

5 October 2011

BUSINESSEUROPE's views on the standardisation package

Executive Summary

In this paper BUSINESSEUROPE sets out its views in response to the Commission's Standardisation Package.

The Package consists of a Communication and a Regulation and constitutes one of the 12 key actions proposed in the Commission's Single Market Act.

BUSINESSEUROPE would like to highlight the following issues:

- BUSINESSEUROPE supports improving the current European standardisation system as opposed to radically overhauling it. In particular, the system of national delegation must be kept as it is the best way to ensure the access of a wide range of stakeholders, including SMEs;
- The European standardisation system should produce good quality and market-relevant standards. The use of standards must remain voluntary and the private nature of the standardisation process should be preserved;
- BUSINESSEUROPE objects to the adoption of formal procedures concerning particular types of participant in the development of European standards as participation is already open to all parties;
- It is not appropriate for the organisations listed under Annex III of the Regulation (e.g. NORMAPME) to receive Commission funding for information on how to use the standards. This would give them an unjustified competitive advantage compared with other trade associations;
- Service standards must only be developed where there is a demand from the market and following a comprehensive consultation of stakeholders;
- BUSINESSEUROPE supports the proposal to establish a system whereby the most relevant ICT standards developed by leading Global ICT fora and consortia can be used in public procurement;
- Standardisation and legislation must not be blurred. It is the responsibility of politicians to set political priorities with the work of standardisers being mostly of a technical nature.

Introduction

Standardisation has been a central element in the delivery of a prosperous single market. Standards provide benefits to the economy at large and are an important tool to facilitate international trade, interoperability of networks and systems, and the facilitation of innovation in the marketplace. Standardisation has supported the regulatory framework by providing presumption of conformity with Directives in major industrial areas under the 'New Approach' policy. Of the many types of standards however, only about 20% are cited in the Official Journal of the European Union to give presumption of conformity.

Over the last two years BUSINESSEUROPE has been actively following the European Commission's plans to revise the overall legal framework for standardisation¹.

On 1 June 2011 the Commission published its 'standardisation package', which comprises a Communication and a Regulation. BUSINESSEUROPE believes that the package is a good step forward and agrees with the vision that standardisation will play an important part in supporting the Europe 2020 Strategy for smart, sustainable and inclusive growth.

In addition, BUSINESSEUROPE supports the general focus on the need to improve the current system as opposed to radically overhauling it. In particular, the continuation of the system of national delegation is essential as it is the best way to ensure the access of a wide range of stakeholders in the process of standards development and offers a work environment in the stakeholders' national language. In addition, the use of standards is, and must remain voluntary and the private nature of the standardisation process should be preserved. Currently the private sector bears up to 95% of the costs of the system. This arrangement reflects the reality of the European market and has ensured an adequate response to market needs.

However, caution is needed when looking into the governance aspects of the European Standardisation System as any governance reform will have a substantial impact on BUSINESSEUROPE's members, especially SMEs. In this context, BUSINESSEUROPE has some serious concerns in this respect and believes that a number of improvements can be made to the present proposals in this and other areas.

Finally, the proposed Regulation on European Standardisation amends a series of Directives, including Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations. In this context, BUSINESSEUROPE urges the European institutions not to leave out from the Regulation important elements such as Article 7 of Directive 98/43/EC which contains the principle of a standstill provision for member states' national standards institutions².

Below, we set out some key messages in relation to both the Communication and the Regulation.

¹ [Position 20 May 2010](#)

² Article 7, Clause 1 of Directive 98/34/EC stipulates that during the preparation of a European standard following Commission mandate, or after its approval, Member States shall ensure that their standardisation bodies do not take any action that could prejudice the intended harmonisation and, in particular, that they do not publish a new or revised national standard in the field in question that is not identical to an existing European standard.

Standardisation and legislation should not be blurred

The package notes that European standardisation will increasingly play a crucial role in a wide variety of areas, ranging from supporting European competitiveness, protecting the consumer, improving accessibility of disabled and elderly people to tackling climate change and the resource efficiency challenge. The recognition of the strong role that standards can play to achieving societal goals and enabling public policies is welcomed by BUSINESSEUROPE. However, it is crucial not to confuse standardisation with legislation.

Standards are primarily a market tool that serve a purpose other than legislation and should therefore remain a voluntary instrument for private parties. Standards can support public policies, inter alia as part of the regulatory framework and are a useful reference for enforcement authorities in the framework of the New Legislative Framework (Regulation 765/2008/EC) and Decision 768/2008/EC).

