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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	8009/21
Subject:	Preparation of Council Meeting on Competitiveness on 27 May 2021 Draft Council Conclusions on Data Technologies to Improve 'Better Regulation' (<i>Non-legislative activity</i>) - <i>Approval</i>

1. On 25 February 2021, the Portuguese Presidency presented draft Council conclusions on data technologies to improve 'Better Regulation' to the Working Party on Competitiveness and Growth (Better Regulation).
2. The draft conclusions were examined at two informal videoconference meetings of the members of the above Working Party on 3 March and 28 April 2021. The Presidency consulted delegations extensively between those two meetings and a general consensus was reached at the meeting of 28 April 2021.
3. Subsequently, the Presidency consulted delegations in writing on the version set out in the Annex which was informally agreed at Working Party level on 7 May.

4. The Permanent Representatives Committee (Part I) is therefore invited to recommend to the Council (Competitiveness) to approve, as a "B" item of its agenda, the draft Council conclusions on data technologies to improve 'Better Regulation', as set out in the Annex to this note.
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**DRAFT COUNCIL CONCLUSIONS ON DATA TECHNOLOGIES
TO IMPROVE ‘BETTER REGULATION’**

THE COUNCIL OF THE EUROPEAN UNION:

1. **ACKNOWLEDGES** that recovering from the effects of the COVID-19 pandemic is an economic and social challenge facing the EU, and **REITERATES** that, to respond to that challenge, the EU regulatory framework needs to be as competitive, effective, efficient, coherent, predictable, innovation-friendly, future-proof, sustainable and resilient as possible¹.
2. **RECOGNISES** that Better Regulation must be high on the agenda and take a global and overarching approach in order to contribute to growth, competitiveness, social well-being and, among others, to the Union’s green and digital transition and the proper functioning of the Single Market.
3. **REITERATES** that Better Regulation is one of the key drivers of sustainable and inclusive economic growth, fostering competitiveness and innovation, enabling digitalisation and job creation, and increasing transparency and public support for EU legislation; in this respect, **REFERS TO** the Council conclusions of December 2014², May 2016³, November 2018⁴, November 2019⁵ and February and November 2020⁶; **RECALLS** the joint responsibility of the European Parliament, the Council and the Commission in delivering high-quality Union legislation, as recognised by these three institutions in the Interinstitutional Agreement on Better Law-Making⁷.

¹ 13026/20

² 16000/14

³ 95/80/16

⁴ 14137/18

⁵ 14656/19

⁶ 6232/20 and 13026/20

⁷ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (recital 2).

4. **ACKNOWLEDGES** that the EU and its Member States are faced with constant and sometimes disruptive environmental, technological and societal changes, and that EU legislation and the supporting procedures must be able to adapt to these changes and be prepared for new challenges.
5. **UNDERLINES** that data technologies may contribute to more effective, more efficient, less time-consuming and more robust impact assessments, evaluations and foresight, in support of high-quality, adaptive and less burdensome legislation.
6. **NOTES** the Commission Communication ‘Better Regulation: taking stock and sustaining our commitment’ of April 2019⁸, which states that ‘Better Regulation tools are applied in an ever-changing world where policy challenges and priorities constantly evolve. (...) In this increasingly complex world, it is ever more important to understand cross-sectoral impacts and to identify the opportunities for synergies to develop and implement the appropriate policy answers across the full policy cycle, from evaluation to implementation’⁹; in addition, **TAKES NOTE OF** the Commission Communication ‘Artificial Intelligence for Europe’ of April 2018¹⁰, ‘A European Strategy for Data’ of February 2020¹¹, the ‘White Paper on Artificial Intelligence’ of February 2020¹², the Council Conclusions ‘Shaping Europe’s Digital Future’ of June 2020¹³, as well as the proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)¹⁴ of April 2021.

