



Annual Report

2016

Regelrådet

Swedish Better Regulation Council



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Foreword

This report summarises the work of the Swedish Better Regulation Council (SBRC or the Council) in 2016. It has been an eventful year. 2016 began with the Council taking on a new composition, as three outgoing members were replaced by three new members.

Regarding the result of this year's scrutiny of the quality of regulatory impact assessments (IA), I am pleased to be able to say that the quality generally has improved compared with previous years. This is reflected in a significant increase in the proportion of IAs assessed as meeting the requirements stated in Sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (SFS 2007:1244).¹ More than half (52 per cent) of IAs were assessed as meeting the requirements in 2016, compared with 36 per cent in the previous year. However, it is difficult to draw conclusions with regards to the reasons for the improved statistics. Possible explanations are provided in this report.

In addition to the regular scrutiny of IAs accompanying national proposals, the Council has reviewed more IAs from the EU than in previous years. What is more, the international cooperation has taken on a more structured form through RegWatchEurope. I am very positive about this development, as RegWatchEurope provides a forum enabling valuable exchange of ideas and experiences with other scrutiny bodies.

In spite of the improved statistics, a closer look at the figures shows that large discrepancies remain in the quality of IAs. It is clear that some regulators have come further in their work with conducting IAs than others. Decisions are still made regarding new and amended rules despite inadequate analysis of the potential consequences.

This year's result shows that an improvement in the quality of impact assessments is possible, and I expect this positive trend to continue in 2017. It will require several regulators to continue to improve and develop their work with assessing the consequences of the proposals they put forward. I look forward to the coming year with high expectations.

Finally, I would like to thank both the members of the SBRC and the staff at the Swedish Agency for Economic and Regional Growth, who, in an excellent manner have worked for the Council during the year. I am convinced that this work plays an important part in creating better regulation for businesses.



Pernilla Lundqvist
Chair

¹ SFS = Swedish Code of Statutes

Summary

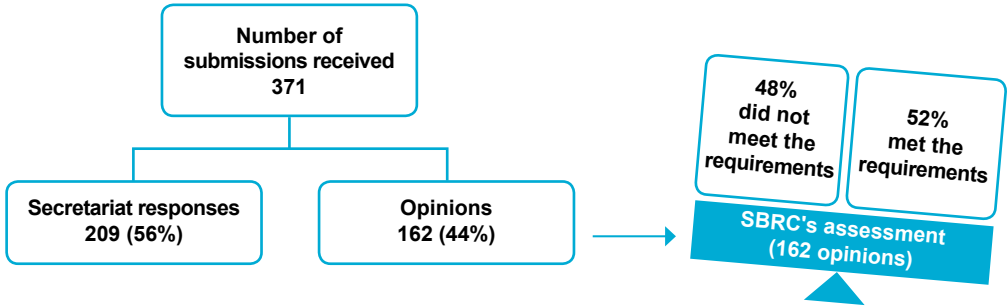
The Swedish Better Regulation Council

Who? The Swedish Better Regulation Council (SBRC) is an independent national advisory body within the Swedish Agency for Economic and Regional Growth. It consists of five members who are appointed by the Swedish Government.

What? The SBRC scrutinises and delivers opinions on the quality of impact assessments (IAs) of proposed statutes which could have significant impact on businesses. The assessment is made in accordance with the requirements set out in Sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (SFS 2007:1244).

How? When a proposed statute is deemed to have significant impact on businesses, the SBRC delivers an opinion on the quality of the impact assessment. The SBRC can also choose not to deliver an opinion, in which case a so-called secretariat response is provided instead. This can occur if, for example, the SBRC does not deem the proposal to have significant impact on businesses.

Submissions received*



* Excluding impact assessments by the EU. Please see chapter “Scrutinising impact assessments by the EU” on page 24 for further details on this.

Distribution of opinions 2016

Government Offices

43 submissions

- 👍 19% met the requirements
- 👎 81% did not meet the requirements

Committees of inquiry

27 submissions

- 👍 41% met the requirements
- 👎 59% did not meet the requirements

Government agency reports

17 submissions

- 👍 41% met the requirements
- 👎 59% did not meet the requirements

Government agencies

75 submissions

- 👍 77% met the requirements
- 👎 23% did not meet the requirements



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Swedish Better Regulation Council

Annual Report 2016

Introduction

The remit of the Swedish Better Regulation Council

The Swedish Better Regulation Council (SBRC or the Council) was established in 2008, on a temporary basis, as a part of the Government's work with better regulation for businesses. Since 1 January 2015, the SBRC is permanent and organised as an independent national advisory body within the Swedish Agency for Economic and Regional Growth (the Agency).²

The SBRC's task is to scrutinise and deliver opinions on the quality of impact assessments (IAs) of proposed statutes deemed to have significant impact on businesses. Regulators determine whether a proposal could have such effects and, if so, submit the proposal and accompanying impact assessment to the SBRC. The scrutiny of the quality of IAs is confined to the impacts on businesses and is based on the requirements stated in Sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (SFS 2007:1244) (the Ordinance). The SBRC's scrutiny only regards impact assessments. To comment on any other aspects of the proposal is not included in the SBRC's mission. The SBRC also scrutinises impact assessments by the EU upon request by regulators.

Composition and organisation

The Swedish Government appoints the members of the SBRC, including one chair, one vice chair and three other members. The vice chair and the three other members have two alternates each.

In 2016 the Council had Pernilla Lundqvist as chair, Samuel Engblom as vice chair, and Yvonne von Friedrichs, Claes Norberg and Lennart Renbjör as members.

Alternates: Marie-Louise Strömgren, Sofie Rehnström, Ebba Sjögren, Lars Silver, Karin Hellerstedt, Mikael Ek, Annika Bergman and Sven-Göran Alm.

The Better Regulation unit at the Swedish Agency for Economic and Regional Growth provides support in the form of staff and other resources that the SBRC needs to carry out its tasks. The support includes preparing cases for the Council's meetings and to carry out other tasks within the Council's remit. The work is coordinated by the head of the scrutiny unit at the Agency.

Content

This report presents the result of the SBRC's scrutiny of impact assessments during 2016. Results are also presented from a survey that the SBRC undertook during the summer of 2016. The survey was directed at government ministries and agencies who have received opinions from the SBRC, with the purpose of following up on how they view the opinions and how these opinions have influenced their continued work with impact assessments.

²The SBRC's mission and composition are regulated in Sections 17 – 19 of the Ordinance (SFS 2009:145) with instructions for the Swedish Agency for Economic and Regional Growth.

