



31 January 2011

RESPONSE TO CONSULTATION: DISCLOSURE OF NON-FINANCIAL INFORMATION BY COMPANIES

General remarks

1. BUSINESSEUROPE appreciates and supports the efforts made by many companies in reporting or disclosing Corporate Social Responsibility (CSR) practices and policies. This is part of a trend which assumes an increasing number of companies being transparent about their business operations, aware also of the benefits of doing so. BUSINESSEUROPE believes that this is a positive development and that companies should be acknowledged in respect of their efforts in this field.
2. It is essential to recognise that companies that voluntarily assume this approach do so in the belief that CSR has or could have a positive return in terms of business position in the market, image, coherence with company ethics, risk management, etc. Laying down obligations which prescribe the form, way and content of non-financial information that companies may disclose will definitely jeopardise this essential added value of CSR. This is a decision which should be taken by the company itself, based on its own convictions, its size, the specific nature of its business, and the challenges it faces. The issues which companies focus on in terms of disclosure also differ, which is completely natural. The same is true for the stakeholders with which companies communicate. In fact many companies already work together with a wide range of stakeholders to look for the most appropriate solutions in this field. Disclosure of non-financial information will only remain of benefit to business, if the differences between companies are respected.
3. As was acknowledged already in 2004 at the Meeting of the Multistakeholder Forum on CSR, “convergence of CSR practices and tools is occurring on a market-led basis through voluntary bottom-up and multi-stakeholder approaches, which can achieve quality and a good balance between comparability, consistency and flexibility”.¹ BUSINESSEUROPE believes that more prescriptive rules at EU level on disclosure of non-financial information are not only unnecessary, but would also hamper the innovation and dynamism in company practices in this field.
4. The current EU legislative framework on disclosure of non-financial information therefore remains valid. European companies do not see the need for further, more rigid requirements at EU level. If, however, the Commission does take action to introduce further requirements in this field, this can only be based on general principles. Otherwise, this would damage the diversity and innovation allowed for by the current EU approach. In this context, we do not support EU level key performance indicators in this field. In view of the current legislative framework, the possibility for member states to exempt SMEs from disclosure requirements, as stipulated in the 4th directive on the annual accounts of certain types of companies, remains particularly vital.

¹ Conclusions of 2004 Meeting of Multistakeholder Forum on CSR



5. One option which BUSINESSEUROPE could support would be to give companies an opportunity to voluntarily communicate their CSR activities in a matrix, potentially via an internet platform. This could be a way of highlighting the activities of different companies in different fields to a range of stakeholders, thereby increasing transparency.
6. Many of the companies acting in the area of disclosure of non-financial information do so in a global context and not just at EU level. This includes abiding by the principles of the many CSR frameworks existing at international level. This must be taken into account when discussing the current EU requirements on disclosure of non-financial information.
7. We are concerned that the vital issues and challenges regarding the effects, trends, impact, potential benefits and disadvantages of further EU action on disclosure of non-financial information by companies are not raised in the consultation. It focuses rather on what improvements should take place in terms of disclosure of non-financial information by companies, what type of information should be disclosed, by whom and in what way, rather than posing the fundamental question of whether further action at EU level is necessary or not.
8. There is a lack of analysis in general of the current rules at EU and national level on disclosure of non-financial information. There is also often an assumption that reporting on non-financial information leads to more sustainable performance by companies, whereas an analysis of this is lacking. We therefore believe that the European Commission should provide information on practices of non-financial reporting, as well as on their impact.
9. Consistency on the issue of CSR across the European Commission is crucial. This requires coordination between different DGs to avoid overlapping and divergent initiatives. DG Enterprise and Industry in particular has been deeply involved in driving the CSR agenda in the European Commission and in building up knowledge and experience on the key issues, as well as facilitating a multistakeholder approach. This role should therefore be maintained and reinforced.
10. It is also important that the debate at EU level does not focus solely on disclosure, as CSR entails much broader issues. This includes the debate on how to further increase the uptake of CSR amongst companies, particularly SMEs. Two possible measures which could assist in this are a European CSR award and a CSR helpdesk for companies.
11. As the main horizontal business organisation at EU level, representing 20 million companies from 34 countries, we hope that the Commission gives the necessary attention to the views expressed by BUSINESSEUROPE in response to the consultation.