However, it is the responsibility of politicians to set political priorities with the work of standardisers being mostly of a technical nature.

It is important not to forget that the majority of standards (over 70%) have little or nothing to do with public interests. Therefore, it is important that standardisation does not get over-regulated. It is also hard to see on what grounds the authorities should in any way interfere with the processes and organisations to set strictly private standards, for instance those concerning the dimensions of a car radio and the dashboard slot in which it would fit, apart from insisting on fair conduct within competition law.

Stakeholder representation in the standardisation process

Appropriate participation of certain stakeholders

Standardisation in the formal system has always been an open process, where all relevant interested parties can participate. It is in the interest of everybody that all relevant aspects are taken into account.

It is, however, important to stress that stakeholders who participate in European standardisation must be committed, have the right expertise and be relevant to the development of the standard in question. It is primarily a question of developing quality standards. It seems that one of the main goals of the Regulation is to ensure the 'appropriate participation' of SMEs, consumers, environmental organisations and organisations covering 'social interests' in the standardisation process. BUSINESSEUROPE objects to the adoption of formal procedures concerning particular types of participant as participation is already open to everybody.

Actions can of course be taken that include better information and education at society level on the general importance of standards and an active investigation from the standardisation bodies to pinpoint relevant participants. Also, SMEs and other parties with insufficient capabilities to participate in the development of standards should be helped to organise themselves appropriately (e.g. into branch federations) to coordinate their interests and views. Participation however should not be forced.

Participation of national authorities in the development of standards

BUSINESSEUROPE believes that the participation of national authorities in the development of those standards that are related to public policies is important to safeguard societal interests as enshrined in the relevant legislation in support of which the standards are being drafted. In this context, we observe with concern the withdrawal from standardisation by most member state authorities, who instead decide to interfere later in the process by pressurising the European Standardisation Organisations (ESO) or by advising the Commission to reject the standard for its intended purpose, after its completion. This severely harms the very nature of standardisation and risks putting an end to the New Approach style of regulation as the question of how exactly essential requirements can be fulfilled will be taken back to the political domain. Therefore, BUSINESSEUROPE believes that Article 8 of the Regulation dealing with objections against standards should include a reference to the fact that last-minute objections to harmonised standards should be the exception not the rule.

Financing

BUSINESSEUROPE is concerned about Article 12d of the Regulation where it is suggested that the organisations listed under Annex III might get financial support for verifying the quality of the standards and to check their conformity with the legislative requirements. This is absolutely a no go. Such organisations are part of the work, and they can give their opinion during the development process. They cannot in a neutral way comment on the quality of the standard and thus have a kind of veto. This would go against the whole idea of a consensus-based development process. The check must be done by the Commission or the authorities.

In addition, BUSINESSEUROPE does not consider it appropriate for Annex III organisations (especially NORMAPME) to receive commission funding for information on how to use the standards. This would give them an unjustified competitive advantage compared with other trade associations.

It should also be noted that there are great differences between SMEs, with many being members of different trade associations. Therefore, it is not appropriate to give a preferential status to one specific organisation.

BUSINESSEUROPE also has concerns about Article 11 2b of the Regulation which states that financing by the Union may also be granted to other bodies which have been entrusted with carrying out the work on the development and revision of European standards which is necessary for the support of policies and legislation of the Union, amongst others. It is not clear who these other bodies are and it could put the system at risk.

Market relevance, better planning and speedier adoption of standards

Planning and market relevance

To improve planning of its standardisation-related activities the European Commission will adopt an annual Work Programme for standardisation. The Work Programme will identify strategic priorities for European standardisation, for mandates and for other

actions required. BUSINESSEUROPE welcomes the publication of work programmes as this would enhance transparency of the process and possibly avoid double work.

However, BUSINESSEUROPE believes that the Commission should go further than this. It is also important that widespread consultation is ensured for the specific mandates, especially as they are becoming ever more detailed (e.g. under the General Product Safety Directive) to ensure that the intended outcome responds to demonstrated market needs. In this context, BUSINESSEUROPE proposes the creation of a consultative multistakeholder forum under Article 6 of the Regulation.

Speedier adoption

BUSINESSEUROPE supports the Commission's wish for a more efficient and rapid standardisation process. Whilst the quality of the developed standard should not be jeopardised, consideration should be given to eliminating overly time-consuming process steps such as translation before review. Continuous improvement in the use of electronic communication means should also be ensured.