The Swedish Better Regulation Council



Pernilla Lundqvist | *chair*



Samuel Engblom | *vice chair*



Claes Norberg | *member*



Yvonne von Friedrichs | *member*



Lennart Renbjer | *member*



Christian Pousette | *head of unit*

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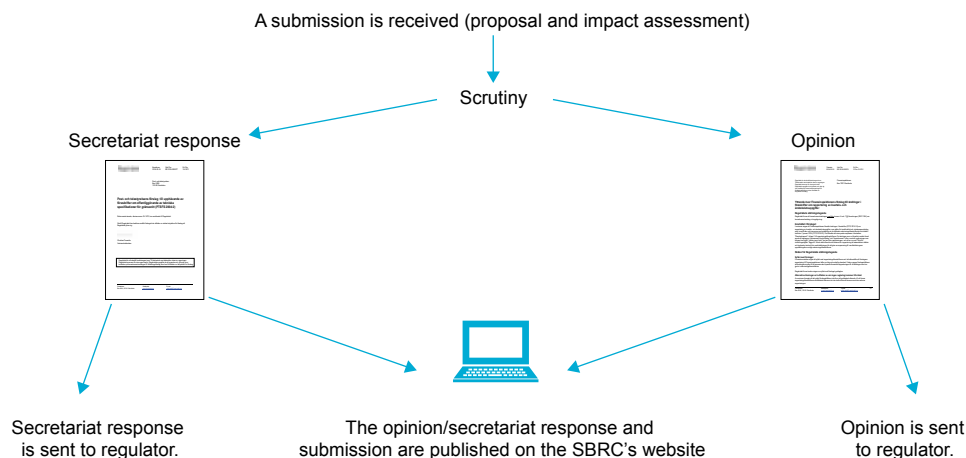
Scrutinising impact assessments

The SBRC scrutinises the quality of impact assessments based on the requirements stated in Sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (SFS 2007:1244). If a proposal is deemed to have significant impact on businesses, the SBRC delivers an opinion on the impact assessment. The scrutiny leads to an overall assessment on whether or not the IA meets the requirements in the Ordinance.

The SBRC can also choose not to deliver an opinion. This is mainly done when a proposal is deemed not to have significant impact on businesses. In such cases the SBRC delivers a so-called secretariat response. The SBRC also scrutinises IAs accompanying proposals from the EU. The purpose of this is to highlight the parts of the proposal with potentially significant impact on businesses in Sweden, and to give recommendations on what a supplementary Swedish IA ought to include.

There is no established definition of what constitutes 'significant impact' on businesses. Instead, a judgement is made in every single case. For example, what constitutes significant impact can depend on the scope of the administrative burden or other direct or indirect costs to businesses a proposal might bring. It can also depend on the structure of the affected sector or the number or size of the affected businesses.

A submission is received...



Opinions

The Council gives its assessment of an IA in the opinion, and, where necessary, points out aspects where the regulator could have demonstrated the impacts of the proposal more clearly. The intention is for the opinions to contribute to a general improvement of the quality of impact assessments by providing constructive feedback to regulators. Good quality IAs provide regulators with a more robust basis for making decisions about new



and amended rules, which, by extension, should contribute to better regulation. Therefore, the Council continuously works to improve the opinions.

The aspects which are considered in the SBRC's scrutiny are shown below. They include the proposals' potential impact on businesses' costs, impacts on competition and whether special consideration has been given to how small businesses are affected.

Aspects in the impact assessment that the SBRC considers in the scrutiny

The SBRC assesses how well a regulator has presented the analysis of the following aspects in the impact assessment:

1. The purpose of the proposal
2. Alternative solutions
3. Impact if no regulation is passed
4. Compliance with EU law
5. Need for special consideration of date of effect
6. Need for special communications efforts
- 7-9. Affected businesses in terms of sector, number and size
10. Administrative costs
11. Other costs
12. Impact on businesses' activities
13. Impact on competition
14. Other aspects
15. Need for special consideration of small businesses

Secretariat responses

The SBRC sometimes responds to submissions with so called secretariat responses. This means that the Council does not deliver an opinion on the quality of the impact assessment. There could be many reasons for this, the most common of which is that the proposal is deemed not to have significant impact on businesses.

Reasons for secretariat responses

Limited impact on businesses: Is used when the Council deems that a proposal does not have significant enough impact on businesses to prompt an opinion.

Limited scope for action: Is used in cases when it is clear to the Council that the regulator has not had any scope to contribute to the design of the proposal.

Resource constraints: Can be used during periods of unusually high work load and the Council therefore is unable to scrutinise all IAs that are submitted.

Time constraints: When proposals are submitted to the SBRC with a shorter response time than two weeks, the Council often does not have the possibility to scrutinise the IA within the given time frame.

Outside the remit of the SBRC: Can for example regard submissions that do not include any proposed statutes, or that for any other reason are outside the remit of the SBRC.

Scrutinising EU impact assessments

Upon request, the SBRC is also tasked with scrutinising impact assessments accompanying proposals from the EU with potentially significant impact on Swedish businesses. In such instances, the Council points out parts of the impact assessment in its opinion where the potential impact of the proposal on Swedish businesses have not been adequately described. The opinion also includes recommendations on what a complementary Swedish impact assessment ought to contain. The SBRC can thereby provide support to regulators when a new proposal from the EU is presented. Through involvement early on in the process the SBRC can contribute to strengthening the Swedish position in the negotiations with the EU regarding the final design of the proposal.

Communication

The SBRC has a website, www.regelradet.se, where all opinions, secretariat responses, proposals and impact assessments are published. In addition to information regarding the regulatory framework governing the SBRC's activities, the website also contains news and general information about meetings and other activities that involves the SBRC. What is more, a newsletter is published around six times a year. The result of the SBRC's scrutiny is presented in the annual report.

In addition to digital communication, the SBRC provides information about its activities through face-to-face meetings with interested parties.



2

International cooperation

The SBRC is active internationally, primarily as a member of the European network RegWatchEurope. The purpose of this is to exchange experiences with other advisory bodies who also work with scrutinising regulatory impact assessments.

RegWatchEurope

In addition to the SBRC, RegWatchEurope consists of scrutiny bodies from the Netherlands (ACTAL³), Germany (NRCC⁴), Great Britain (RPC⁵), and the Czech Republic (RIAB⁶), as well as the new members Norway (NBRC⁷) and Finland (FCRIAB⁸), who both joined in 2016. The network is first and foremost a forum for exchange of experiences between members with regards to scrutinising the quality of impact assessments. Wider issues and ideas related to better regulation and impact assessments can also be discussed and shared, for example through united standpoints to the EU institutions. In 2016, a collaboration commenced between RegWatchEurope and the Regulatory Scrutiny Board, the review body of the European Commission.

Each member organisation has their own mandate, but all are independent bodies that in different ways work with scrutinising the quality of impact assessments following new or amended regulations. In some of the countries, the scrutiny bodies only look at the impact of regulation on businesses, as in Sweden. In others, economic, social and environmental consequences are scrutinised as well. All the organisations formally only have an advisory role. In some of the countries, re-submission of revised IAs that were previously deemed inadequate by the scrutinising body is more common than in others. It is also more common in some countries than in others for decision makers to choose not to proceed with a proposal where the impact assessment is considered inadequate.

Directors and Experts of Better Regulation (DEBR)

DEBR is an informal group of senior government officials from the member countries of the EU, who work with better regulation issues in their respective countries. DEBR conferences are arranged by the country who is president of the Council of the EU. They provide a valuable opportunity for exchanging experiences with other countries facing similar challenges within the area of better regulation.

The SBRC attended the two DEBR conferences that were arranged in 2016. Focus at the conferences was on simplification through digitalisation, futureproof legislation, the sharing economy and the REFIT Platform project of the EU Commission.

³ Dutch Advisory Board on Regulatory Burden

⁴ National Regulatory Control Council

⁵ Regulatory Policy Committee

⁶ Regulatory Impact Assessment Board

⁷ Norwegian Better Regulation Council

⁸ Finnish Council of Regulatory Impact Analysis



3 The scrutiny in numbers

During 2016, the SBRC received 371 submissions, 209 of which prompted secretariat responses (56 per cent) and 162 of which prompted opinions (44 per cent). These figures exclude IAs from the EU. Since the Council does not make a formal assessment of whether an IA from the EU meets the requirements of the Ordinance or not, those submissions are not included in the overall statistics. Instead, the result of the scrutiny of IAs from the EU is described in the chapter “Scrutiny of impact assessments from the EU”.

