



Mr Michel Barnier  
Commissioner for Internal Market and Services  
European Commission  
200 rue de la Loi  
B-1049 Brussels  
Belgium

30 November 2012

Dear Commissioner,

Re: Improving the Single Market for Goods – the problem of National Technical Regulations

BUSINESSEUROPE welcomes the Commission's recent efforts to increase the focus on governance in the Single Market, especially the goal of making the principles and legislation we already have function better in practice. The general appreciation by the European institutions that a well-functioning Single Market will lead to increased growth and job creation creates a window of opportunity to find solutions that will make a real difference to business and society.

Given that around 75% of intra-EU trade is in goods, BUSINESSEUROPE would like to draw your attention to a concrete example in this field which in our view remains problematic and has not been sufficiently dealt with: the high level of national technical regulations.

National technical regulations (specific national requirements on the product or on the testing and/or documentation) remain a barrier to the free movement of goods and increase the costs of the product.

Directive 98/34 governs the notification procedure that Member States are to follow if they introduce national technical standards and regulations to products. In BUSINESSEUROPE's view the provisions of the directive should be better enforced.

According to article 8 of Directive 98/34 Member States are to provide the Commission with relevant justifications and impact assessments when they introduce national technical regulations. However, in practice such information is rarely provided nor published and the confidential nature of comments and detailed opinions makes it very difficult for business to assess the justification for such national regulation.

Furthermore, complaint instruments such as SOLVIT are effective in addressing specific cases of misapplication of EU rules but are not geared to handle complaints on national technical regulations. These typically remain unsolved and require the involvement of the Commission. The whole process can take years and often ends up being very costly for companies, involving extra costs, administrative burdens and loss of market shares.

BUSINESSEUROPE therefore suggests that the following measures are taken:


- 1) The requirement for justifications and impact assessment must be better defined and enforced
- 2) It should be possible for relevant stakeholders to see comments and especially detailed opinions on request. This information would give a clearer picture of when a new regulation might give cause to raise a complaint.
- 3) SOLVIT cases should be published to serve as indicators of companies' rights
- 4) A fast-track procedure for dealing with complaints that remain unsolved in SOLVIT should be established
- 5) ECJ rulings should be presented in a way which makes it easier to use them as a reference and to get a better understanding of rights and obligations in the Single Market
- 6) The regulations already included in the Technical Regulations Information System (TRIS) database should be analysed and their justifications and impact assessed

The above measures could serve as a basis for better training of national desk officers as well as for better guidance to companies and national governments as to what extent EU legislation and the principles of free movement prevail over national legislation.

The suggested measures can be taken without new legislation and would be a reasonable follow-up to the SMA I chapter on governance and the Commission's June Communication on Single Market Governance.

We remain at your disposal if you would like to discuss this further.

Yours sincerely,

*Cordislement,*  


Philippe de Buck