Answers to specific questions

1. How would you consider the current regime of disclosure of non-financial information applicable in your country? (Very poor, poor, sufficient, good, very good)

- *In what way does current reporting provide useful information?*
- *To what extent is it sufficiently tailored to the circumstances of the company?*
- *Do you find non-financial information useful for the decision-making of a company?*

As an organisation representing business member federations across different European countries, BUSINESSEUROPE does not wish to give an opinion on the current regime of disclosure of non-financial information in specific countries or evaluate national policies in this area. It is important to note that no BUSINESSEUROPE member federation has called for additional regulation on disclosure of non-financial information in their respective country or at EU level.

2. Have you evaluated the effects, and costs and benefits, of any current corporate disclosure of environmental and social information?

The issue of disclosure of environmental and social information should be seen in the wider context of transparency. During recent years, more and more companies have seen the benefits of being transparent about their business operations, in terms of identifying costs, risks and possible solutions. It can be a useful tool for companies to measure their activities and the impact of them and to set their corporate agenda for the following years. It allows them to communicate their unique corporate conduct and performance, to account for social and sustainability performance towards stakeholders and society at large, and to engage in dialogue with those affected by the company's decisions. For companies, transparency has become a fundamental part of business strategy.

Corporate disclosure of environmental and social information, as an example of transparency, can therefore be viewed in a positive way. However, it will only remain a benefit to businesses, if the different size, nature and challenges faced by individual companies are respected. This means that the form in which corporate disclosure takes place should not be prescribed for companies; it should be for them to individually adapt themselves according to their specific nature.

In the specific case of reporting, a variety of stakeholder groups read reports, in particular those published by larger companies and different groups in society are very much interested in the information presented by companies. Some analysis by the Corporate Register² identifies students, CSR consultants, investors and analysts, and academics as those groups which most often read such reports. The market is also an important driver, with consumers increasingly interested in the non-financial performance of companies. Reporting can therefore be an important determinant of a company's competitiveness.

² www.corporateregister.com - website providing a global directory of corporate non-financial reports, as well as research and analysis.



Based on the above considerations, we do not believe that further measures are necessary at EU level extending obligations in this area.

Obligations under current EU regulation to disclose non-financial information, including directive 2003/51/EC on the annual and consolidated accounts of certain types of companies, engender costs for companies. Costs derive from, for example collecting and checking the information to be disclosed, the time required for these tasks, training where necessary, as well as communicating on the CSR policy. The aim of action at EU level should be to reduce these costs and to ensure that any costs involved have a return in terms of competitiveness. This is important to stimulate further uptake of CSR by companies. The introduction of further obligations regarding disclosure of environmental and social information, depending on their scope, would most likely lead to further costs for companies.

For small and medium-sized enterprises (SMEs), the benefits of disclosing social and environmental information in a prescribed or specific form are less obvious and it is likely that there would be a heavy burden in terms of costs and administration which would outweigh the benefits. SMEs are often very active in society, but do not necessarily see the need or have the resources to disclose social and environmental information. There are costs involved in terms of collecting information, which often requires extensive resources and can be a complicated task, checking the information, as well as communicating on it. Also, the skills required to compile information on indicators and figures may be lacking.

In addition, stakeholders each have different information needs and expectations, which means that the information often has to be provided in different formats and to a different degree of detail for the various stakeholder groups. Also, a small local company may not use specific disclosure tools because the local community can see how it is operating on a daily basis. Many SMEs are already disclosing social and environmental information, simply by being close to or involved in the community in which they conduct business. The lack of reporting on CSR activities therefore does not mean that the information is not reaching stakeholders.