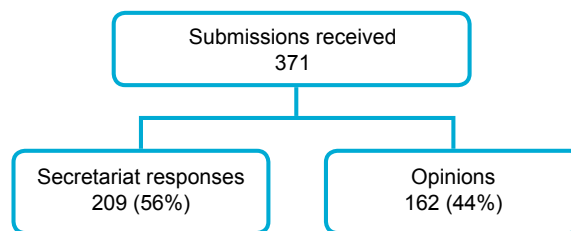


Figure 1: Submissions received 2016

Opinions

52 per cent of the 162 impact assessments that the SBRC scrutinised and delivered an opinion on were assessed as meeting the requirements of the Ordinance (Figure 2). This is a clear improvement on 2015, when only 36 per cent of IAs were assessed as meeting the requirements.

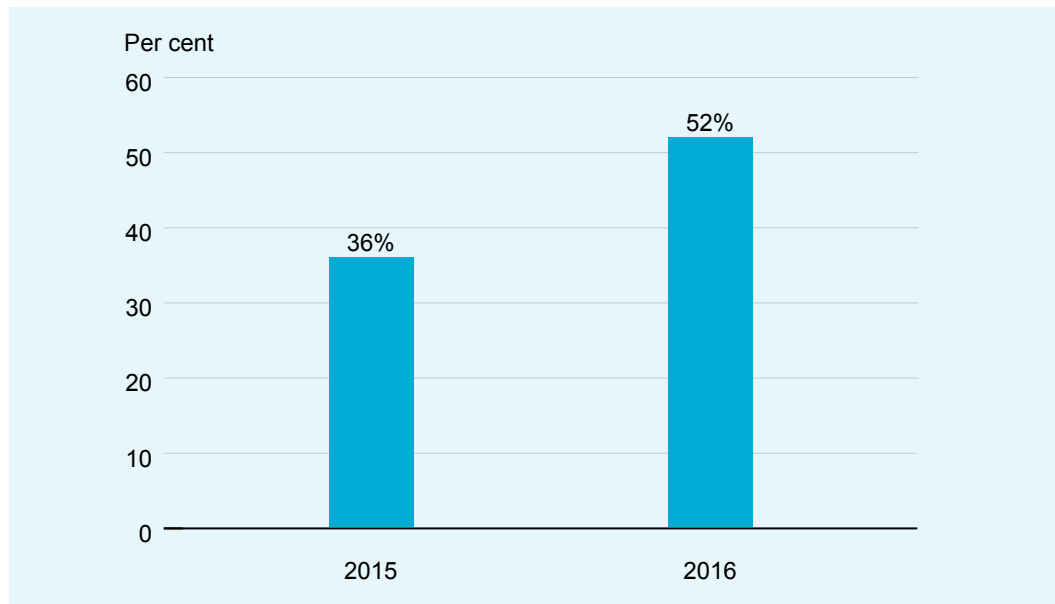


Figure 2: The SBRC’s assessment of impact assessments 2015 and 2016 (proportion that met the requirements, %)

Result per aspect

Figure 3 shows the Council's assessment of every aspect highlighted in the opinions. The assessment per aspect is either 'sufficient' or 'insufficient'.

Aspect	Number		Proportion sufficient (%)
	Sufficient	Insufficient	
Purpose	158	4	98%
Impact if regulation is not passed	145	17	90%
Compliance with EU law	143	19	88%
Affected businesses: sector	136	26	84%
Need for special consideration of date of effect	132	30	81%
Alternative solutions	131	31	81%
Other aspects	122	40	75%
Businesses' activities ⁹	79	48	62%
Affected businesses: number	98	64	60%
Need for special communications efforts ¹⁰	96	65	60%
Need for special consideration of small businesses	91	71	56%
Administrative costs	89	73	55%
Other costs	89	73	55%
Impact on competition	88	74	54%
Affected businesses: size	73	89	45%

Figure 3: The SBRC's assessment per aspect, 2016 (arranged by largest proportion sufficient)

The greatest proportion of sufficiently described aspects in the IAs include the purpose of the proposal (98 per cent sufficient); impact if regulation is not passed (90 per cent); and compliance with EU law (88 per cent).

The aspects that tended to be insufficiently described include the impact of the proposal on businesses' costs; if consideration has been given to small businesses; and impacts on competition.

It is important to note that the overall assessment of whether or not an IA meets the requirements is not the sum of the assessment of each individual aspect. Depending on the circumstances of each individual case, the different aspects will be valued differently. If, for example, the SBRC deems a proposal to have potentially significant impact on competition in the market, and this aspect is not sufficiently described, the overall assessment could be that the IA does not meet the requirements, even though other aspects have been sufficiently described.

⁹ A formal assessment of this aspect was made in 127 out of 162 IAs.

¹⁰ A formal assessment of this aspect was made in 161 out of 162 IAs.

Result by sender and type of submission

The SBRC receives submissions from either the Government Offices of Sweden or from government agencies. In previous annual reports, the SBRC has primarily shown the result by sender. However, for 2016, a distinction is made between sender as well as type of submission. The division is made as follows:

1. **Government Offices:** Submissions produced and submitted by the Government Offices.
2. **Committees of inquiry:** Submissions produced by committees and submitted by the Government Offices.
3. **Government agency reports:** Submissions produced by government agencies, sometimes submitted by the Government Offices, sometimes by government agencies. Government agency reports are proposals for new or amended regulations that have been produced by government agencies. Many of these are commissioned by the Government, however some are initiated by the agencies themselves.
4. **Government agencies:** Submissions produced and submitted by government agencies.

The Riksdag (the Swedish Parliament) and the Swedish Government decide on proposals in accordance with descriptions 1-3 above. Government agencies decide on proposals in accordance with number 4. Out of the 162 opinions in 2016:

- 43 were produced by the Government Offices,
- 27 were produced by committees of inquiries,
- 17 were government agency reports, and
- 75 came from government agencies.

Sender and type of submission	Total	Proportion of total number of submissions received (%)	Met the requirements	Did not meet the requirements	Proportion that met the requirements (%)
Government Offices	43	27%	8	35	19%
Committees of inquiry	27	17%	11	16	41%
Government agency reports	17	10%	7	10	41%
Government agencies	75	46%	58	17	77%

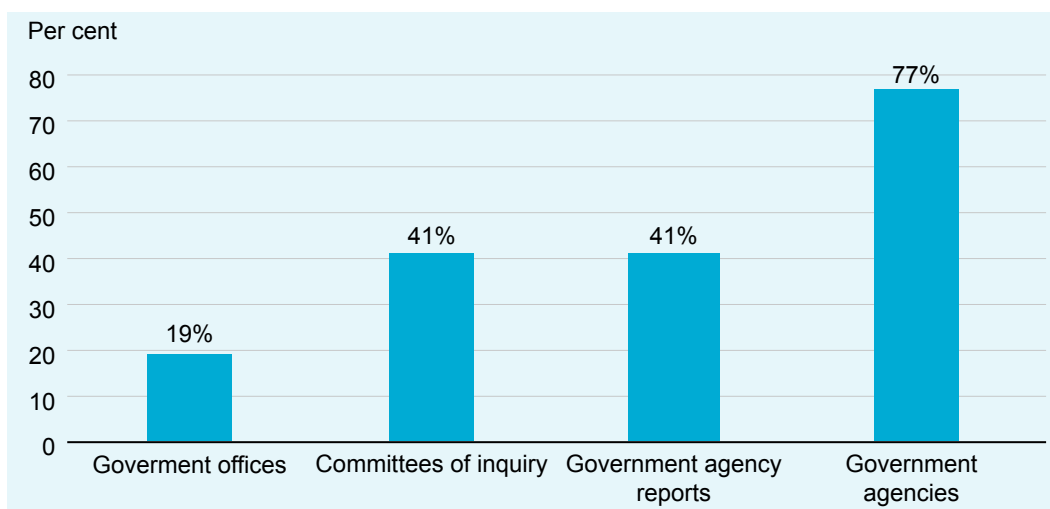


Figure 4: Distribution of opinions by sender and type of submission, and proportion that met the requirement, 2016