The Commission's proposals for new and more extensive reporting requirements for both European standardisation organisations and their private national members could be counterproductive as it would slow down the process without adding value. Reporting for instance on the representation of different stakeholder groups should be agreed at the national level and there is therefore no need for a European rule. Also, stakeholder categories differ from one economic sector to another so fostering balanced representation demands flexibility and tailoring. A legal reporting requirement would just add rigidity and bureaucratic burden. At the European level, it is unclear how this reporting would contribute since participation is by representatives of the national standard organisations who represent the consensus views of all their national stakeholders.

Another important issue to highlight under this section is the potential absence of clarity in article 4.3a which in its present wording could lead to the understanding that draft standards or national working papers must be translated into all other EU languages by national standardisation organisations (NSO). In our view this should not be the case and would certainly not contribute to a speedier adoption of standards.

Increasing the number of European standards for services

In principle, BUSINESSEUROPE welcomes the inclusion of voluntary standards for services in the scope of the new Regulation on standardisation.

Voluntary service standards can contribute to the completion of the Single Market for services by reducing the number of (conflicting) national standards and thus removing potential trade barriers. In addition, they can create a level playing field, offering new opportunities for economies of scale and improved market access, while contributing to the overall competitiveness of the Europe's services industry.

However, given the great variety and large number of service sectors in Europe - which are often evolving at a fast pace - the need to develop a certain service standard must be determined on a case-by-case basis and should always be created out of market needs. Adapting to new standards creates extra costs for companies and might not always be necessary or desirable.

In this context, BUSINESSEUROPE supports the wording of the Communication and the Regulation, expressing that service standards need to be voluntary and market-driven, whereby the needs of economic operators and stakeholders directly or indirectly affected by the standard prevail.

In cases where the Commission decides to issue a mandate for the development of a certain service standard, it is of fundamental importance that it is developed where there is a demand from the market and is only requested following a comprehensive consultation of stakeholders, as stated in the Communication.

Use of ICT standards developed by global ICT standards development organisations in public procurement, EU policies and legislation

Unlike for other areas of technology, standardisation in the ICT field has been characterised by the strong presence of non-European standards-developing organisations (e.g. the Institute of Electrical and Electronics Engineers) and of consortia and fora, and of the widespread uptake of their work results by the relevant markets. This justifies a more flexible approach on standards for ICT.

BUSINESSEUROPE supports the Regulation's proposal to establish a system whereby the most relevant ICT standards developed by leading Global ICT fora and consortia can be used in public procurement to help avoid lock-in and encourage competition in the supply of interoperable ICT services, applications and products. In reality, state of the art, best in class ICT systems cannot be realised nowadays with only formally developed standards. The same is true for the ICT dimension in other domains of public interest, such as healthcare systems. The proposed conditions and selection procedure for direct referencing are well balanced.

However, standards intended to provide a presumption of conformity with EU legislation in the ICT domain should continue to be developed under mandate by the European Standardisation Organisations (ESO) exclusively, as indeed implied by the present draft regulation. In those cases in which it is necessary or largely beneficial to use work results produced by formal standardisation organisations other than the ESOs, or by fora and consortia, this should be achieved by feeding such results into the relevant procedures established by the ESOs, as successfully carried out in the past.

Standards to increase EU competitiveness in the global market

Standards have an essential role to play in supporting the competitiveness of European businesses in the global market, allowing them to access foreign markets and establish business partnerships around the globe. The overall goal of business is to achieve global market access on the basis of 'one standard, one test, accepted everywhere'. In practice, this means having fully transposed international standards, without regional or national deviations, that are applied globally.

Most formal standardisation nowadays takes place at the international level, supporting the global economy, in line with the Vienna and Dresden agreements³. In this context,

³ The Vienna agreement is an agreement on technical cooperation between ISO and CEN. The Dresden agreement is between CENELEC and IEC.

BUSINESSEUROPE very much supports the Commission's proposed actions in this area, which include amongst others to continue to promote the enhanced convergence to international standards and the use of voluntary standards in regulation. One issue that could be better highlighted in our view is that the ESOs should take a more proactive and strategic role in analysing the impact of a future international standard on the European market. They should for instance look for possibly conflicting national or regional standards or legislation and analyse what the probability of global application would be.

Furthermore, the ESOs should establish enhanced coordination mechanisms to promote European positions at international level and ensure adequate European participation in relevant international standardisation committees.

* * *