



### Europe needs a Strong Safety Net

#### *Agenda for a Better Europe*

The EU is a community founded on fundamental rights and the rule of law. This is one of Europe's strengths and has made it a global leader and standard setter in many areas. European regulations are a safety net, designed to protect workers, citizens and the environment, and have drastically improved quality of life in Europe. However, nowadays regulation is portrayed by many, including a number of EU member states, as red tape and a burden. In many areas the EU legislative process has almost come to a stand-still since the Juncker administration took over. However, many problems urgently need legislative action. Another issue is that enforcement of existing legislation is all too often neglected. Scandals like that surrounding Volkswagen, which have shocked citizens and investors alike, have very bad consequences for the EU's reputation and shows the pressing need for change. Immediately restoring trust in EU law and the EU law making system is essential, and no effort should be spared to make this happen. Europe's laws and regulations should become a strong safety net that effectively protects its citizens from harm, its businesses from unfair competition and solve its major financial, social, health and environmental challenges. It should allow Europe's workers, citizens, consumers and entrepreneurs to thrive and be successful and contribute to sustainable development. With this paper we propose a set of key measures the EU should adopt to help fix the system as well a number of areas where urgent action is required. It focuses on areas where members of the BRWN are active but is in no way an exhaustive list addressing all challenges the EU is facing.

### Key elements for improving the EU law making system

In order to restore trust in the EU law making system and improve the way the EU meets the needs and expectations of its citizens, the Better Regulation Watchdog proposes the following measures:

- **Ensure enforcement of and compliance with regulations**

As the car-emission scandal has made clear, enforcement of laws is the EU's Achilles' heel. Urgent measures should be agreed to ensure compliance with European emission regulation. But the work should not stop there. The EU and the Member States should use powers and mechanisms to ensure that legislation in areas

such as working conditions, energy labels, health and consumer rules, and financial market supervision is effectively enforced. In some areas this should include independent oversight and testing institutes and effective sanctions in case of breach of regulations.

- **Achieving policy objectives as an overriding principle**

The primary focus of better law making should be to maximize benefits for society rather than to minimize costs for business. Whilst the two in some cases are not mutually exclusive, all too often good EU policies are weakened to reduce costs for business or adapt them to the lowest common denominator. As a result, EU regulations do not protect citizens sufficiently. EU Member States should be encouraged to go beyond such minimum requirements, as the EU treaty allows for in certain areas. Terms like gold plating, that suggest that additional (national) requirements are excessive and unnecessary, should be avoided.

- **Public interest should be key reference for Impact Assessments**

Today there is a built-in bias in the Commission guidelines and use of Impact Assessments. Quantifying the costs for business is prioritized above investigating the social, environmental and public benefits of regulation. Impact assessments therefore need to become better in including long term impacts, both inside and, as necessary, outside the EU, and be a mix of quantitative and qualitative analysis. The costs of Non-Europe (inaction) should be included. Legislation should not be 'simplified' if societal benefits outweigh the costs for business. Even though the Commission committed to some of these demands, a review of its Impact Assessment practices is needed, to ensure they fulfil their commitment and ensure Impact Assessments do not undermine ambitious objectives and fundamental rights or lead to unacceptable or even illegal delays, as happened with the regulation on endocrine disrupting chemicals.

- **Secure balanced access to decision makers**

In order to avoid corporate capture of decision making processes, the Commission should provide equal and balanced access for all stakeholders to lobby meetings, expert and advisory groups, conferences, consultations and other stakeholder fora. Capacity of civil society to take part in decision making processes should be strengthened. Industries subject to EU legislation should be subject to special scrutiny that involves employees, consumers and other relevant stakeholders when rules are being developed, instead of 'listening in particular to those stakeholder groups that will need to implement and comply with the law'. The Commission should review if and how the use of the 'no data, no market' principle as pioneered under REACH could be extended to other areas. Information and data needed for effective policy making is often held by the regulated industries who have a vested interest and track record in providing those strategically if at all. Effective regulation should ensure that information and data required for the effective evaluation and development of a policy are delivered as part of the law's compliance, monitoring and reporting mechanisms.

- **Recognize the failures of voluntary agreements and self-regulation<sup>1</sup>**

There is an overwhelming body of evidence that policies based on self-regulation and voluntary agreements of business groups largely fail. A recent study<sup>2</sup> reviewed the effectiveness of over 150 national and international voluntary schemes across a range of sectors and issues to determine how well they perform. This research shows the impact of most voluntary schemes is limited. Over 80 per cent of such schemes were found to perform poorly. The majority of schemes set unambitious targets. In addition, many schemes were undermined by low rates of private sector participation and the resultant lack of a 'level playing field'. The research found nothing to support the claim that voluntary approaches can be an effective alternative to regulation. Other studies and analyses of voluntary agreements between governments and the private sector or voluntary commitments of industries, at national and EU level, point in the same direction. The Commission should therefore no longer promote voluntary agreements and self-regulation as an alternative to effective regulation<sup>3</sup>.

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The Better Regulation Watchdog is a group of 66 European consumer, environmental, development, citizen and public health organisations, trade unions and organisations advancing social justice. We work to promote and defend the rights of citizens to high social, labour, environmental, consumer and public health protection. Together the Better Regulation Watchdog represents tens of millions of European citizens.

Information can be found at: <http://www.betterregwatch.eu/>

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<sup>1</sup> Excluding framework agreements resulting from social dialogue (articles 151-156 TFEU)

<sup>2</sup> The study was conducted by the UK Royal Society for the Protection of Birds and can be found at: [https://www.rspb.org.uk/Images/usingregulation\\_tcm9-408677.pdf](https://www.rspb.org.uk/Images/usingregulation_tcm9-408677.pdf)

<sup>3</sup> With the exception of agreements conducted under Articles 151-156 of the TFEU.