- Of the 43 IAs produced and submitted by the Government Offices, eight were assessed as meeting the requirements (19 per cent). In 2015, five out of 39 were assessed as meeting the requirements (13 per cent).
- Among the 27 IAs produced by committees of inquiry, 11 were assessed as meeting the requirements (41 per cent), compared with 11 out of 41 (27 per cent) in 2015.
- Seven of the government agency reports were assessed as meeting the requirements (41 per cent). This compares with two out of ten (20 per cent) in 2015.
- Among the 75 IAs submitted by government agencies, 58 were assessed as meeting the requirements (77 per cent). This is a significant improvement on 2015's result, when 49 per cent of IAs were assessed as meeting the requirements.

The Government Offices

Figure 5 shows the SBRC's assessment of submissions from the Government Offices in 2016 by ministry.

Ministry	Number of submissions		
	Met the requirements	Did not meet the requirements	Total
Ministry of Employment	1		1
Ministry of Finance	2	19	21
Ministry of Culture	2	1	3
Ministry of the Environment and Energy	2	4	6
Ministry of Enterprise and Innovation	1	5	6
Ministry of Health and Social Affairs		5	5
Ministry of Education and Research		1	1
Total	8	35	43

Figure 5: The SBRC's opinions on submissions by the Government Offices, 2016

The Ministry of Finance submitted most IAs to the SBRC in 2016 (21 submissions). Two of these were assessed as meeting the requirements (10 per cent). Of the six submissions by the Ministry of Enterprise and Innovation, one IA met the requirements.

Committees of inquiry

Of the 27 IAs submitted by committees of inquiry, 11 were assessed as meeting the requirements (41 per cent) (Figure 6). In 2015, 11 out of 41 of IAs from committees of inquiry were assessed as meeting the requirements (27 per cent).

Ministry	Number of submissions		
	Met the requirements	Did not meet the requirements	Total
Ministry of Employment		1	1
Ministry of Finance	1	6	7
Ministry of Justice	3	1	4
Ministry of Culture		1	1
Ministry of Enterprise and Innovation	4	1	5
Ministry of Health and Social Affairs	1	5	6
Ministry of Education and Research	2	1	3
Total	11	16	27

Figure 6: The SBRC's opinions on submissions by committees of inquiry, by submitting ministry

Government agency reports

In 2016, 17 government agency reports with accompanying impact assessments were submitted to the SBRC (Figure 7). Seven of these were assessed as meeting the requirements (41 per cent). The Ministry of Finance and the Ministry of Enterprise and Innovation submitted the largest number of reports (five each).

- All government agency reports submitted by the Ministry of Finance were produced by the Tax Agency. Three out of five were assessed as meeting the requirements.
- Four of the agency reports submitted by the Ministry of Enterprise and Innovation came from the Transport Agency. Two of these were assessed as meeting the requirements.
- The Ministry of the Environment and Energy submitted four agency reports in 2016. They were produced by the Energy Markets Inspectorate, the Chemicals Agency and the Environmental Protection Agency. None of these were assessed as meeting the requirements.

Submitting ministry and the government agency responsible for the proposal	Number of submissions		
	Met the requirements	Did not meet the requirements	Total
Ministry of Finance / Swedish Tax Agency	3	2	5
Ministry of Culture / Swedish National Heritage Board		1	1
Ministry of the Environment and Energy / Swedish Energy Markets Inspectorate		1	1
Ministry of the Environment and Energy / Swedish Chemicals Agency		1	1
Ministry of the Environment and Energy / Swedish Environmental Protection Agency		2	2
Ministry of Enterprise and Innovation / National Board of Housing, Building and Planning		1	1
Ministry of Enterprise and Innovation / Swedish Transport Agency	2	2	4
Ministry of Health and Social Affairs / Medical Products Agency	1		1
Swedish Radiation Safety Authority	1		1
Total	7	10	17

Figure 7: The SBRC's opinions on government agency reports, by submitting ministry and responsible agency

Government agencies

Of the 75 impact assessments submitted by government agencies in 2016, 58 (77 per cent) were assessed as meeting the requirements (Figure 8). This represents a 28 percentage point increase compared with last year, when 49 per cent of the IAs from government agencies were assessed as meeting the requirements.

Agency	Number		
	Met the requirements	Did not meet the requirements	Total
Swedish Work Environment Authority	3		3
National Board of Housing, Building and Planning	3		3
National Electrical Safety Board	1		1
Swedish Energy Markets Inspectorate	1		1
Swedish Energy Agency	1	1	2
Swedish Financial Supervisory Authority	6		6
Public Health Agency of Sweden	1		1
Swedish Social Insurance Agency		1	1
Swedish Agency for Marine and Water Management	1	2	3
Swedish Board of Agriculture	6		6
Lantmäteriet (the Swedish mapping agency)	1		1
National Food Agency	1	1	2
Swedish Civil Contingencies Agency		2	2
Swedish Environmental Protection Agency	2	2	4
Swedish Post and Telecom Authority	2		2
Supervisory Board of Public Accountants	1		1
The Riksbank ¹¹	2		2
The Swedish National Debt Office		1	1
Swedish Maritime Administration	3		3
Swedish Forest Agency		1	1
Swedish National Agency for Education	1	2	3
National Board of Health and Welfare	3	1	4
Statistics Sweden	5		5
SWEDAC	1	1	2
Swedish ESF Council		1	1
Swedish Agency for Economic and Regional Growth		1	1
Swedish Transport Agency	12		12
Swedish Customs	1		1
Total	58	17	75

Figure 8: The SBRC's opinions on submissions by government agencies

A number of agencies had all their submitted IAs assessed as meeting the requirements. These include, among others, the Transport Agency (12 out of 12), Financial Supervisory Authority and the Board of Agriculture (both six out of six) and Statistics Sweden (five out of five).

¹¹ The Riksbank sits under the Riksdag (the Swedish Parliament) and does not answer to the government. The Riksbank is therefore not obliged to submit proposals and impacts assessments to the SBRC. Yet, the Riksbank chose to do so at two occasions during 2016.

Results – the Government Offices and government agencies

A closer look at the SBRC's assessment per aspect in the impact assessments by the Government Offices shows great potential for improvement of a number of aspects (Figure 9). Among other things, the results show that:

- In only 28 per cent of IAs, the impact of the proposal on competition was analysed in a sufficient manner.
- In around one third of the IAs, the impact of the proposal on businesses' costs was deemed sufficient.
- In just over a third (35 per cent) of IAs the analysis of the need for special consideration of small businesses was considered sufficient by the SBRC.