⁸ 8648/19 + ADD 1
⁹ Page 4, first paragraph
¹⁰ 8507/18 + ADD 1
¹¹ 6250/20
¹² 6266/20
¹³ 8711/20
¹⁴ ST 8115/21 + ADD 1 -5

Future-proof and resilient legislation

7. **SUPPORTS** the Commission's continued commitment to delivering effective, efficient, future-proof and technology-neutral legislation in line with Better Regulation principles, with the aim of promoting the competitiveness and resilience of the EU economy, social well-being and the functioning of the Single Market, strengthening the EU's position as a leader in the green and digital, transitions and respecting the European Union's values and the capacity of future generations to develop.
8. **CALLS ON** the Commission to enhance its efforts to engage public and stakeholders, in particular micro- and small and medium-sized enterprises in application of the 'Think Small First' principle, in the decision-making process to ensure that EU legislation is clear, provides the expected benefits and does not create unnecessary burdens, while also being future-proof and innovation-friendly; **NOTES** that digital tools may be of help in the collection and analysis of stakeholders' contributions.

Evidence-based decision-making

9. **HIGHLIGHTS** that a robust, evidence-based decision-making process is a key requirement for anticipating the potential and risks of emerging technologies and for responding to climate change.
10. **NOTES** the need for reliable and high-quality data, gathered over time by the Commission in cooperation with Member States, for impact assessments, evaluations and foresight at EU level; **INVITES** the Commission to improve its ability to regularly update and to maximise the openness and (re)use of existing data relevant for a sound, evidence-based decision-making process.

Data technologies supporting Better Regulation

11. **INVITES** the Commission and Member States to use data technologies to support the legislative process, in particular the qualitative and quantitative aspects of impact assessments, enforcement and compliance, contributing to the identification of burden-reduction potential in new and existing EU legislation, and supporting the formulation of more technologically neutral, targeted, future-proof and high-quality legislation.
12. **ACKNOWLEDGES** that data technologies could help improve risk assessment¹⁵ and make regulation more responsive to a fast-changing world, as well as better targeted to the needs, perceptions and expectations of citizens, administrations and businesses.
13. **INVITES** the Commission and Member States to pursue a human-centred approach based on EU values and fundamental rights when using data technologies, such as artificial intelligence, in order to ensure as much as possible the use of high-quality data sources and methods; to articulate and enforce ethical standards with due respect for core principles, ensuring citizens' security and meeting their legitimate expectations; and to manage the risks associated with data protection, privacy and integrity, to ensure non-discrimination and human dignity.
14. **HIGHLIGHTS** the importance of collaboration at EU, national and regional levels in applying data technologies to improve the EU policy cycle, including the implementation phase, contributing to the European Union's efforts to position itself as a world leader in a data-driven economy.

¹⁵ Better Regulation Toolbox, tool #15

15. **CALLS FOR** the creation of common European data spaces, as referred to in the Commission Communication ‘A European Strategy for Data’ of February 2020¹⁶, which should be simple and built on interoperable tools to ensure rapid and efficient deployment, allowing, if possible and where appropriate, data to be pooled and shared by Member States to improve the use of better regulation tools, while providing robust security and data protection in accordance with EU law.
16. **HIGHLIGHTS** that public sector information should be publicly available whenever possible and appropriate, to foster transparency and the reuse of data in accordance with the Open Data Directive¹⁷ and the General Data Protection Regulation¹⁸, especially to improve impact assessments, evaluations and foresight at EU level.
17. **CALLS FOR** a common effort to enhance Europe’s resilience, and to deliver better policies and a more future-proof, innovation-friendly, predictable, consistent and efficient regulatory framework that is able to achieve concrete results, notably in the post-COVID-19 economic and social recovery.
18. **CALLS ON** the Commission to include the use of data technologies in its Better Regulation Toolbox to support law-making steps, from impact assessments to the activities under the Regulatory Fitness Programme (REFIT).
19. **INVITES** the Commission and Member States to come together at EU level to consider how to promote the use of data technologies in support of data-driven, digital-by-default and high-quality legislation, taking due account of the overall Better Regulation framework.

¹⁶ 6250/20

¹⁷ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information

¹⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)