For these reasons, for smaller companies information is best given on an ad hoc basis, where needed.

3. If you think that the current regime of disclosure of non-financial information should be improved, how do you suggest that this should be done?

Disclosure of non-financial information, including through sustainability reporting has developed extensively, particularly in the last two decades as companies see the benefits of integrating CSR into their business strategies and react to the demands of consumers, investors and society at large for more information. Studies have shown a rapid increase in CSR reports since the mid-1990s. According to a 2008 study by KPMG, 80% of the 250 largest enterprises worldwide now report on their social and ecological behaviour. In Spain for example, most large companies already publish a CSR report, witnessed by the fact that in 2009, 33 out of 35 companies in the IBEX index published such a report and 85% of companies quoted on the Mercado



Continuo³ published comparable statements. BUSINESSEUROPE believes that this is a positive development and as this is an ongoing process there is no reason why disclosure of non-financial information amongst companies should not develop further in the future.

In this context, we believe that the requirements for disclosure of non-financial information by companies laid down in the directive on annual and consolidated accounts of certain types of companies remain valid. This includes the possibility for member states to exempt SMEs from these requirements, as stipulated in the 4th directive on the annual accounts of certain types of companies. There is no need to amend the current regime at EU level by setting more rigid disclosure requirements or prescribing a specific form of disclosure for companies. This could also be counterproductive. The introduction of detailed indicators for disclosure, for example, would result in companies focusing on a tick-box exercise rather than finding solutions jointly with their stakeholders in a dynamic way. Many companies already work together with a wide range of stakeholders to look for the most appropriate and innovative solutions for increasing transparency. In addition, a set of uniform criteria for reporting would not take into account the different requirements of companies in terms of communicating on CSR, which depend on their size, sector and business environment. Each company has to determine what is important and relevant to its specific situation, in terms of issues, risks etc. For example, it is completely acceptable that a medium-sized construction contractor does not disclose information in the same way as a multinational textile manufacturer. Similarly, two similar companies in the same part of town may have different CSR initiatives, as they face different challenges.

It is also important to remember that there are more ways for companies to be transparent and disclose non-financial information than by publishing reports. Improvements could be made by moving away from the assumption that reporting is the only way for a company to include CSR in its overall business strategy. CSR can be very well integrated without the need for a report. For analysts and investors, for example, in many cases, reports are much less important than individual one-to-one-meetings. Other tools, including providing information via websites, through dialogue or interviews, and in an ad hoc way can be equally effective.

Encouraging improvements in corporate disclosure of non-financial information should also focus on providing support and assistance for companies. Awareness raising campaigns and exchange of experience between companies and organisations active in the area of CSR, for example, can be effective. This can be particularly helpful vis-à-vis SMEs. Also, initiatives in which large companies assist their suppliers in starting to disclose information on non-financial aspects can be useful.

³ Stock market indexes included in the Madrid Stock Exchange



4. In your opinion, should companies be required to disclose the following:

- ***Whether or not they have a CSR policy, and if they do, how they implement that policy and what the results have been.***
- ***The principal business risks and opportunities arising from social and environmental issues, and how they are taken into account in company strategy.***
- ***Key information regarding issues such as employee engagement (e.g.: employee training policy, equality and diversity, etc.); customer satisfaction (e.g.: customer loyalty); public perception of the company (e.g.: stakeholder dialogue); environmental policies (e.g.: energy efficiency, waste reduction); and innovation (e.g.: R&D expenditure).***
- ***Other***

Companies need to have freedom and flexibility to be transparent regarding the issues which are relevant to their business, sector and size. These are not the same for each company. This is also essential due to companies' need to respond to the information demands of their stakeholders, which also vary from one company to another. In addition, some information could be sensitive from a competition point of view. Whilst we support companies taking the initiative to disclose non-financial information, we do not believe that there should be a requirement on companies regarding the specific information they disclose.

