

General questions on the draft Impact Assessment Guidelines (annex I)

1. In line with international best practice, the Commission's Impact Assessment system is an integrated one, covering costs and benefits; using qualitative and quantitative analysis; and examining impacts across the economic, environmental and social areas. Do you agree that this is the right approach?

The presented approach is appropriate enough in order to inform the decision-making processes and the choice of policy options. The costs and benefits analysis needs to be streamlined however, for all policy areas, and needs to effectively involve the stakeholders for specific initiatives. The effective involvement of stakeholders must imply the timely consultation of relevant stakeholders, the transparent transcription of their input (comments, policy position papers and relevant studies), as well as referencing of that input in the justifications provided for the different policy options around the specific initiatives.

2. Do you agree with the scope of coverage of proposals requiring an impact assessment? If not, why not?

All legislative and non-legislative initiatives, as well as delegated acts and implementing measures need to forego an impact assessment.

3. Are the appropriate questions being asked in the Impact Assessment guidelines? Are there other issues that the impact assessment should examine? How would this help to improve the quality of Commission policy proposals?

UNI Europa welcomes Question 1 of the Guidelines and would like to highlight that retrospective evaluations and fitness checks are crucial and should form a constituent part of the impact assessment procedures. UNI Europa opposes the a priori exclusion of micro-enterprises from the scope of any proposed legislative and non-legislative initiative. It is the aim of the Impact Assessment to assess, analyse and justify the recommended policy choices. European legislation and policy initiatives should apply to all businesses, irrespectively of their size, in order to achieve a level-playing field within the Internal Market. Furthermore, IA analysis is guided by listed fundamental principles such as evidence-based, open to stakeholder's views, and unbiased. UNI Europa highlights that stakeholder buy-in or opposition should be effectively taken under consideration with equal weighting and no political bias. It ought to be clearly spelled out and justified if it led to the exclusion or maintenance of a particular policy option.

4. Do you have any other suggestion on how to improve the guidance provided to Commission services carrying out an impact assessment and drafting an impact assessment report?

The IA Guidelines mention that IA is required when there are both "choices among noticeably different policy alternatives; and significant direct economic, environmental or social impacts expected". UNI Europa strongly opposes the first criterion. It must not be made a necessary precondition to have an IA as even if there are no policy alternatives, this does not mean that there will be no significant impact of the proposed initiative. UNI Europa would like to have a clearer definition of 'significant' contained in the second criterion. Whether that impact is significant or not in terms of direct economic, social or environmental impact, from the moment a legislative initiative has an impact, it should be assessed through the IA procedures.

UNI Europa is concerned with the timing of impact assessments. Not only must Impact Assessments be conducted as early as possible in the policy cycle in order to adequately inform the policy-making process, but they must also be announced in advance. The decision to conduct an Impact Assessment must be made public, published in the relevant Policy Roadmap and foresee sufficient time to effectively consult with the stakeholders. If Impact Assessment work is foreseen, a reasonable timetable ought to be presented and followed through whilst allowing sufficient time for stakeholders to input.

When it comes to the social impacts of policy initiatives, social partners must be fully involved on an equivalent access basis. Social partners know best and are the best placed to inform the IA processes in an evidence-based manner. The openness towards stakeholder's views is primordial and the justification over retaining or dropping dissenting views must be balanced and transparent. Both employer's organisations and worker's representatives must be consulted on any initiative which entails employment and social impacts. Any consultation of industry representatives must be complemented by the consultation of worker's representatives irrespectively of whether the social partners decided to cooperate and submit comments in partnership or not. Social partners must be involved on a parity basis and any informal meeting, conference or event must be open to both. If employer organisations present at stakeholder events, then the counterpart worker's representatives must be given equal weight and capacity to inform decision-makers and members of the Impact Assessment Boards.

Social partners must be involved on an equal footing and from the onset in Impact Assessments. Impact Assessments ought to be announced and planned in a timely manner so as to allow effective input from stakeholders. A concrete example is the refusal to propose a legislative initiative to the Council following the signature of a Framework Agreement on occupational health and safety in the hairdressing sector. The Impact Assessment was announced in a belated fashion through the REFIT 2012 Communication without adequately informing the responsible social partners. The Impact Assessment procedure is still ongoing with limited consultation of the concerned social partners. Social Partners could provide evidence-based analysis on the impact of the implementation of the agreement and have conducted independent studies which have not been requested by the Commission services. The Impact Assessment is not finalised and will lead to the assessment of the Commission services lasting more than two years. This is not in line with the smart regulation prerogatives nor does it enable the transparent, timely and informed input of the concerned social partners.

Furthermore, UNI Europa would like to point out the opacity in the procedures. The refusal to advance the dossier was announced before the Commission decided to initiate an Impact Assessment and the social partners have been marginally involved by the external contractor. Rather than announcing the blocking of the initiative, the Commission services should have published a Roadmap with a clear indication of the timing and the justification for carrying out an Impact Assessment.