



Mr Martin Riman
Chairman of the EU Competitiveness Council
Minister of Industry and Trade
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**Competitiveness Council, 5-6 March 2009
Follow-up to the Single Market Review**

Dear Minister,

In view of your discussions on the follow-up to the Commission's Single Market Review, BUSINESSEUROPE would like to reiterate the importance of the good functioning of the EU Single Market, particularly in the current economic crisis.

European economies face difficult challenges with a sharp reduction in growth and employment and increasing national protectionism. The competitiveness of European companies, particularly SMEs and their capacity to innovate are also at stake.

The Single Market has proven to be a cornerstone of Europe's prosperity and is central for creating growth and jobs. However, barriers still exist that prevent the Single Market freedoms from delivering benefits to citizens and companies fully.

The correct implementation and enforcement of Single Market principles and legislation must therefore be ensured by both the EU and national legislators and be one of the central elements of the European economic recovery plan. In this context, BUSINESSEUROPE is concerned about the impact of the proposed directive on non-discrimination and the debate on an EU judicial collective redress system.

We urge EU institutions and particularly national governments, to increase their efforts to ensure that the Single Market functions well and is freed of barriers and protectionism.

We thank you in advance for taking into account our views in your contribution to the Spring European Council.

Yours sincerely,

Philippe de Buck

Encl. 1



12 February 2009

ANNEX TO BUSINESSEUROPE'S LETTER ON FOLLOW-UP TO THE COMMISSION'S SINGLE MARKET REVIEW

INTRODUCTION

The Commission's Single Market of 20 November 2007 acknowledged the need to modernise and reinvigorate the Single Market¹. On 16 December 2008, in its report "The Single Market Review: one year on", the Commission confirms that the focus of the Single Market policy remains on citizens, consumers and SMEs and should rely more on better evidence-based tools and a stronger partnership with Member States.

In this context, the future Commission Recommendation on Partnership is very much welcomed and awaited. It should provide the means to create a truly effective partnership and cooperation between the various national and EU actors who play a role in the functioning of the Single Market, in particular regarding transposition, application, and enforcement of Community legislation. The proposal to have a national Single Market coordinator in each Member State is an important step forward as is the increased dialogue with representative stakeholders.

BUSINESSEUROPE broadly agrees with the Commission's assessment and also believes that a better functioning Single Market will create the conditions for more growth and jobs that are so needed for the recovery of the European economy.

Barriers in the Single Market still exist, particularly in certain areas like services, taxation, telecommunications, energy, better regulation or enforcement. Furthermore, commitment and efforts to ensure the correct functioning of the Single Market are insufficient, especially at national level.

The Commission should ensure that all regulatory initiatives are in line with the objectives of the Lisbon Strategy and are accompanied by a rigorous impact assessment according to the principles of Better Regulation.

Certain areas are of particular importance for the competitiveness of European businesses and need to be given special attention. Specific comments and proposals for action are developed in this respect below.

¹ It comprises the EU Member States plus Norway, Iceland and Liechtenstein.



HELP COMPANIES, ESPECIALLY SMEs, REAP THE BENEFITS OF THE SINGLE MARKET

Whether the Small Business Act will be a real leap forward for SMEs will largely depend on the ability of the EU and especially national governments to deliver and implement the proposals. The Act must be placed in the context of the strategy for Growth and Jobs and its reporting cycle. Priority should be given to concrete proposals that can deliver tangible benefits for companies and SMEs particularly:

➤ **Correct transposition of the services directive**

It is an important step for the development of a Single Market for services. Member States have until 28 December 2009 to incorporate the directive in their legal orders. The commitment and resources used by Member States to do this will be crucial to achieve the directive's objectives to simplify and modernise national legislation, to enhance cooperation and mutual assistance between national authorities, to implement e-procedures and to reduce administrative obstacles to trade in services, especially via creation of fully-fledged points of single contact.

➤ **Adoption of the European Private Company statute**

BUSINESSEUROPE looks forward to a speedy adoption of the Commission proposal for a regulation on the European private company statute (*Societas Privata Europaea-SPE*). This instrument would enable a company to save 10,000 to 30,000 euros or even more on set-up, legal and other advisory fees. It would allow companies to benefit effectively from the Single Market while contributing to its further integration.

