

NLF Alignment package: the Impact Assessment

IMCO

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European Commission
Enterprise and Industry

Outline of the IA

- Consultation and expertise
- Problem description
- Options
- Impacts
- Comparison of options
- Implementation, monitoring and evaluation

Consultation and expertise

- Old impact assessment of NLF
- Public and SME consultations
- Extensive feedback via expert groups, ADCOs, notified bodies groups, direct contacts with industry associations...


Problems to be solved

- Non-compliance
- Performance of notified bodies
- Inconsistencies amongst directives

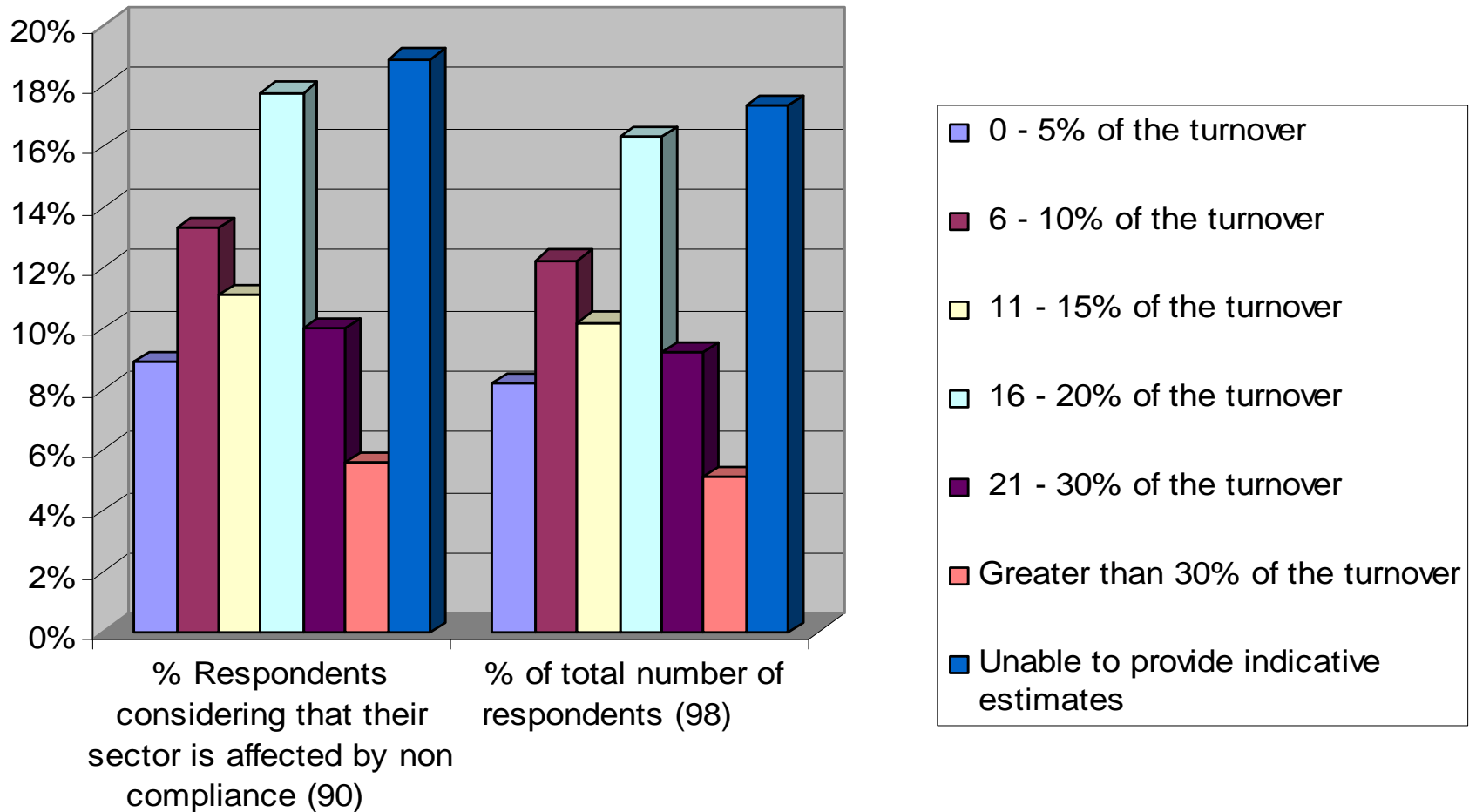
Problem of non-compliance

- Considerable number of non-compliant products on the market
- Consequences
 - Detriments for consumers/ final users: risk of accidents, economic damage
 - Losses in turnover/market share for “honest” manufacturers due to unfair competition
- “Drivers”:
 - Ineffective market surveillance
 - Lack of traceability
 - Importers and distributors not checking compliance sufficiently
 - Safeguard clause not working properly