The result of the SBRC's assessment per aspect of IAs submitted by government agencies differs greatly compared with that of the Government Offices. For example:

- The analysis of the impact of the proposals on competition was deemed sufficient in 68 per cent of the IAs. In 73 per cent of IAs, the analysis of the need for special consideration of small businesses was deemed sufficient.
- The analysis of the impact of the proposals on businesses' costs was deemed sufficient in around three quarters of the IAs (72 per cent and 75 per cent respectively).

Aspect	Government Offices			Government agencies		
	Number		Proportion sufficient (%)	Number		Proportion sufficient (%)
	Sufficient	Insufficient		Sufficient	Insufficient	
Purpose	41	3	95%	74	1	99%
Need for special consideration of date of effect	34	9	79%	64	11	85%
Impact if regulation is not passed	33	10	77%	74	1	99%
Compliance with EU law	31	12	72%	73	2	97%
Alternative solutions	27	16	63%	68	7	91%
Affected businesses: sector	26	17	60%	71	4	95%
Other aspects	26	17	60%	64	11	85%
Businesses' activities ¹²	12	22	35%	41	13	76%
Special consideration of small businesses	15	28	35%	55	20	73%
Administrative costs	14	29	33%	54	21	72%
Affected businesses: number	13	30	30%	60	15	80%
Other costs	13	30	30%	56	19	75%
Need for special communications efforts ¹³	12	31	28%	66	8	89%
Impact on competition	12	31	28%	51	24	68%
Affected businesses: size	8	35	19%	41	34	55%

Figure 9: The SBRC's assessment per aspect in IAs submitted by the Government Offices and government agencies, 2016

(Arranged by proportion of sufficient aspects in the Government Offices' IAs)



Secretariat responses

The SBRC responded to 209 submissions with so called secretariat responses in 2016 (Figure 10). This means that the Council for some reason chose not to deliver an opinion. In 122 of the secretariat responses in 2016, the reason was limited impact of the proposal on businesses (58 per cent).

In 37 cases (18 per cent) the reason for responding with a secretariat response was lack of resources at the SBRC. During times of particularly high workload, the Council tries to prioritise scrutinising IAs of proposals deemed to have the greatest impact on businesses.

Reason for secretariat response	Number	Proportion (%)
Limited impact on businesses	122	58%
Resource constraints	37	18%
Time constraints	9	4%
Other reasons ¹⁴	41	20%
Total	209	100%

Figure 10: Reason for secretariat responses

¹⁴ Includes secretariat responses due to limited scope of the regulator to influence the design of the proposal or if the proposal is not covered by the remit of the SBRC.

Scrutinising impact assessments by the EU

Upon request, the SBRC assists Swedish regulators by scrutinising impact assessments accompanying proposals from the EU Commission that are expected to have a significant impact on businesses in Sweden. The Council then provides recommendations on what should be included in a subsequent Swedish impact assessment. In the annual report 2015, the SBRC mentioned that opinions on IAs of EU proposals can improve the Swedish policy makers' understanding of the potential impacts of the EU proposal on businesses that are active in Sweden. Providing such information at a time when there is a real potential to influence the design of the proposal should be helpful when negotiating with the EU. Considering that a significant part of the regulatory framework affecting businesses in Sweden today stems from the EU, the SBRC encourages Swedish policy makers to take advantage of this offering.

In 2016, 12 impact assessments accompanying EU proposals put forward by the EU Commission were submitted to the SBRC. The SBRC delivered opinions on four of these. This is a significant increase compared with 2015, when no such impact assessments were scrutinised. In the eight cases where the Council responded with a secretariat response, the most common reason was lack of resources. Scrutinising impact assessments from the EU is a lot more time consuming than scrutinising the quality of impact assessments produced by Swedish legislators.

Impact assessments from the EU that the SBRC delivered opinions on

- Closing the loop – An EU action plan for the Circular Economy (COM (2015) 614/2).
- Directive on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (COM (2015) 615).
- Proposal for regulation on binding annual greenhouse gas emission reductions by the Member States from 2021 to 2030 and proposal for regulation on the inclusion of greenhouse gas emissions and removals from land use etc. (COM (2016) 482 and COM (2016) 479).
- Directive establishing the European Electronic Communications Code etc. (COM (2016) 590).

The SBRC found that the impacts on businesses on a national level was not sufficiently described in any of the IAs that were scrutinised. It was therefore not possible to judge the potential impact on businesses in Sweden. For this reason, the Council recommended that complementary analyses with regards to impacts in Sweden were made in all cases. A recurring challenge with regards to the proposals' impacts on businesses is that the information provided in the IA is abstract, and that the impacts that have been identified rarely are quantified.



4

Follow-up survey

During the summer of 2016 the SBRC sent an online survey to ministries and government agencies who had received opinions from the SBRC during the year. The purpose was to gather information on how the SBRC's opinions are perceived and used by regulators. Such information was of interest partly in reference to the regulators' continued work with the proposal that the opinion was regarding, and partly in reference to their general work with impact assessments.

The survey was sent to 43 ministries and government agencies, 30 of which responded. This corresponds to a response frequency of 70 per cent. Less than a handful of responses were submitted from the Government Offices. The survey was open from 5 July to 1 September 2016.

The survey covered the opinions received by the ministry or agency from the SBRC in the period 1 January – 30 June 2016.

Result

A majority of the respondents, 70 per cent, indicated that the opinion by the SBRC had influenced the continued processing of the case in question, either "to a large extent" (23 per cent) or "to some extent" (47 per cent) (Figure 11). Around one third (30 per cent) responded that the opinion had no impact on the continued processing of the case.

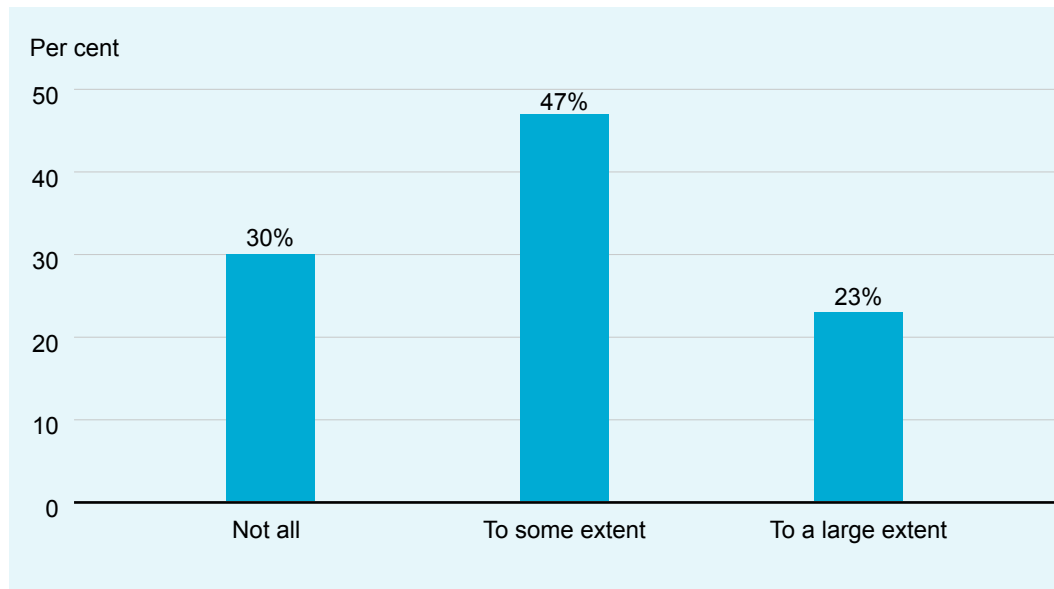


Figure 11: "The SBRC's opinion has influenced the continued processing of the case" (%)

Number of respondents: 27

Impact on the continued processing of the case in question

In cases where the opinions had had an impact on the continued processing of the case, two thirds responded that complementary analyses had been made with regards to the impact of the proposal on businesses (Figure 12). Approximately a quarter responded that the opinion by the SBRC contributed to complementary analyses being made in “other regards”. Around one fifth responded that the opinion contributed to amendments of the actual proposal in some regard.

