



29 June 2011

BUSINESSEUROPE MEETING WITH MEP KLAUS-HEINER LEHNE, CHAIR OF THE EUROPEAN PARLIAMENT'S LEGAL AFFAIRS COMMITTEE

Key issues:

➤ Collective Redress and Alternative Dispute Resolution

- BUSINESSEUROPE strongly supports effective and easy access to justice for those harmed by breaches of EU rules. This is key to boost consumers' confidence in the single market.
- We support ADRs since we believe they are the most pragmatic solution to provide rapid cost-effective and efficient redress to consumers and therefore improve their confidence in the internal market.
- We are concerned that enlarging the scope of the DG SANCO initiative on ADRs to B2B, civil transactions, family law and defamation could delay its adoption.
- BUSINESSEUROPE does not believe that there is a need for EU intervention on judicial collective redress. If this was the case, the risk that toxic elements are introduced (e.g. opt-out, "the "loser pays no cost" rule, third-party funding, discovery) must be clearly excluded, but BUSINESSEUROPE doubts that the European Commission has the power to do so.
- EU policy-makers should concentrate on maintaining and improving public enforcement in Europe, and not shifting towards private enforcement.

➤ Unitary Patent

- The unreasonably high patenting costs in Europe compared to the US and Japan are unacceptable and burdensome for companies and represent a hurdle to innovation and competitiveness of European companies.
- BUSINESSEUROPE supports the proposals on the creation of unitary patent protection and the applicable translation arrangements adopted on 13 April 2011 by the Commission (this position is not shared by the Spanish Federation CEOE).
- BUSINESSEUROPE urges the Commission and the Presidency to present rapidly proposals on a common patent jurisdiction system. It is essential that the patent jurisdiction is in place when the first European unitary patent is granted.



➤ **European Private Company (SPE)**

- BUSINESSEUROPE regrets that no agreement has been found during after 3 years of intense discussions on this dossier which is key for the single Market and SMEs in particular.
- BUSINESSEUROPE would appreciate further pressure from the European Parliament vis-à-vis the Polish Presidency.

➤ **Corporate Governance**

- BUSINESSEUROPE supports the 'comply or explain' principle because it is flexible, and easier to implement and more rapidly adjustable than legislation. This principle is widely welcomed both by company boards and by investors.
- Balance between hard law and soft law is key. Europe must avoid falling into the trap of over-regulating corporate governance, especially as the European Commission has a very comprehensive definition of corporate governance. Solutions based on 'hard law' should be kept to a minimum and only for those aspects for which professional regulation cannot provide satisfactory results.

➤ **Audit Policy**

- Given the strong concentration on the audit market, the emergence of new entrants is certainly desirable.
- However, proposals to require joint audits or the mandatory formation of an audit firm consortium with the inclusion of at least one smaller firm are not the right solution. They would burden companies without resolving limited choice in a very concentrated market.

➤ **Public Procurement**

- Public procurement is an essential component of the economy, representing more than 16% of GDP. The legal framework surrounding public procurement is essential for both companies and contracting authorities.
- BUSINESSEUROPE very much supports the 2004 public procurement directives and sees no pressing need for a revision. Efforts should concentrate on a more uniform enforcement of the existing rules and practical steps (e.g. exchange of best practice, adequate resources for authorities...).



- Any revision should safeguard transparency, market openness and competitive tendering which are vital to support economic growth, ensure quality and innovation.

➤ **European contract law**

- Further analysis and assessment needs to be carried out about where problems exist and if any of the options in the recent Commission's Green Paper are appropriate to address them. This is a complex issue which should not be rushed.
- Many stakeholders (BUSINESSEUROPE, EUROCOMMERCE, EUROCHAMBRES, BEUC, UEAPME, Notaries of Europe) are sceptical about introducing an optional instrument on contract law (28th regime).
- We do not see the need for initiatives in the field of business-to-business relations.

➤ **Smart Regulation**

- The Commission should extend the reduction project by making the 25% target a net target per Directorate General. The Commission should not only look at administrative costs but also at the much higher compliance and enforcement costs.
- Comprehensive stakeholder consultation in the impact assessment process is crucial to preparing high-quality assessments. Stakeholders should therefore be given the opportunity to address shortcomings in draft impact assessments directly to the Impact Assessment Board.

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