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Managing the Stock of Legislation: Unfinished Business Globally

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OVERVIEW

- What is the stock of legislation?
- Why it is important to manage it?
- How does managing the stock of legislation relate to better regulation OECD/EU?
- What are the different policy/ tools and institutions to manage the stock of legislation
- Conclusions, Experiences and Challenges
- Questions for discussion

What is the stock of legislation?

- An easily accessible data base of the whole stock of legislation
- Ideally, it should be:
 - In an electronic format
 - Available in a form that is accurate enough to be accepted by the courts
 - Capable of being searched both for the law as it stands at the time of the search and the law in force at a point in time
 - Easily cross referenced with case law
 - Capable of providing access to relevant forms such as application forms, draft licences, etc.

Why is it important to manage it?

- Many good reasons:
 - Political
 - Economic
 - Legal

How does managing the stock of legislation fit with OECD Recommendations

Recommendation of the OECD Council on Regulatory Policy and Governance (2012)

Recommends that Members

“5” Conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals, including consideration of the costs and benefits, to ensure that regulations remain up to date, cost justified, cost effective and consistent, and deliver the intended policy objectives.

How does managing the stock of legislation fit in with EU policies?

EU Better Regulation Policy:

7 principles

- Necessity
- Proportionality
- Subsidiarity
- Transparency
- Accessibility
- Simplicity

Policies on accessibility and simplicity

- EU Policy on administrative simplification well known
- EU Policy on accessibility is less well known and should be considered in the context of:
 1. Programmes of reform
 2. Different rates of progress at different EU Institutions
 3. Programmes on accessibility include Eurlex/Celex
 4. European Council and Parliament
 5. European Commission
 - Consolidation
 - Recasting
 - Codification

Policies for managing stock of legislation

- Codification
- Statute law reform (general/specific, 'scrap and build')
- Statute law revision (repeal, repeal and re-enact)
- Reprinting (Restatement, Ireland) Commercial publishers (Australia, Canada, New Zealand)
- Consolidation
 - Without modification [Automatically (Slovenia, Slovak Republic)]
 - When a text has been amended by over 50% of its content (Croatia)
 - With modification
 - Fast track in parliament (UK)
 - Normal legislative route

Different policies for managing stock

- Audit
 - General (NMS prior to accession)
 - Specific (Financial crisis)
- Automatic repeal unless notified (Sweden)
- Codification Programmes Formal
- Codification Programmes Informal
- Electronic Storage of legislation

Different institutions for managing stock of legislation in Europe

- **European Commission** (leading role)
- **Estonia, Latvia, Lithuania:** Ministry of Justice
- **France** Commission Supérieure de la Codification
- **Italy:** Prime Ministers office and simplification policies
- **Ireland:** Ministries including, prime minister, Law Reform Commission, High Level Groups
- **Spain,** Prime Minister may call for consolidation
- **United Kingdom** Better Regulation Executive Department of Business, enterprise and Regulatory Reform, all Ministries, Law Commission

Conclusions Experiences and Challenges

- Management of stock of legislation is crucial
- IT has played a determining role in managing stock
- Ideal world differs from reality different approaches taken at different times
- Architecture needs to be rebuilt to adopt 'key in once' policy
- Better Regulation has focussed too much on 'flow' of new legislation not enough attention paid to 'stock'
- Need for a rethink on policies, institutions and tools to develop best in class approach
- Parliaments need to play a more active role

Questions for discussion

- How accessible is legislation in their countries (is it available electronically or on paper)?
- How is the stock of legislation managed in their respective countries?
- Does the lack of easily available legislation present a problem for businesses,
- If there is outdated legislation still in force, does this present problems for businesses and citizens?