As regards company practice, it is important to stress that there is a difference between assessing and disclosing risks. Company practice is much more focused on identifying and assessing risks and opportunities, rather than disclosing information on this. Based on this assessment, a company can devise strategies for dealing with the risks and grasping the opportunities. Disclosure of the principle risks and opportunities should therefore not be the objective; it is rather the strategies of companies that are relevant in terms of communication and disclosure with stakeholders.

Where companies have undertaken an analysis of risks and opportunities and taken these into account in their strategy, it should be for individual companies to decide if and if so how they disclose this information. Similarly, in terms of the list of issues (employee engagement, customer satisfaction etc), it depends on whether the provision of such information on these issues is of use to the specific stakeholders and of benefit to the company. It is important to bear in mind that a number of these issues are covered by legislative obligations, including for example equal opportunities and environmental obligations. This is important, as CSR and disclosure refer solely to the actions of companies to integrate social and environmental concerns into their business operations which go beyond legislative obligations.

For those companies which have a CSR policy, it may be beneficial to provide information on how they implement it. However, it may be difficult to assess the results of this. This assessment in any case will be done by stakeholders.



5. In your opinion, for a EU measure on reporting of non-financial information to achieve materiality and comparability it should be based upon: Principles, Key Performance Indicators (KPIs), Other?

BUSINESSEUROPE believes that the current requirements on reporting of non-financial information in the directive on the annual and consolidated accounts of certain types of companies remain valid. We do not believe that further, more rigid measures should be taken at EU level. If, however, this approach is taken, any further action can only be based on general principles. The combination of a rigid framework, built on specific key performance indicators (KPIs) would be detrimental to the flexibility needed for companies and would damage the diversity and innovation allowed for by the current EU approach.

In addition, finding a consensus at EU level on a set of KPIs would be unrealistic, therefore such an action would not provide added value. It would likely result either in a very wide set of KPIs, which would not be useful for stakeholders or a very detailed set of KPIs which would not be applicable to a majority of companies. Allowing companies to develop their own KPIs is therefore a more effective approach.

5a. In case you consider that Key Performance Indicators (KPIs) would be useful, would you think that they should be - general for all economic sectors OR sector specific?

See answer to question 5.

6. In your opinion, what should be the process to identify relevant principles and/or indicators (whether general or sector-specific)?

- ***Should the Commission endorse or make reference to any existing international frameworks (or a part of them), such as Global Reporting Initiative (GRI), UN Global Compact, the OECD Guidelines, ISO 26000, or other frameworks?***
- ***Should companies be required to select relevant indicators together with their investors and other stakeholders and to disclose information according to such indicators, depending on the use that different stakeholders would make of such information?***

See answer to question 5.

The Commission seems not to be sufficiently aware that many companies already abide by the principles of the many CSR frameworks existing at international level. For example, the GRI is used as a voluntary reporting standard for bigger companies; the UN Global Compact is a model for many companies; the OECD guidelines are also very relevant. This is logical given that many of the companies disclosing non-financial information are active on a global scale and therefore have a global approach to CSR. It is important to look at these frameworks in any discussions on the disclosure requirements set at EU level, taking into account the action already taken by companies. In this context, it is important to note that the availability of choice for companies in the different frameworks at international level is important and one single model would not be appropriate given the diversity of companies.



7. In your opinion, should companies be required to disclose the steps they take to fulfill the corporate responsibility to respect human rights?

Regarding the topic of human rights, it is important to bear in mind the Framework developed by the UN Special Representative Professor John Ruggie. Since this approach has been developed on the basis of multistakeholder involvement, in general it has wide-spread support, in particular the distinction between the state responsibility to protect and corporate responsibility to respect. The formulation of the Guiding Principles in the next few months will be crucial in operationalising the Framework.