➤ **Creation of a more SME-friendly environment**

This refers especially to a reduction of tax and administrative burden, but also a more entrepreneurial mindset in Europe. There is a need to lift obstacles in the Internal Market, to enhance flexicurity and skills, to ease access to finance and international markets and to foster innovation.

➤ **Better Taxation**

Due to national fragmentation, companies operating in more than one Member State have to bear considerably higher tax compliance costs. Many companies face economic double taxation since Member States tax the same net profits without proper coordination and relief measures. Currently 10% of large companies and an even larger proportion of SMEs do not take part in cross-border trade at all solely because of value-added tax (VAT) compliance requirements. Action should focus on:

- Creation of uniform invoicing and reporting requirements across the EU and facilitation of electronic invoicing for VAT purposes. This would reduce the compliance costs and risks of handling VAT for traders and enhance the detection of VAT fraud, which creates significant revenue shortfalls and distorts competition.



- Creation of a one-stop shop allowing companies to file VAT obligations for all their EU operations in a single access point. This would give a significant boost to Europe's competitiveness and thereby expand the tax base and increase both employment and revenues.
- Establish a system allowing tax relief for cross-border losses to enable businesses established in more than one EU Member State to be taxed on their net profit.

BETTER REGULATION: FROM THEORY TO PRACTICE

Better regulation is a central element of the policy for strengthening competitiveness and supporting sustainable growth and employment. It comprises simplification of existing Community legislation to ascertain that policy aims are achieved in a less burdensome and simpler way, and a system of impact assessments to assess economic, social and environmental impacts of legislative proposals. Action should seek to:

➤ **Make better progress on simplification**

Progress on simplification is too slow due to the complicated legislative procedure. Simplification proposals have to be approved by the Council and European Parliament similar to other legislative proposals. There is a real danger that amendments by these institutions will undermine the simplification objective. Inter-institutional working arrangements should be improved to ensure that simplification proposals are dealt with rapidly without creating new burdens.

➤ **Ensure coherence and certainty in legislation**

A holistic approach on setting policies is necessary to ensure coherence and legal certainty among the different policy objectives and increase the efficiency and consistency of new proposals. BUSINESSEUROPE strongly calls for introduction of a "Single Market Compatibility Test" for new proposals at both EU and national levels. European standards should continue to play an important role in supporting the efficiency of European legislation and policies.

➤ **Assess the impact of amendments**

Amendments that are introduced during the legislative process should be carefully appraised including those proposed by the European Parliament and the Council.

➤ **Ensure independence in the process**

Independence in the process of impact assessments and administrative burden reduction is important to ensure that the right decisions are taken.

➤ **Increase transparency and involve stakeholders earlier in the process**

Impact assessments and corresponding opinions by the Impact Assessment Board are only published once the legislative proposal is adopted by the Commission. Stakeholders should be involved earlier in the process, taking into consideration their



representativeness, and be given the opportunity to comment on an impact assessment before it is finalised and before the legislative proposal is adopted in order to address shortcomings in the assessment directly to the Impact Assessment Board.

➤ **Report and compare progress on better regulation at national level**

All Member States should set national targets for the reduction of administrative burdens generated by national legislation and refrain from gold-plating European Directives. They should also carry out effective impact assessments on national initiatives. In order to monitor progress on better regulation at national level, the Commission should report on national developments and compare progress.

MORE EFFECTIVE ENFORCEMENT

Ensuring a timely and correct transposition and administrative implementation of Community legislation as well as enforcement is crucial for the confidence in the Single Market and for reducing costs both to public enforcers and to economic operators.

➤ **Improvement of national enforcement via stronger partnership**

- Sharing of national best practices and approaches to transposition and enforcement;
- Use of transposition and implementation guides as for the Services Directive;
- Improve coordination among the relevant national governmental bodies with competences for implementation and enforcement of Community legislation;
- Promotion of cross-border administrative cooperation between Member States. More extended use of the Internal Market Information System should be pursued;
- Better training on EU Single Market affairs of national officials including judges;
- Improve information about the Single Market and coordination among the various EU and national data and information sources.

