal is also for impact assessments to be conducted throughout the legislative process, not just during the Commission's preparation work.

Further, the Commission will launch a new web platform "Lighten the load – have your say," a channel for anyone to provide their view on EU legislation. This is a bold commitment to involving stakeholders over the entire lifecycle of a policy, with the Commission promising to respond to all submissions. Other existing programs such as REFIT (Regulatory Fitness and Performance Program), developed under the previous Commission, have been strengthened to become a fundamental part of the annual Work Programme of the Commission.

However, as the Commission states in its press release for the new agenda "better regulation can only work if it is a shared commitment of the Commission, Council and European Parliament."² Better regulation must be a shared responsibility

throughout the multiple levels of EU decision making. For this reason the Commission submitted a proposal for an Interinstitutional Agreement to both the Council and the European Parliament, aiming to come to an understanding before the end of 2015. It is however questionable if such an agreement is feasible in such a short time.

Indeed, the opinions of the various stakeholders could not be more diverse. In the European Parliament the disparity of positions is especially visible. Some parliamentarians see this agreement with great criticism. Representatives of the left GUE/NGL and the Greens/EFA groups fear this agreement is just the continuation of a process whose purpose is to depoliticise the European legislative process. Their criticism is particularly centred on the proposed new Regulatory Scrutiny Board where “Commission officials and accountants will take political decisions” bypassing the “EU’s democratically-elected representatives”. According to them these independent board members would be “more expert in the costs for business rather than on the benefits to society”. These Members of the European Parliament see the new proposals as the wrong answer to the Commission’s concern that “the 2014 European elections showed how many citizens are concerned with what they perceive as an undesirable level of EU involvement in their daily lives”.³

However, this opinion is not shared by everyone in the European Parliament. Other political groups (EPP and ALDE) have a rather more positive opinion about the whole agenda, stating that it is “right to strengthen independent bodies that assess new legislative proposals” as this would “increase the credibility and transparency of European law making”.⁴

The S&D group seems to offer a more moderate position, welcoming the Commission’s proposal whilst at the same time asserting their readiness for “positive negotiations.”⁵ Indeed an agreement is by definition an arrangement between parties resulting from a negotiation.

Regardless of one’s view on the subject it is fair to say that the EU Commission’s proposal represents a significant change to the European legislative process, as it touches upon core competences of different EU decision making organs. Confronted with such a major shift in EU decision making it is rather difficult to imagine an Interinstitutional Agreement being concluded swiftly and within the limits of 2015. Before an agreement can be reached the Commission will have to go through hard and long negotiations, as the more areas of responsibility of the different parties are at stake, the longer the negotiations tend to be. With this in mind the task of increasing transparency and efficiency in the decision making process seems very difficult. But who said the pursuit of better regulation would be an easy job?

Sally Brammer and Thomas Panayotopoulos
are ZEI Alumni “Class of 2012 and 2014.” They
are also both currently ZEI Junior Fellows.

1. Jean-Claude Juncker Political Guidelines

2. http://europa.eu/rapid/press-release_IP-15-4988_en.htm

3. Gabi Zimmer MEP, Chair of the GUE/NGL in the European Parliament: <http://www.guengl.eu/news/article/gue-ngl-news/commissions-better-regulation-programme-an-insult-to-democracy-and-to-work>.

4. Markus Pieper MEP, Chairman of the EPP Group’s SME Circle: <http://www.eppgroup.eu/press-release/Better-regulation-package-%22potentially-a-breakthrough%22>.

5. Enrique Guerrero Salom MEP, S&D vice president in the European Parliament: <http://www.socialistsanddemocrats.eu/newsroom/better-regulation-should-not-be-excuse-deregulation>.

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