The SBRC's opinion contributed to:	%
Complementary analysis being made with regards to the impact of the proposal on businesses	67%
Complementary analysis being made on the impact of the proposal in other regards	24%
Changing the proposal in some regard.	19%
Other	29%

Figure 12: The impact of the SBRC's opinion on the continued processing of the proposal.¹⁵ (multiple choice possible)

Number of respondents: 21

Among respondents who indicated that the opinion by the SBRC did not have an impact on the continued processing of the case in question, three out of eight responded that the reason was that the SBRC assessed the impact assessment as meeting the requirements of the Ordinance (Figure 13). Equally, three out of eight responded that time and resources were lacking. Two responded that the feedback from the SBRC was not relevant.

Reason	Number
According to the SBRC, the IA complied with the requirements in Sections 6 and 7 Ordinance (2007:1244).	3
Time and resources were lacking.	3
The SBRC's viewpoints were not relevant.	2
It was unclear how the IA could be improved.	1
Other reason	4

Figure 13: Reasons for the SBRC's opinions not having an impact on the continued processing of the case it was regarding¹⁶ (multiple choice possible)

Number of respondents: 8

¹⁵ Question in the survey: In what way has the SBRC's opinion impacted on the continued processing of the case which the opinion was regarding?

¹⁶ Question in the survey: In cases the SBRC's opinion has not had an impact on the continued processing of a case, what is the reason for this?

Working with impact assessments in general

Regarding the work with impact assessments in general, 93 per cent responded that the SBRC's opinions have had some influence; 62 per cent of which stated "to some extent" and 31 per cent stating "to a large extent" (Figure 14). Two respondents (7 per cent) stated that the opinions by the SBRC had no impact at all on the work with impact assessments in general.

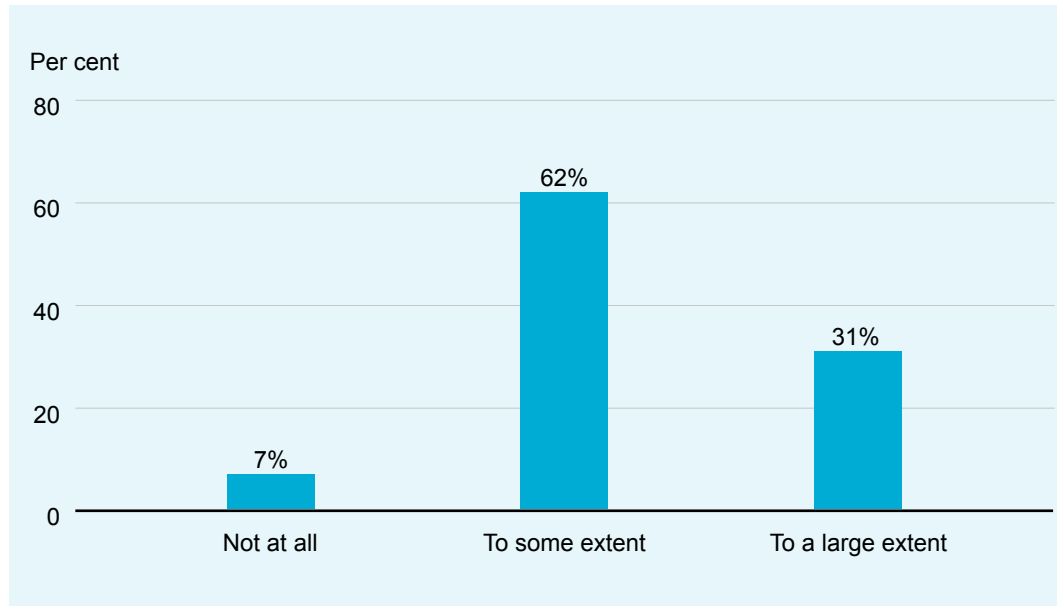


Figure 14: "The opinion by the SBRC has had an impact on our way of working with impact assessments in general." (%)

Number of respondents: 29

In cases where the opinions by the SBRC have had an impact on the regulators' work with impact assessments in general, 83 per cent stated that it was clear from the opinion which aspects in the IA could be developed. 25 per cent responded that there were relevant suggestions in the opinion on how the IA could be improved. 13 per cent claimed that the opinions had an impact in another way.

In one of the cases, the respondent indicated that the SBRC's opinion had not had an influence on the continued work with impact assessment because the feedback from the SBRC was not relevant.

Comments

Some respondents made the following remarks regarding the benefits of the SBRC's opinions:

"[Our] agency has taken on board the viewpoints provided [by the SBRC] in the last couple of years to improve the internal work with education and quality assurance."

"It could be clearer in what ways the impact assessment could have been improved."

"Just the fact that the SBRC exists and gets the opportunity to deliver opinions means that regulators really have to reflect [on the impacts of the proposal]. Especially since one wants a "pass" from the SBRC. For us, this has meant more and closer contact with those affected by proposals, increased knowledge among policy officers and regulation (even though the impact assessment might get a 'fail' by the SBRC in the end)."

Importance of aspect when assessing impacts

In the opinions, the SBRC's assessments are divided into separate sections. These include all aspects stated in Sections 6 and 7 Ordinance (2007:1244) that are required to be analysed in the impact assessments.

Answering the question on what importance the respondents attach to each aspect respectively when doing impact assessments, the largest proportion (55 per cent) responded that the proposal's compliance with EU law is of "great importance" (Figure 15). In turn, 45 per cent responded that the impact of the proposal on businesses' costs and activities is of great importance when carrying out impact assessments. Further, 41 per cent considered alternative solutions and impact of no regulation is considered to be of great importance.

Section	Great importance (%)	No importance (%)
Compliance with EU law	55%	10%
Impact on businesses' costs, time and activities in general	45%	7%
Alternative solutions and impact if regulation is not passed	41%	7%
Affected businesses in terms of sector, number and size	38%	14%
Impact on competition	21%	7%
Special consideration of small businesses	21%	10%
Special consideration of date of effect and need for special communications efforts	14%	17%
Other aspects	14%	10%

Figure 15: Importance attached to each aspect when doing an impact assessment ("great importance" and "no importance" respectively)¹⁷ (%) (Ranked by "great importance")

Number of respondent: 29

Usefulness of the information in the SBRC's opinions

Regarding the usefulness of the information provided by the SBRC in the opinions, 28 per cent responded that the information regarding the impact of the proposal on businesses' costs, time and activities is "very useful" (Figure 16). 21 per cent responded that the information provided with regards to affected businesses is "very useful", followed by 17 per cent responding that the overall assessment is "very useful"

The information provided by the SBRC with regards to the proposal's compliance with EU law was considered the least useful; 41 per cent responded that the information related to this aspect was not useful at all. 31 per cent responded that information in the opinions related to alternative solutions and impacts if regulation is not passed was of no use.

¹⁷ Question in the survey: In the opinions, the SBRC's assessments are based on a number of different aspects. What level of importance do you usually attach to each aspect when conducting an impact assessment? Response options: "Great importance", "Some importance", "No importance" and "Don't know".