➤ **Information and assistance to companies**

There is already a myriad of business information and assistance points and networks. Work should focus on the creation of a simpler and single one-stop shop for companies to access all relevant information on the Single Market.

➤ **Reinforcement and promotion of SOLVIT**

Widen the scope of the problem-solving system of SOLVIT and empower the SOLVIT centres with adequate material resources so they can act in a more pro-active manner. Much more can also be done to make SOLVIT known to SMEs and citizens particularly at national and local level.

➤ **Enforcement of Single Market rules through the Goods Package**

The new Internal Market Package for Goods contains a series of important measures to boost the intra-Community trade in goods and to ensure that only safe, conforming products reach the market. Through the package, market surveillance structures will be



reinforced, conformity assessment rules made clearer and intra-Community trade for those goods that are not covered by harmonised rules facilitated.

It is imperative to focus on correctly implementing the elements of this package in particular:

- Creation of effective and homogenous market surveillance;
- Ensuring that the principles of the New Legal Framework are fully respected when sector-specific directives are revised and updated;
- Correct application of the mutual recognition principle.

INNOVATION AND KNOWLEDGE

The economy is becoming more and more knowledge-based and service-oriented. Europe's innovative capacity can be greatly influenced by the quality of the Single Market and the facility of movement of knowledge and innovation. More action is needed in the following areas to achieve these objectives:

➤ **Network industries** (energy, telecoms, postal services, transport)

European infrastructure networks remain unfinished. Reforms are needed to encourage investment in efficient European network industries and the deployment of new infrastructures. Liberalised network industries are vital for the integration of the Internal Market and for the global competitiveness of European companies.

➤ **Mobility of knowledge and researchers**

Decisions adopted at the 1-2 December 2008 Competitiveness Council aiming to support better careers and mobility of researchers within the European Research Area go in the right direction and must be implemented without any delay. Beyond this, special efforts must be made to implement an "Open innovation" model in Europe based on effective knowledge transfer and collaborative research between public research organisations and companies. Initiatives such as "Responsible Partnering" show the way forward. As a prerequisite for mobility, common European references in the field of vocational education and training must be set and European cooperation in education and training strengthened.

➤ **A modernised framework for electronic communications and use of ICT**

The integration of the Internal Market for electronic communications should focus on the contribution that the telecommunications and ICT sectors make to Europe's competitiveness. It should aim to encourage investment in efficient European networks and promote their liberalisation as a key for competitiveness and innovation. It should encourage European-based R&D and promote the take-up of ICT in both the public and private spheres.

➤ **Intellectual Property Rights**

EU Member States should agree on a single patent court system and a Community Patent with the highest quality, cost-effectiveness, and legal certainty for all companies, to stimulate Europe's innovation. Progress is also needed on the reduction of fees for

trade mark protection and implementation of the European anti-counterfeiting and anti-piracy plan.

➤ **Standardisation**

Standardisation is an essential means of facilitating innovation and better regulation. When applied to specify detailed regulatory requirements as per the New Approach method, standardisation separates political from technical discussions. Its success is - and should remain- based on the development of standards with an active involvement of business based on market needs, and their voluntary use. It is important to achieve the right balance between facilitating access to standardisation of interested stakeholders and the speed and quality of the standardisation process in order not to hamper the pace of innovation.

EXTERNAL DIMENSION OF THE SINGLE MARKET

BUSINESSEUROPE reiterates the importance of empowering European companies to play a greater role in the global market. The Single Market should be used as a springboard to meet the challenges of a global world.

It is important that the Commission continues to pursue its objective to achieve improved regulatory cooperation, equivalence and convergence internationally and that the business community is fully associated with this action to ensure that results enhance competitiveness.

BUSINESSEUROPE supports the commitment to benchmarking of EU regulation against international best practice particularly with that of EU's main trading partners. The EU should be also open to regulatory cooperation arrangements that foster better regulation and cooperation with important trading partners. Likewise, the EU should accept the use of officially recognised international standards for conformity assessment in connection with European legislation.

The EU should remain supportive of free trade, while at the same time providing an adequate level of market surveillance to guard against the import of unsafe products. The Commission however should make sure that these measures are not misused in a protectionist manner. Close cooperation and capacity-building in non-EU countries in this field could combine trade facilitation and consumer protection objectives.

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