Percentage of respondents to the public consultation considering that their sector is affected by non-compliance

	Electro-technical	ATEX	Civil explos.	Pyrotechnic articles	Lifts	Measur. Instrum	Press. equip.	Total
EO	à	75%	-	0% (100% don't know)	88%	94%	83%	92%
AUT	86%	64%	0% (50% don't know or No)	78%	55%	52%	80%	66%
NB	94%	44%	25%	50% (50% don't know)	44% (55% No)	31% (40% don't know)	65%	60%
Users	100%	25% (75% don't know)	-	0% (50% don't know or No)	100%	67%	82%	64%
SMEs 	53%	44%	12,5%	0% (50% don't know or No)	35% (40% No)	41%	49%	48%

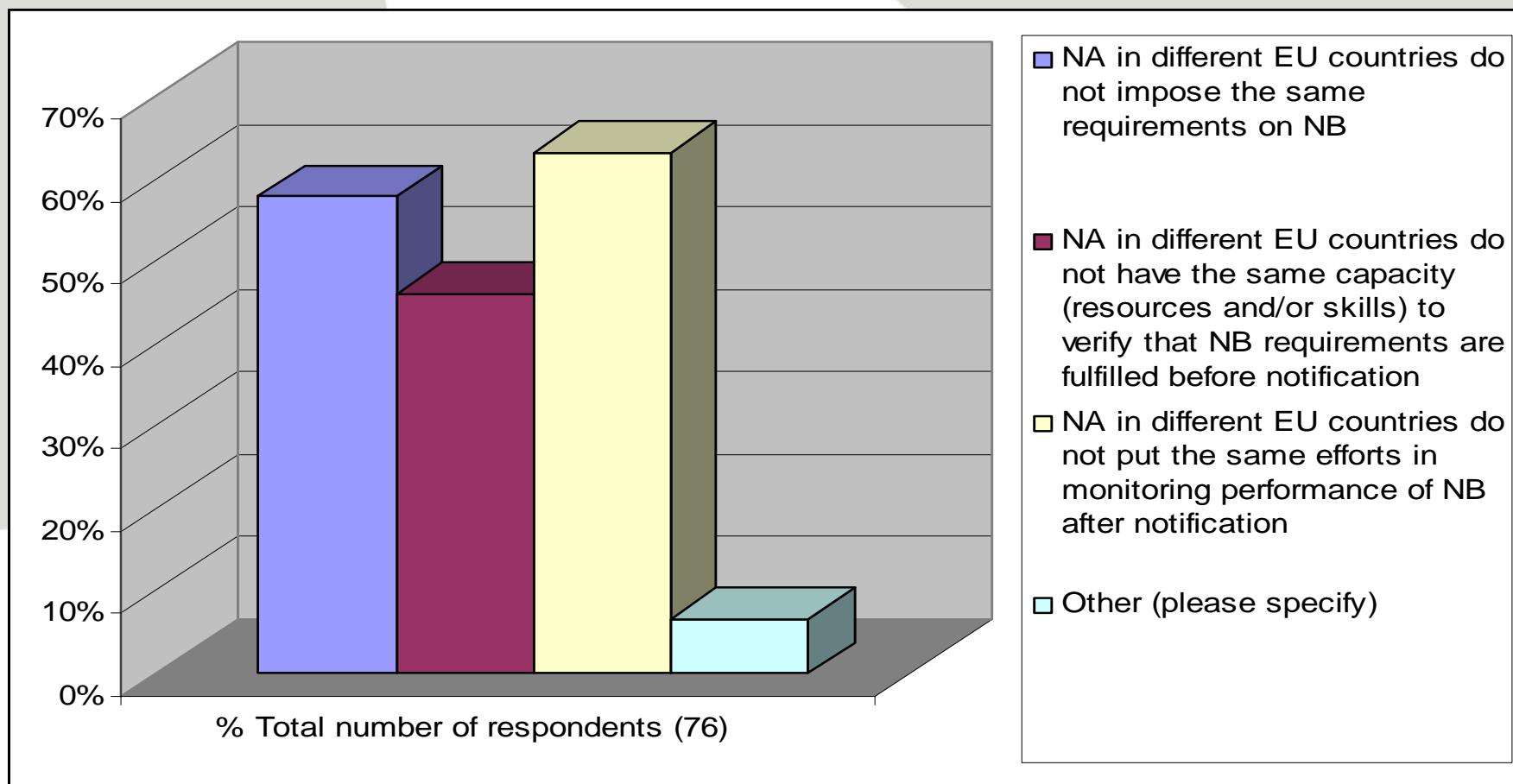
Perceived losses in % of annual turnover



