

February 28, 2000

UNICE COMMENTS ON THE COMMISSION'S STRATEGY

FOR THE INTERNAL MARKET

1. These comments concentrate mainly on those **areas for which the internal market directorate has direct authority**, and for which it should be the lead operator. The other policies – with which there, no doubt, should be an interface – are mentioned by exception. In these areas the lead initiative should be taken by other directorates such as competition, environment etc.
2. There should be no contradiction between citizen's welfare and the needs of business. The economic value created through business, and employment, is the basis of **welfare for the citizen**.
3. **Economic reform** – the Cardiff process – is of great importance for the future functioning of the internal market and economic development and growth. This is a horizontal issue which needs co-ordination at the highest level. It is a welcomed development that the internal market directorate takes on this co-ordinating role.
4. **Services** are an increasing and growing part of the economy, and now employ some two thirds of the European work force. The cross border delivery of services needs to be facilitated. The freedom of movement of people is closely linked to services. Good work is being done, and especially the rulings by the European Court are enabling the process. The internal market directorate has an important task to keep services in the spotlight – not only financial services but all services.
5. The completion of the **single market in financial services** is far from complete. This is a high priority for business as users of financial services. The importance of the issue transcends the sectoral importance, monetary union's benefits can only be achieved if there is a real freedom of movement of capital in Europe. The single currency can only benefit enterprise if the capital markets function properly across borders. Pension reform is one of the most urgent issues, not

only to deal with the social needs of an increasingly grey population, but also to allow the accumulated savings to be invested in businesses through equity and loans, venture capital etc.

Art 56 is specific about the **freedom of movement of capital** – many of the regulatory agencies in Europe are in clear breach of this through their demands that transactions have to be executed in their country, and that portfolios have to take a large part of government debt. The lower returns on savings are a major disadvantage for the saver.

The Commission needs to remove actively the barriers to the freedom of movement of capital, and promote the freedom of financial services if Europe is to achieve its growth objectives.

6. **Enforcement** of single market legislation is important, and requires considerable vigilance on the part of the Commission. Now that the legal instruments are largely in place, the priority shifts to enforcement and the prevention of new barriers to the freedom of movement of goods arising. The environment has often been used as an alibi for protectionism, and the internal market directorate has a duty to act as watchdog to see that proportionality prevails.
7. **Technical barriers to trade**, standards and mutual recognition are the key to the freedom of movement of goods, and a great deal still has to be done. UNICE continues to insist that remaining technical barriers to trade be removed, by further improvement of the framework of mutual recognition agreements and the maximum use of new approach directives and harmonised standards. UNICE's position is detailed in its paper of 18 June 1999 on the functioning of mutual recognition in the Internal Market.
8. **Intellectual property rights** are of ever greater importance in an economy which depends on innovation for growth. This is the area in which UNICE – representing the owners of the property that needs to be protected – has most difficulty with the work programme proposals.

The published list of operational objective no. 1.3, does not reflect the needs of the final customers. The first two items of the list, utility models and international exhaustion, are negative priorities. The proposals as they stand are not well thought out and present great latent problems especially for SMEs, who risk becoming caught up in litigation around their existing business practices. This is an industry in the USA, and the utility model proposal creates a new hunting ground which promises to be a paradise for trial lawyers but a nightmare for the normal entrepreneur. The main priority for business is put on the bottom of the list – a Community patent is what SMEs need urgently. One that is quick and cheap. The other priorities are designs, copyright and counterfeiting. UNICE has prepared a separate note on its priorities for IPR.

9. With regard to the legislative package on **Public Procurement**:

- UNICE supports the introduction of **Competitive Dialogue** because there is a real need to facilitate and to frame the dialogue between the parties interested in a public contract whose complexity prevents the smooth application of the existing rules, or demands a cascade of sequential procedures.
- **Utilities Directive**: after the liberalisation of the telecommunications sector, UNICE supports its exclusion from the scope of Directive 93/38. The other utilities sectors currently covered by that Directive should also be exempted by revision of article 8, or in a general way once these sectors have been fully liberalised.
- UNICE is convinced that the review of the Directives on public procurement with a view to enabling **electronic communication** is one of the most important aspects of the legislative package. Nevertheless UNICE rejects any solution in which electronic procurement is linked to a unilateral reduction of the effective time limits granted for offers and bids. Time saved should be equitably divided between contracting authorities and suppliers.
- UNICE generally welcomes the recently issued document CC/99/73 regarding **technical specifications** in public procurement. Indeed simplification and more flexibility are needed in this area.
- **Framework contracts**: UNICE welcomes the Commission initiative to introduce into the classical sectors a procedure for framework agreements, because in principle, it should bring more flexibility into public authorities' purchasing, and address a number of existing difficulties.

