



Mr Michel Barnier
Commissioner for Internal Market and Services
European Commission
BERL 10/034
B - 1049 Brussels

26 January 2011

Dear Commissioner Barnier,

I am writing to you in response to the Green Paper on e-procurement.

Electronic procurement is a vital tool in simplifying cross border procurement and if used properly it can generate substantial savings to the benefit of the public procurer, the contractor and the taxpayer.

BUSINESSEUROPE believes that the European legal framework for electronic procurement is adequate and sufficient. The 2004 public procurement directives permitted for the first time the use of electronic procedures for procurement and introduced a series of relevant techniques and tools.

The main obstacle to a wider take-up of e-procurement is the lack of interoperability between the multiple electronic procurement platforms that exist nationally. Many of these platforms are not reliable and do not take companies' specificities into consideration, discouraging potential tendering enterprises (especially SMEs) from using them.

In this context, BUSINESSEUROPE would like to make the following concrete remarks:

- Member States should limit the number of e-platforms to those which ensure security and confidentiality and ensure their interoperability regarding the systems and standards applied;
- A further incentive for companies to use electronic processes could be the reduction of the period for payment of the contracting authorities;
- There is no justification for a compulsory imposition of electronic procedures. Particularly in the interest of SMEs, it must remain possible to submit offers in writing. Mandatory requirements will not help solve the basic operational challenges faced with e-procurement, namely interoperability and security of sensitive data;

- However, some guidance on minimum common requirements to assure the interoperability of e-procurement systems would be useful. This guidance could take the form of an interpretative communication for instance;
- With regard to authentication and identification solutions (including e-Signatures), Annex X of the 2004 public procurement directives sets out some basic minimum requirements which remain valid. Maybe in the future a pan European agreement on a suitable electronic signature could be envisaged. Given the necessary flexibility and the ongoing technical developments, this should however not be fixed in legal provisions but be developed as a pan European standard by the eProcurement platform providers and further interested parties from public sector and business alike;
- Regarding e-auctions, business has a number of concerns on which further guidance might be required. An important concern is that e-auctions often result in decisions based purely on price, without quality considerations being taken into account. Also insufficient specification at times means that there can be confusion about the kind of commodity or service required particularly when the requirements are complex or technical;
- BUSINESSEUROPE believes that adequate training programmes should be provided to help overcome the inertia and fears on the part of contracting authorities and suppliers to conduct procurement electronically. However, the responsibilities of contracting authorities to safeguard confidential information should not be reduced. The 2004 Directives provide adequate scope to enable authorities to use e-procurement without unnecessary burdens.

To conclude BUSINESSEUROPE believes that the Commission and Member States must together strive to enhance electronic interoperability in the internal market. We support the recently published Single Market Act's proposal for a decision by 2012 to ensure mutual recognition of e-identification and e-authentication across the EU and the revision in 2011 of the Directive on electronic signatures.

We remain at your disposal should you wish to discuss these comments further.

Yours sincerely,



Philippe de Buck