Problem of Notified Bodies

- Unsatisfactory performance of certain Notified Bodies
 - lack of competence (subsidiaries, subcontractors)
 - unfair certification practices
- Consequences:
 - Unfair competition amongst Notified Bodies
 - Unfair competition amongst manufacturers
 - Risk of unsafe products getting onto the market
- Drivers:
 - Differences in assessment of NB
 - Insufficient monitoring
 - Non participation in coordination activities

Differences in the assessment and monitoring of NB by notifying authorit. (NA)



Problem of inconsistencies

- Definitions or entire provisions differ from one directive to the other (e.g. manufacturer definition, notification requirements, safeguard clause, conformity assessment procedures)
- Drivers
 - historical evolution of directives
- Consequences:
 - Increasing complexity of legislation, several directives applying to one single product
 - Difficulties in interpretation and application

NLF measures to remedy problems

- Non-compliance
 - Obligations for importers and distributors
 - Traceability
 - Reinforced safeguard clause (common market surveillance procedure)
- Notified bodies
 - Revised notification criteria (also applying to subcontractors)
 - Revised notification process
 - Information obligations and reinforced cooperation
- Inconsistency
 - Common terminology, harmonisation of definitions
 - Use of model provisions of NLF Decision

Options assessed

- ‘No-change’ option
 - no alignment for the time being
- Alignment via non-legislative measures
 - Keep existing directives
 - Foster voluntary adoption of NLF measures by EO, NB and NA
- Alignment via legislative measures
 - Actual alignment of directives’ provisions
 - Introduce binding provisions

Impacts of alignment 1

- Improvement of functioning of **internal market**
 - Harmonised obligations for importers and distributors
 - More coherent approach towards non-compliant products
 - More even assessment of notified bodies
 - More consistency in conformity assessment
- More effective defence of **competitiveness**
 - Better tools to fight unfair competition of non-compliant products ...
 - ... and 'unfit' notified bodies
- Improved level of **health and safety** protection
 - Reduction of non-compliant products on the market
- Improved level of **environment** protection

Impacts of alignment 2

- Costs for economic operators
 - Not in general, but moderate increase possible
 - Outweighed by positive effects on competitiveness
- Public authorities
 - Efficiency gains through increased effectiveness of market surveillance activities
 - Re-notification of existing notified bodies

Comparison of options (effectiveness and efficiency)

- ‘No-change’ option
 - No additional resources needed
 - But addresses only part of the issues
- ‘Non-legislative measures’ far less effective than ‘legislative measures’
 - Ability to enforce new provisions is key
 - ‘Non-legislative measures’: inefficient option
 - Risk of increasing compliance gap

Implementation, evaluation and monitoring

- 2 years transposition period
- Feedback through coop. mechanisms established under:
 - Directives: Expert groups, ADCOs, NB groups
 - Regulation 765/2008: RAPEX, ICSMS, market surveillance programmes and reports
- Monitoring indicators
 - Reduction of non-compliant products
 - Quality of NB

Annex: Key data for sectors concerned (extremely simplified overview!)

	Electro-technical	Lifts	Press equip	Measur. Instr.	Civil expl.	Pyrotech. articles	Explos. atmsp.
Size (Bn €)	235 (LVD) 200 (EMC)	3.2	n.a.	3.2 (MID) 2.5 (NAWI)	1.3	1.4 (fire-works) 2.8 (cars)	2.2
EO type	A few big, many SME	4 big EO	Many SME	Many EO (incl. SME)	20 EO	SME (f) Big car comp.	Many SME
Trade balance	Net import	Exports	Imports grow	25% imports	Little trade	95% imports fireworks	Exports