10. **Better regulation** is increasingly important but difficult to achieve. The creation of simple and clear regulation is essential for good compliance. The cumulative effect of the steady stream of new regulation makes compliance virtually impossible for the average SME. They need to spend a lot of money on consultants to help them through the knots of red tape.

The SLIM process is promising but the lack of action at Council level is a serious concern. Business needs to focus more on member states once the Commission has done its job.

The Commission could learn from Japan which has undertaken a major regulatory reform process. Their approach has been top down, setting specific targets to reduce the costs for citizens, and the cost of government. This may be a more effective approach than the bottom up approach tried in the Molitor exercise, SLIMs etc.

11. **Company law** – a key competence of the internal market directorate – is not given the attention it deserves. The main item missing is a legal instrument for the unquoted private company – mainly SMEs – to be able to work easily cross border. The complexity of national legislation is such that there is a real risk that the potential of the internal market cannot be accessed by the large mass of SMEs. That would be against the spirit of the entire exercise.

UNICE suggests that the Commission should take the initiative to propose a new legal instrument for the European Private Company. In addition, UNICE understands that the Commission intends to present proposals to deal with cross-border mergers and the transfer of registered office for smallish companies. UNICE sees these initiatives as key to company mobility and would encourage the Commission to present its proposals without further delay. A separate note has also been prepared in UNICE on Company Law and Accounting issues.

12. **Tax barriers** are still a considerable obstacle for cross border business integration, and these barriers should be eliminated. Urgent topics include the so-called Arbitration Convention (dealing with transfer pricing disputes between member states), solutions for cross-border loss compensation and adoption of the directive on interest and royalties withholding tax.

With regard to VAT, an immediate goal is the simplification of the current system. In the meantime, work should resume on design of a common definitive system adapted to business needs. With regard to VAT and electronic commerce, UNICE seeks a coherent, transparent and fair system that should maintain tax neutrality and eliminate the competitive disadvantage of EU companies in relation to non-EU companies. Any new legislation should ease rather increase the administrative burden on business.

The harmonisation of energy product taxation at EU level should be carried out in such a way that it will not harm the competitiveness of European companies.

13. The **integration of the environment into the economy** – and vice versa – is the key to the concept of sustainable development. To date more emphasis has been put into integrating the environment policies into other areas such as the internal market, industry, agriculture. As much emphasis needs to be put into mainstreaming environmental policy, so that it does not create new barriers to trade or fragment the internal market.
14. Keeping the internal market high on the Community agenda is very important. A smoothly **functioning single market** is key for the competitiveness of European business.
15. **Regarding the scoreboard**, UNICE'S EEA members have asked to be added to the list since the internal market measures are directly applicable to them.
16. The **work programme** needs more focus on specific issues and measurable deadlines. The scope is too wide to be manageable, and is therefore also difficult to communicate. One major issue is not given sufficient attention – the implications for the internal market of enlargement. Enlargement is the single biggest economic and political challenge facing the EU and it will have many direct implications for the internal market. These implications need to be assessed in a great deal more depth than is indicated in the current work programme.

17. The introduction of an **annual cycle of monitoring** the strategy is an excellent idea, as is the idea of ensuring that these adjustments are consistent with the structural reforms in product and capital markets defined in the Broad Economic Policy Guidelines.

18. Since the work programme covers a five year period, it should take some account of the **new IGC**. Some of the key issues will be the extension of QMV for implementation of all internal market measures, the future of Art 100a, derogations and the internal market, to mention but a few.

19. The eve of enlargement and the introduction of the euro would be the moment to put into place some few key elements of the internal market against a new deadline of 2002.

20. In this regard, there are **four major missing elements**; the community patent, a simple company statute for SMEs, the liberalisation of financial services (especially pension funds) and a VAT system adapted to business needs. Focus on these four important issues will concentrate the mind of all the parties – including the member states.

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