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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 1 February 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: REGULATORY SCRUTINY BOARD OPINION
Proposal for a Directive of the European Parliament and of the Council on
the quality of water intended for human consumption (recast)

Delegations will find attached document SEC(2017) 527 final.

Encl.: SEC(2017) 527 final



EUROPEAN COMMISSION

Brussels, 1.2.2018
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REGULATORY SCRUTINY BOARD OPINION

**Proposal for a Directive of the European Parliament and of the Council on
the quality of water intended for human consumption (recast)**

{COM(2017) 753 final}

{SWD(2017) 448 final}

{SWD(2017) 449 final}

{SWD(2017) 451 final}



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
Ares(2017)

Opinion

Title: Impact Assessment on Revision of the Drinking Water Directive

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Context

The Drinking Water Directive 98/83/EC (DWD) regulates the quality of water intended for human consumption. It provides a general framework and sets minimum values for 48 specific parameters that must be monitored regularly. It requires Member States to take remedial measures if they do not meet the set standards. However, Member States can choose measures to address non-compliance. The DWD also requires that Member States ensure the provision of appropriate information to consumers. While the DWD regulates water quality at the consumer's tap, the EU Water Framework Directive regulates the abstraction of drinking water and the protection of water bodies intended for this purpose.

(B) Main considerations

The Board notes a number of positive aspects in the preparation of this impact assessment. It welcomes the respect of the evaluate first principle and the appropriate stakeholder consultation. The Board also acknowledges the effort to quantify the impacts of the initiative, notably the costs.

However, the report contains significant shortcomings that need to be addressed. As a result, the Board expresses reservations and gives a positive opinion only on the understanding that the report shall be adjusted to integrate the Board's recommendations on the following key aspects:

- (1) The scope of the impact assessment is unclear. It fails to explain to what extent it would address a number of identified problems through a revision of the DWD or rather through other policy measures (e.g. access to drinking water for all; materials in contact with drinking water; underinvestment in water infrastructure in general and water leakages in particular).**
- (2) The report does not clearly explain the planned process of selecting the list of parameters and their limit values, including the integration of the most recent scientific knowledge.**

(C) Further considerations and adjustment requirements

(1) Clarify the scope of the impact assessment and corresponding policy actions

The report should clarify how the revision of the DWD can address the access to drinking water as raised in the European Citizens' Initiative on 'Right2Water' in the absence of EU competence in this matter. If so, it should explain the feasibility of EU intervention in full consistency with the Communication on the ECI initiative (COM(2014)177). If this issue is addressed in the impact assessment, it should not only assess the cost of the two options, but also its affordability (e.g. by how much would the water prices need to increase in different Member States to ensure 100% connectivity). It should not only consider infrastructure cost but also the different economic models to finance universal services. If not, it should limit the presentation of this issue to the problem definition, while clarifying if any other policy measure at EU level can and will address it.

Moreover, the report should clarify how the problem of materials in contact with drinking water would evolve, given the ongoing strengthening of mutual recognition and the planned revision of the construction products Directive. It should further clarify whether and why the revision of the DWD could do something now or in addition to these initiatives. In that case, it should analyse the two sub-options in more detail. In particular, it should explain the link to potential health impacts: while an EU standard may have a health benefit if the current Member States standards differ, this is not the case under a mutual recognition scenario. If not, it should limit the presentation of this issue to the problem definition, while clarifying if any other policy measure at EU level will address it.

Finally, and similarly, if the revision of the DWD is not foreseen to address the underinvestment in water infrastructure and water leakages, the report should narrow down the problem definition to transparency of water leakages and adapt the objectives accordingly. In addition, it should present evidence that increased transparency of water leakages incentivises water operators to invest in infrastructure.

The report should also clarify how it used the results of the fitness check on environmental reporting obligations.

(2) Selection of parameters and risk-based approach

Although the scientific selection of parameters to monitor is not part of an impact assessment, the report should clarify the process for selection of parameters and their limit values and reflect where the scientific debate currently is. It should explain the scientific evidence that will support the list. The report should better motivate the need to make the risk-based approach mandatory. In particular, it should show how it will be possible to maintain the level of protection despite less parameters being monitored, less frequently and with less frequent reporting?

(3) Clarify the cost estimates

The report should clarify the method for estimating the costs, in particular, those of the option packages. It should indicate which costs national administrations or water operators will cover, and to what extent costs are expected to be passed on to consumers. In addition, the report should clarify the foreseen one-off investment costs for water operators and recurrent costs. The report should also explain the choice of method for estimating the benefits of increased health benefits.

(4) Elaborate the comparison of options

The report should clarify the scores for comparing the options and option packages and

better link them to the objectives of the initiative. It should elaborate on the synergies between the options and explain why the option packages will be less costly than the sum of the individual options.

(5) Clarify monitoring arrangements

The report should present indicators that will measure the success (as opposed to the output, such as number of risk assessments of safety plans) of the initiative.

Some more technical comments have been transmitted directly to the author DG.

(D) RSB scrutiny process

The lead DG shall ensure that the report is adjusted in accordance with the recommendations of the Board prior to launching the interservice consultation.

Full title	Impact assessment on Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/83/EC on the quality of water intended for human consumption
Reference number	2017/ENV/014
Date of RSB meeting	21/06/2017