Section	Very useful (%)	Not useful at all (%)
Impact on businesses' costs, time and activities in general	28%	10%
Affected businesses in terms of sector, number and size	21%	21%
Overall assessment	17%	3%
Compliance with EU law	14%	41%
Alternative solutions and impact if regulation is not passed	10%	31%
Special consideration of small businesses	10%	17%
Impact on competition	7%	21%
Special consideration of date of effect and need for special communications efforts	3%	28%
Other aspects	3%	21%

Figure 16: The usefulness of the information that the SBRC provides in the opinions ("very useful" and "not useful at all")¹⁸ (%) (Ranked by "very useful")

Number of respondents: 29

Suggestions of improvements and comments from the SBRC

Lastly, the respondents were asked for suggestions of improvements to the SBRC's opinions.

Five suggestions for improvements

1. **The SBRC could:** standardise the assessments, as it sometimes is unclear whether an impact assessment needs to be re-done.

Generally, if the SBRC's assessment of an aspect is that it is insufficiently described, there is a need to further analyse the aspect in question. Alternatively, it might be necessary to provide a clearer motivation as to why such an analysis is not needed or possible to make. It can sometimes be difficult for the SBRC to determine exactly what would have been required to make the IA complete, as that would require substantial scrutiny with specialist skills within each respective area.

2. **The SBRC could:** more clearly state how to avoid insufficient IAs by providing examples of methods that can be applied.
3. **The SBRC could:** highlight alternative solutions.

Support, guidance, methods and tools to be used when conducting impact assessments is outside the remit of the SBRC. Instead, regulators can turn to the Swedish Agency for Economic and Regional Growth for this. However, the SBRC has a continuous dialogue with the Agency concerning what might be required in order to assist regulators in strengthening the quality of IAs. Regarding suggesting alternative solutions, this is not within the mandate of the SBRC. Rather, it is the regulators' task to investigate such possibilities.

¹⁸ Question in the survey: How useful has the information provided by the SBRC in the opinions been to your agency with regards to what is provided in relation to each aspect listed below? Response options: "Very useful", "Somewhat useful", "Not useful at all" and "Don't know".

4. **The SBRC could:** be even more concrete when suggesting what needs to improve, and could highlight aspects which have been particularly well described in the IA.
5. **The SBRC could:** be more consistent and clear in the assessment of proposals that stem from the EU.

During the year, the Council has continued the work to improve the opinions so that they are more helpful for regulators. Based on the results of the survey it is clear that this work has had an impact, since a relatively large proportion responded that the opinions contribute to the regulators' work with IAs. However, it is also clear that there is room for improvement, both with regards to the design and content of the opinions. The SBRC will consider the result and comments from the survey going forward.

5

Concluding remarks

Properly conducted impact assessments provide regulators with more robust evidence upon which policy decisions can be made. This should ultimately contribute to better regulation. In principle, all IAs should meet the requirements stated in the Ordinance of regulatory impact assessment. Although far from all IAs were assessed as meeting the requirements, the result for 2016 demonstrates a significant improvement compared with previous years.

Hence, the SBRC can conclude that the quality of IAs generally has improved. The improvement particularly regards government agencies, whose IAs have improved from 49 per cent meeting the requirements in 2015 to 77 per cent in 2016. Part of the explanation as to the improved quality could be that the SBRC has developed the opinions to be more helpful and informative.

Further, the SBRC began making slightly more nuanced assessments in 2016. This could have contributed to the improved result. For example, the aspect regarding alternative solutions is now assessed based on the scope of the regulator to contribute to the design of the proposal or the scope of the ordered inquiry. The SBRC has also decided that proposals which stem from the EU and where there is no scope for the regulator to independently contribute to the design the proposal, will receive a secretariat response. This could also have contributed to the results to some extent.

In spite of the improvements, deficiencies remain in the quality of impact assessments, especially regarding the proposals' impacts on businesses' cost, competition and need for special consideration to small businesses. Hence, the SBRC sees a continued need for support to regulators in their work with IAs. The SBRC is therefore pleased with the on-going work at the Swedish Agency for Economic and Regional Growth to develop and improve the guidance to regulatory impact assessments. In addition, the SBRC will continue the work to develop and improve the opinions in 2017, so that they can be of help to regulators when conducting IAs.





Appendix

The SBRC's opinions 2016 by submitting party and type of submission
(assessment of the IA as a whole and per aspect)

Figure 1 Government Offices (internally produced)

S=Sufficient, I=Insufficient

Regulator	Overall assessment		Purpose		Alternative solutions		Impact if regulation is not passed		Compliance with EU law		Need for special consideration of date of effect		Need for special communications efforts	
	Met the requirements	Did not meet the requirements	S	I	S	I	S	I	S	I	S	I	S	I
<i>Ministry</i>														
Ministry of Employment	1		1		1		1		1		1		1	
Ministry of Finance	2	19	19	2	10	11	15	6	13	8	15	6	3	18
Ministry of Culture	2	1	3		2	1	2	1	2	1	3			3
Ministry of Environment and Energy	2	4	6		6		6		5	1	6		5	1
Ministry of Enterprise and Innovation	1	5	5	1	5	1	5	1	5	1	5	1	2	4
Ministry of Health and Social Affairs		5	5		2	3	3	2	4	1	4	1	1	4
Ministry of Education and Research		1	1		1		1		1		1		1	
Total	8	35	40	3	27	16	33	10	31	12	34	9	12	31

Figure 2 Committees of inquiry

S=Sufficient, I=Insufficient

Regulator	Overall assessment		Purpose		Alternative solutions		Impact if regulation is not passed		Compliance with EU law		Need for special consideration of date of effect		Need for special communications efforts	
	Met the requirements	Did not meet the requirements	S	I	S	I	S	I	S	I	S	I	S	I
<i>Ministry</i>														
Ministry of Employment		1	1			1		1	1		1			1
Ministry of Finance	1	6	7		6	1	6	1	7		6	1	3	4
Ministry of Justice	3	1	4		4		4		4		4		2	2
Ministry of Culture		1	1			1		1	1			1		1
Ministry of Enterprise and Innovation	4	1	5		5		5		5		3	2	2	3
Ministry of Health and Social Affairs	1	5	6		6		6		4	2	4	2	3	3
Ministry of Education and Research	2	1	3		3		3		2	1	3		1	2
Total	11	16	27		24	3	24	3	24	3	21	6	11	16

	Affected businesses: number		Affected businesses: size		Affected businesses: sector		Administrative costs		Other costs		Businesses' activities		Impact on competition		Other aspects		Need for special consideration of small businesses	
	S	I	S	I	S	I	S	I	S	I	S	I	G	B	G	B	G	B
	1		1		1			1		1		1	1		1		1	
	5	16	3	18	8	13	9	12	6	15	4	10	4	17	14	7	7	14
	2	1	2	1	3		1	2	1	2	2	1	1	2	3		1	2
	4	2	1	5	6		1	5	3	3	3	2	3	3	5	1	3	3
	1	5	1	5	4	2	1	5	2	4	2	3	2	4	2	4	1	5
		5		5	3	2	1	4	1	4	1	4		5		5	1	4
		1		1	1		1			1		1	1		1		1	
	13	30	8	35	26	17	14	29	13	30	12	22	12	31	26	17	15	28