Given that the issue of human rights is already receiving attention at international level, we believe that no further requirements at EU level are necessary. The decision on how to disclose information on human rights should be for individual companies, depending on whether disclosure of such information is relevant for them and their stakeholders.

8. In your opinion, should companies be required to disclose the risks they face and the policies they have in the field of corruption and bribery?

Disclosing the risks companies face is not in line with company practice, which is much more focused on identifying and assessing risks. These may include risks to reputation, based on interaction with consumers, or risks in conducting business in particular regions, for example. Through this internal exercise of identifying and assessing risks, a company can devise a strategy to deal with them, including in terms of the way it conducts business. In addition, it is important to bear in mind that corruption and bribery are in many cases already covered by legislative obligations.

For these reasons, we do not believe that there should be an obligation for companies to disclose the risks they face and policies they have regarding corruption and bribery. Companies should be afforded flexibility, allowing them to communicate and disclose information on those topics which are relevant for them and their stakeholders.

9. In your opinion, what companies should be required to disclose non-financial information

Large listed companies;

Large companies (listed and non-listed);

Medium-sized & Large listed companies;

Medium-sized & Large companies (listed and non-listed);

All listed companies (Small, Medium & Large);

All listed & non-listed companies (Small, Medium & Large);

None;

Other

The current requirements in directive 2003/51/EC on the annual and consolidated accounts of certain types of companies remain valid. The directive stipulates that this requirement applies to large companies (listed and non-listed). Above all, disclosure of non-financial information for SMEs should not be made obligatory, for the reasons stated in reply to question 2. The possibility for member states to exempt SMEs from



the requirements on disclosure of non-financial information, laid down in directive 78/660/EEC, the 4th directive on the annual accounts of certain types of companies should therefore remain in place.

10. In your opinion, should institutional investors be subject to specific or additional disclosure requirements, for example to disclose whether and how they take into account environmental and social issues in their investment decisions?

- *Which issues seem to be the most relevant and why?*
- *Which institutional investors should be subject to such an obligation?*

Institutional investors should not be subject to specific or additional disclosure requirements. Socially Responsible Investment (SRI) is a growing market in which funds are already transparent about their investment decisions. This means that consumers looking for SRI funds are normally well aware of the different portfolios, making additional requirements for information disclosure unnecessary.

11. In your opinion, should European policy promote the concept of "integrated reporting"?

- *Integrated reporting refers to a report that integrates the company's key financial and non-financial information to show the relationship between financial and non-financial performance (environmental, social, and governance).*
- *Indicate the advantages and disadvantages of an integrated report, as well as possible specific costs of integrated reporting.*

Some companies already have integrated reporting and value this as a way to disclose non-financial information. However, this should not be promoted as the only way for companies to be transparent on their non-financial performance and it should certainly not become mandatory. This approach works well for some companies, whilst others may prefer to communicate with their stakeholders through other means, such as voluntarily adding information on packaging or labelling, communicating directly with consumers, one-to-one meetings with investors, or organising focus groups with NGOs, policy-makers, suppliers etc to discuss social and environmental issues related to their business. European policy should ensure that companies have the flexibility to communicate with their stakeholders in the most appropriate and practical way.

12. In your opinion, should disclosed non-financial information be audited by external auditors?

- *Provide any evidence you may have regarding costs of auditing non-financial information, as well as your views on other possible forms of independent reviews besides external auditing.*

We do not believe that there should be an obligation to externally audit disclosed non-financial information. An individual company may decide that this is a valuable way to ensure credibility of the information it is disclosing, and some larger companies are already using external audits to do so. However other companies may not see this as



necessary or appropriate. Flexibility is needed in this field. In addition, setting a requirement for external auditing would represent high costs, without a clear benefit for the company and stakeholders.

In any case, the importance and relevance of information is often determined by customers and other stakeholders, including the press, NGOs, trade unions etc. This is a hugely important driver for companies in terms of managing their reputation and retaining their competitive position on the market.