Retrospective evaluation as a key component of the EU’s better regulation agenda

Society for Benefit and Cost Analysis
9th Annual Conference

March 16-17 2017 - Washington DC

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Disclaimer: This presentation does not reflect the official position of the European Commission but the personal viewpoint of the presenter.
Better Regulation in the EU

- **Legislation/policy making that delivers objectives at least cost and burden**
- **A method - common sense way of working throughout the policy cycle to foster:**
  - high-quality initiatives that are evidence-based; with no unnecessary burdens for business/public authorities
  - transparent participation of all stakeholders;
  - initiatives that actually deliver as foreseen and remain fit for purpose.
- **Not** about weakening social or environmental standards or replacing political decisions.
Evaluation in the policy cycle

Give account, improve transparency

EVALUATION
Final / ex-post / Fitness Check

Inform strategic decision-making

PREPARATION
Prospective evaluation / Impact Assessment

Justify new initiatives

IMPLEMENTATION
Interim evaluation and monitoring

Improve design and execution

ADOPTION
Revision/new measures
Reinforced focus on evaluation

- "Evaluate First"

- Fitness checks for broader regulatory area

- Evaluation Roadmaps

- 5 criteria: effectiveness, efficiency, relevance, coherence and EU added value

- 12 week public consultation

- Scrutiny by the Regulatory Scrutiny Board
Treaty obligations

- **Article 318 TFEU**
  "The Commission shall [also] submit [...] an evaluation report on the Union's finances based on the results achieved"

- **EU Treaties areas** of justice, freedom and security; common security and defence policy; research, technological development and space; industry; employment; social policy and public health.
When does retrospective evaluation take place?

- The individual legal act or its basis so requires (e.g. a "review" clause);
- This also includes Financial Regulations and Rules of Application (i.e. for all programmes and activities entailing significant overall spending (over €5 million);
- Evaluate First Principle!
Subject matter of retrospective evaluations

All existing EU policies and interventions governed by legal instruments.

May not apply to:
- individual intervention projects where their findings will feed into an overarching evaluation;
- the internal administrative policies of the Commission (Translation, Interpretation, Human Resources and Security, the Publications Office and certain areas of Eurostat).
Instruments guiding retrospective reviews

• **Internal Control Standard n. 14:**
  "Evaluations of expenditure programmes, legislation and other non-spending activities are performed to assess the results, impacts and needs that these activities aim to achieve and satisfy"

• **Commission guidelines for evaluation**

• **Better Regulation Toolbox (#36-49)**
### Evaluation criteria

<table>
<thead>
<tr>
<th>Effectiveness:</th>
<th>to what extent were the set objectives attained, i.e. do the effects correspond to the objectives?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficiency:</td>
<td>were the effects achieved at a reasonable cost?</td>
</tr>
<tr>
<td>Relevance:</td>
<td>do the objectives correspond to the needs?</td>
</tr>
<tr>
<td>Coherence:</td>
<td>interventions do not contradict others with similar objectives</td>
</tr>
<tr>
<td>EU added value:</td>
<td>additional value resulting from EU activities, compared to what could be achieved by MS at national and/or regional levels</td>
</tr>
</tbody>
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Forms of Retrospective reviews

**Evaluation**

a judgement of individual interventions according to their results, impacts and the needs they aim to satisfy.

**Fitness Check (since 2010)**

is a comprehensive policy evaluation assessing whether the (regulatory) framework for a policy sector is fit for purpose.
Who scrutinises evaluations? The Regulatory Scrutiny Board (RSB)

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases</th>
<th>Negative opinions</th>
<th>Resubmission rate*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>25</td>
<td>10</td>
<td>40%</td>
</tr>
<tr>
<td>2015</td>
<td>29</td>
<td>14</td>
<td>48%</td>
</tr>
<tr>
<td>2016</td>
<td>61</td>
<td>25</td>
<td>41%</td>
</tr>
</tbody>
</table>

* Resubmission rate is defined as the ratio of the number of negative opinions to the number of cases.
Outputs since 2009

- 975 IMPACT ASSESSMENTS
- 688 EVALUATIONS
- 704 OPEN PUBLIC CONSULTATIONS
REFIT
Regulatory Fitness and Performance Programme
(introduced 2013)
REFIT – simplification and burden reduction rolling program

- Make EU law ‘fit for purpose’: to simplify and reduce regulatory costs while maintaining benefits
- Follow-up to the red-tape reduction programme of 2007-2012 which led to a cost reduction of 33% or €41 billion in priority areas.
- Since 2015 REFIT is fully integrated into the Commission’s annual work programme and the political dialogue with EP and Council
Examples...

- Electronic VAT Invoicing: 18 billion Euro/y
- Accounting/Financial reporting: about €6.3 billion/y;
- REACH (Chemicals Legislation): registration fees for SMEs;
- Unitary patent: administrative costs are reduced by up to 80%;
- New electronic procurement: saves up to 20% of procurement costs.
.. Withdrawals, repeals and simplification initiatives (REFIT)

<table>
<thead>
<tr>
<th>PRIORITY INITIATIVES</th>
<th>PROPOSALS FOR WITHDRAWAL</th>
<th>REPEALED LAWS</th>
<th>INITIATIVES FOR REGULATORY SIMPLIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 2015</td>
<td>90 2015-2016</td>
<td>32 2015-2016</td>
<td>103 2015-2016</td>
</tr>
</tbody>
</table>
Regulatory Fitness and Performance Programme ("REFIT"): What's New since 2015?

- **New REFIT Platform**
  - 2 groups: Stakeholders + Member States
  - Chair: First Vice President/Chair of RSB

- **Plus Web interface:**
  - "Lighten the Load – Have your say...."

- **REFIT part of CWP: New/ongoing initiatives, repeals**
The REFIT Platform

The REFIT Platform brings together the Commission, national authorities and other stakeholders in regular meetings to improve existing EU legislation.
Procedural elements of retrospective evaluations

- **Centrally managed (Secretariat General)**
  - Interservice steering group

- **Forward planning**
  - Roadmaps, mandate

- **Methodology**
  - 5 evaluation criteria; economic, social, environmental impacts

- **Transparency and inclusiveness**
  
  *Feed back mechanism, 12 weeks public consultation, central publication of main documents*
Practical examples

- **Birds and Habitats Directives** (Fitness check concluded with Action Plan);
- **Agriculture**: fruit and vegetable producers (delegated act adopted, pending with co-legislators);
- **EU Environmental aquis**: Fitness check of reporting and regulatory monitoring (170 laws; staff working document); proposed repeal of Council Directive 91/692/EEC
Process under REFIT

Example: **Fitness check of the Birds and Habitat Directives** *(Feb 2014-Dec 2016)*

1. COM Mandate
2. Evidence Gathering and public consultation  
   *(Phase 1/questionnaires; 2/public consultation on the internet and final report)*
3. Reference Documents
4. COM staff working document– results
5. Action Plan (CWP, Catalogue)
More information about the examples

*About the Birds and Habitat Directives:*


*About the standardised reporting Directive (EU Environmental Acquis):*

http://ec.europa.eu/environment/legal/reporting/other_actions_en.htm
More information about evaluations

- **Smart regulation in the EU:**
  

- **Juncker Commission priorities:**
  
  https://ec.europa.eu/priorities/democratic-change_en

- **Since 1 March 2017: New link for all public contributions:**
  
  http://ec.europa.eu/info/law/better-regulation/share-your-views_en

- **Regulatory Scrutiny Board 2016 Annual Report:**
  