	Affected businesses: number		Affected businesses: size		Affected businesses: sector		Administrative costs		Other costs		Businesses' activities		Impact on competition		Other aspects		Need for special consideration of small businesses	
	S	I	S	I	S	I	S	I	S	I	S	I	S	I	S	I	S	I
	1		1		1			1		1				1	1			1
	2	5	3	4	6	1	2	5	4	3	6		1	6	4	3	1	6
	3	1	3	1	4		3	1	2	2	2	2	3	1	3	1	3	1
		1		1	1			1	1		1			1		1	1	
	4	1	4	1	5		3	2	4	1	5		4	1	5		4	1
	3	3	3	3	5	1	2	4	1	5	2	4	3	3	3	3	2	4
	3		3		3		2	1	2	1	2		3		3		3	
	16	11	17	10	25	2	12	15	14	13	18	6	14	13	19	8	14	13

Figure 3 Government agency reports

S=Sufficient, I=Insufficient

Regulator	Overall assessment		Purpose		Alternative solutions		Impact if regulation is not passed		Compliance with EU law		Need for special consideration of date of effect		Need for special communications efforts	
	Met the requirements	Did not meet the requirements	S	I	S	I	S	I	S	I	S	I	S	I
<i>Submitting ministry and regulating government agency</i>														
Ministry of Finance / Swedish Tax Agency	3	2	5		3	2	4	1	5		4	1	3	2
Ministry of Culture / Swedish National Heritage Board		1	1			1		1	1			1		1
Ministry of the Environment and Energy / Swedish Energy Markets Inspectorate		1	1			1		1	1			1		1
Ministry of the Environment and Energy / Swedish Chemicals Agency		1	1		1		1		1		1		1	
Ministry of the Environment and Energy / Swedish Environmental Protection Agency		2	2		2		2		1	1	2		1	1
Ministry of Enterprise and Innovation / National Board of Housing, Building and Planning		1	1		1		1		1		1		1	
Ministry of Enterprise and Innovation / Swedish Transport Agency	2	2	4		4		4		3	1	3	1		4
Ministry of Health and Social Affairs / Medical Products Agency	1		1		1		1		1		1			1
Swedish Radiation Safety Authority	1		1			1	1		1		1		1	
Total	7	10	17		12	5	14	3	15	2	13	4	7	10

	Affected businesses: number		Affected businesses: size		Affected businesses: sector		Administrative costs		Other costs		Businesses' activities		Impact on competition		Other aspects		Need for special consideration of small businesses	
	S	I	S	I	S	I	S	I	S	I	S	I	S	I	S	I	S	I
	4	1	3	2	5		3	2	1	4	3	1	4	1	4	1	4	1
		1		1		1		1		1		1		1		1		1
	1			1	1		1		1		1		1		1		1	1
	1		1		1			1		1			1		1		1	
	1	1	1	1	1	1	1	1	1	1	1	1		2	2			2
		1		1	1			1		1		1	1		1		1	
	2	2	2	2	4		3	1	2	2	2	2	4		4		1	3
		1		1	1		1		1		1		1		1			1
		1		1		1		1		1		1		1		1		1
	9	8	7	10	14	3	9	8	6	11	8	7	11	6	13	4	7	10

Figure 4 Government agencies

S=Sufficient, I=Insufficient

Regulator	Overall assessment		Purpose		Alternative solutions		Impact if regulation is not passed		Compliance with EU law		Need for special consideration of date of effect		Need for special communications efforts	
	Met the requirements	Did not meet the requirements	S	I	S	I	S	I	S	I	S	I	S	I
<i>Government agency</i>														
Swedish Work Environment Authority	3		3		3		3		3		3		3	
National Board of Housing, Building and Planning	3		3		3		3		2	1	3		3	
National Electrical Safety Board	1		1		1		1		1		1		1	
Swedish Energy Markets Inspectorate	1		1		1		1		1		1		1	
Swedish Energy Agency	1	1	1	1	1	1	2		2		1	1	2	
Swedish Financial Supervisory Authority	6		6		6		6		6		5	1	4	2
Public Health Agency of Sweden	1		1		1		1		1		1		1	
Swedish Social Insurance Agency		1	1		1		1		1		1		1	
Swedish Agency for Marine and Water Management	1	2	3		3		3		3		2	1	3	
Swedish Board of Agriculture	6		6		6		6		5	1	6		6	
Lantmäteriet (the Swedish mapping agency)	1		1		1		1		1		1		1	
National Food Agency	1	1	2		1	1	2		2		1	1	1	1
Swedish Civil Contingencies Agency		2	2		1	1	2		2		2		1	1
Swedish Environmental Protection Agency	2	2	4		3	1	4		4		2	2	3	1
Swedish Post and Telecom Authority	2		2		2		2		2		2		2	
Supervisory Board of Public Accountants	1		1		1		1		1		1		1	
The Riksbank	2		2		1	1	1	1	2		1	1	1	1
The Swedish National Debt Office		1	1		1		1		1		1		1	
Swedish Maritime Administration	3		3		3		3		3		3		3	
Swedish Forest Agency		1	1			1	1		1		1		1	
Swedish National Agency for Education	1	2	3		3		3		3		3		3	
National Board of Health and Welfare	3	1	4		4		4		4		4		4	
Statistics Sweden	5		5		5		5		5		3	2	4	
SWEDAC	1	1	2		2		2		2		2		2	
Swedish ESF Council		1	1		1		1		1		1		1	
Swedish Agency for Economic and Regional Growth		1	1			1	1		1		1			1
Swedish Transport Agency	12		12		12		12		12		10	2	11	1
Swedish Customs	1		1		1		1		1		1		1	
Total	58	17	74	1	68	7	74	1	73	2	64	11	66	8

Affected businesses: number		Affected businesses: size		Affected businesses: sector		Administrative costs		Other costs		Businesses' activities		Impact on competition		Other aspects		Need for special consideration of small businesses	
S	I	S	I	S	I	S	I	S	I	S	I	S	I	S	I	S	I
3		2	1	3		2	1	3		2		2	1	3		3	
3		3		3		3		3		2		2	1	3		3	
1			1	1		1			1		1			1		1	
1		1		1		1		1		1			1	1		1	
2		1	1	2			2	1	1	1		1	1	1	1	1	1
6		4	2	6		6		6		5		4	2	6		5	1
1		1		1		1		1		1			1		1		1
	1		1	1			1	1		1		1		1			1
2	1	1	2	3		1	2	2	1	1		1	2	3		2	1
5	1	4	2	6		6		5	1	4	1	4	2	6		6	
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2		2		2		2		2		2		2		2		2	
1			1	1		1			1		1			1		1	
2		1	1	2		2		2		1	1	1	1	2		1	1
1			1	1			1		1		1			1		1	
3		1	2	3		3		3		3		2	1	3		3	
	1		1	1			1		1		1		1	1			1
2	1		3	3		1	2	1	2	1	1	2	1	3		2	1
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5		3	2	5		5		5		2		5		2	3	1	4
1	1	1	1	2		1	1	1	1	1	1	2		2			2
	1		1		1		1		1		1			1	1		1
	1		1	1			1		1				1	1			1
11	1	9	3	11	1	11	1	12		7		11	1	11	1	12	
1		1		1		1		1		1		1		1			1
60	15	41	34	71	4	54	21	56	19	41	13	51	24	64	11	55	20

The Swedish Better Regulation Council (SBRC) is an independent national advisory body within the Swedish Agency for Economic and Regional Growth, whose members are appointed by the Swedish Government. The SBRC is responsible for its own decisions. The SBRC is tasked with scrutinising and delivering opinions on the quality of impact assessments of proposed statutes which could have significant impact on businesses.

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