



Smoke Free Partnership Recommendations following the 24th February Seminar

1. Regarding the Better Regulation agenda:

- The SFP welcomes Commissioner Barroso's decision to take direct charge of the Better Regulation services and the citizen-centred approach set out in his September policy guidelines.
- Commissioner Barroso and his team should continue to develop the Impact Assessment guidelines to ensure that better regulation does not become synonymous with an economics only approach.
- The SFP expresses concerns that the 25% cut in administrative burden receives more attention (via the Stoiber Group) than other aspects of the Better Regulation agenda. The 25% cut in administrative burden is only one aspect of the overall Better Regulation picture. Why give it more importance than other aspects, such as the social impacts?

2. Regarding the Stoiber Group:

- The high level group of Independent Stakeholders on Administrative Burdens (Stoiber group) is due to be renewed in 2010. Article 4 specifies that the Commission shall ensure that the interests of social partners, consumer and environmental organisations, including non-governmental organisations, are adequately represented. Yet, the composition of the group is unbalanced. At the moment there are 15 members, only 3 of which represent the social partners and consumer and environmental organisations. The Secretariat-General should ensure that the new Stoiber group is more balanced in its representation.
- The SFP would support the dissolution of the Stoiber group.

3. Regarding Risk Assessments and risk management:

- Risk Assessment is a means of assessing the potential risk posed by a particular hazard. In a policy context, Risk Assessment is designed to help inform decisions about whether legislative intervention is required to help manage a particular risk. It is thus usually undertaken early in the policymaking process, in advance (or at a preliminary stage) of impact assessment.
- Commissioner Barroso and his team should ensure that risk assessment is not biased in favour of corporate interests so that the policies using them can adequately protect health and the environment.
- With regards to tobacco control, all stakeholders accept as a certainty that tobacco consumption results in a loss: loss of health, loss of well being and economic loss. This is why the SFP recommends that the legislative measures (which have been the backbone of the

Community's tobacco control activities) remain so in the future, whether the approach is focused on citizens' health or consumer behaviour.

- Consultation for Risk Assessment should go beyond the 8 week minimum consultation period to allow adequate dissemination. This would allow stakeholders, particularly NGOS in the health field (and in the social field), to make a formal response.

4. Regarding Impact Assessments:

- The SFP agrees that Impact Assessments are an important part of the legislative process; indeed, an important part of making better laws is having a comprehensive understanding of their impact. An Impact Assessment can only add real value if it comprehensively analyses both the costs AND benefits of a proposal, not only on businesses but also on the environment and on society as a whole. **This is why the current integrated approach (the three pillars approach) to the Better Regulation agenda needs to be maintained and strengthened.**
- The SFP agrees that Impact Assessments are a useful instrument for a) planning (stakeholder consultation, studies, interservice groups), b) articulating the problem and why it needs to be addressed, c) clarifying the baseline and d) broadening the range of options. **However, Impact Assessments should only be an aid to decision making and should not replace the decision making itself.**
- Consultation for Impact Assessment should go beyond the 8 week minimum consultation period to allow adequate dissemination. This would allow stakeholders, particularly NGOS in the health field (and in the social field), to make a formal response. **It is crucial that NGOs are involved in the original IA consultation in order for it to be a comprehensive Impact Assessment.**

5. Regarding the Social Pillar within the Impact Assessment guidelines:

- It would seem that the methodologies for the social pillar still need to be improved. The Commission should look at ways to develop this, particularly with regards to health Impact Assessments. In this respect, we recommend that all services of the Commission, including the IAB, should use and become familiar with the **recent additional guidance** which was developed by DG SANCO and DG Employment.
- The SFP recommends that the Commission organise a Stakeholder information briefing to present the guidelines to all its services and to all stakeholders. (why these additional guidelines were developed, explain in greater details their status and plan to promote them, etc...)
- Recommendations from the "Beyond GDP" report should be incorporated into the IA tools, and measures of progress, wealth and well-being should be improved within the social pillar.

6. Regarding the Impact Assessment Board:

- The IAB's role should be to ensure that the Impact Assessments conform with the Commission's IA guidelines. The IAB's role should NOT be to assess whether the final

legislative proposal properly addresses the findings of the Impact Assessment as this would weaken the role of the decision makers. It would be dangerous and against democracy to extend the remit of the IAB in this way.

- The IAB's role should be to check the quality of the Impact Assessment (and not to determine what the policy proposal should be). Therefore, we are questioning whether the IAB should be involved in the following aspects:
 - a) substantiation of the subsidiarity and proportionality tests, (particularly when the policy option recommended is a Recommendation);
 - b) assessment of whether a policy is needed; and
 - c) assessment of whether the policy adds EU value.
- The SFP feels that the role of the Commission's internal Impact Assessment Board (IAB) should be limited to checking the **quality and methodology** of the Impact Assessment. Issues such as subsidiarity fall within the decision making process itself (and they sometimes need to be resolved by the ECJ) and there currently seems to be an overlap with the role of the Impact Assessment Board and the role of the EU decision makers which should be addressed.
- With regards to suggested proposals to make the Impact Assessment Board independent and operating outside the institutional structure of the European Union, the SFP strongly believes that this would weaken the democratic process. The Impact Assessment Board should not become an independent group but should remain part of the Commission. **However, the IAB should make a greater effort to raise awareness and to explain its role to the European Parliament and to all stakeholders.**

7. Regarding the involvement of Stakeholders:

- A commitment to consultation does not necessarily require in-person consultation. Where there are concerns about the potential for an 'interested party' to manipulate consultation processes, it may be more appropriate for such consultations to be conducted in writing (for example, via on-line systems) so that they can be openly monitored.
- The general principles and minimum standards for the consultation of interested partiesⁱ are **outdated** and should be open for revision via a consultation with all stakeholders. The document should take into consideration its obligation under the Framework Convention for Tobacco Control. Indeed, the Communication was adopted in 2002, three years before the FCTC entered into force. The European Community is a signatory to the Treaty and is therefore legally bound by its provisions (the European Community ratified the FCTC on 30 June 2005). We hope that the Commission will consider revising its consultation procedures in light of its new obligations resulting from FCTC ratification.

ⁱ http://ec.europa.eu/civil_society/consultation_standards/index_en.htm