



9 September 2014

Response to public consultation on review of EU CSR Strategy 2011 - 2014

KEY MESSAGES

- 1** The key challenge for EU Corporate Social Responsibility (CSR) policy is ensuring that it promotes further voluntary uptake and development of CSR by companies, whilst allowing them the flexibility to continue to shape their own CSR approach according to their specific circumstances and the needs of their stakeholders.
- 2** The question remains whether a new EU CSR Strategy is the best way to meet this challenge, particularly if a strong focus continues to be put on the compliance-driven and regulatory approach. Respecting and promoting the voluntary and business driven nature of CSR, and its potential to create shared value is more likely to engage the business community.
- 3** BUSINESSEUROPE has a mixed assessment of the implementation of the strategy; some actions have been positive, but in other cases implementation has confirmed some of BUSINESSEUROPE's doubts about the relevance and added value of some of the actions proposed.

WHAT DOES BUSINESSEUROPE AIM FOR?

- A solid business-friendly approach is needed in the EU debate on CSR. The European Commission should partner with the business community to realize that approach.
- There should be acknowledgement that CSR is and will be driven not by regulatory intervention, but by companies, due to a growing belief of the benefits of CSR – both direct and indirect - for business performance, competitiveness, and responding to stakeholder expectations.
- At the same time, there should be sound recognition of the challenges for enterprises in developing CSR approaches.
- The focus should be on promoting business innovation on CSR, awareness-raising, exchange of good practices and constructive collaboration between companies and stakeholders, aiming at motivating companies to further develop CSR.



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Response to public consultation on review of EU CSR Strategy 2011 - 2014

Introduction

On 25 October 2011 the Commission published a Renewed EU Strategy 2011 – 2014 for Corporate Social Responsibility (CSR). The Strategy put CSR in the context of the Europe 2020 Strategy, as well as reflecting on the links with the economic crisis. It presented an agenda for action and a monitoring process for implementation. The Commission has now launched a public consultation to review the strategy and look to the future.

BUSINESSEUROPE welcomes the Commission's decision to consult on the EU CSR Strategy and future CSR policy but regrets that the approach taken in the online consultation does not allow for the necessary in-depth and qualitative assessment of the CSR Strategy. The dominance of closed and tick-box questions is wholly inadequate for a real reflection on the Commission's approach in this area. We believe that such a reflection is necessary, especially in the case of CSR, which by definition is a qualitative-based phenomenon. This position paper constitutes BUSINESSEUROPE's response to the Commission's consultation. We hope that the Commission duly respects the representativeness of BUSINESSEUROPE at EU level and gives the necessary attention to the views expressed in this position paper.

This position paper is divided into two sections: the first on EU CSR policy in the future and the second a more detailed review of implementation of the CSR Strategy.

EU CSR policy in the future

General approach

1. BUSINESSEUROPE believes that now is the time for a real reflection on the role of the EU, including the Commission in the area of CSR. The key challenge for EU CSR policy is ensuring that it promotes further uptake and development of CSR by companies, whilst respecting its voluntary and business driven nature and allowing companies the flexibility to continue to shape their own CSR approach. Another key challenge is finding the appropriate sphere of action for the EU, taking into account developments at international and national levels.
2. The question remains whether a new EU CSR Strategy is the best way to meet the challenges highlighted above, if a compliance-driven regulatory approach continues to dominate. The experience with the 2011 – 2014 strategy has shown that ownership is a key issue and we believe that an EU strategy with such an approach will always 'belong to' the EU institutions. We do not believe that this is an effective way to engage companies in the CSR debate.
3. BUSINESSEUROPE believes that there should be a change in approach and tone in the debate on CSR. The Commission should take a more positive approach where it acknowledges companies' efforts and partners with the business



community. This would better reflect the fact that companies integrate CSR into their overall business strategies not because they are forced to do so but because they believe in the benefits of doing so. The Commission should move away from a compliance-driven regulatory approach, which is harmful to business and CSR development. This can lead to a ‘tick-box’ exercise where organisations do the minimum legally required rather than engaging in CSR as a manifestation of their values and beliefs.

4. The EU agenda should be about how CSR creates business opportunities and enables companies to address stakeholder expectations, rather than focusing on CSR as a strategy to respond to risks and mitigate negative impacts of company actions. This would better reflect the fact that for companies CSR is more and more seen as a competitive asset. Unfortunately, the definition of CSR adopted by the Commission in 2011 focused on businesses being a potential hazard to society. We believe that the original 2005 definition was more appropriate. At least the concept of voluntariness should regain some respect as a crucial element of CSR.
5. The EU CSR agenda should support and promote the positive role of business in society. Businesses create the jobs, growth, and prosperity for the economy, society and local communities to flourish; they provide the products and services which citizens and consumers need and desire; they innovate to offer solutions to today's societal, environmental and other challenges; and they provide investment outside the EU, contributing to economic, social development and prosperity in developing countries. This means that CSR can positively contribute to the overall competitiveness of the EU economy, if the right framework conditions exist.
6. Growing stakeholder expectations are a key driver of action in the area of CSR and companies know that the management of stakeholders' expectations is crucial for their success. Citizens also recognise this - in the Eurobarometer survey on how companies influence our society¹ (launched by the EU CSR Strategy) respondents stated that citizens above all other groups should take the lead role in influencing the actions of companies through their purchasing decisions. At the same time, the EU should recognise the challenges for enterprises in developing CSR approaches in line with stakeholder expectations, particularly where they are divergent or even contradictory. This may be the case, for example, concerning the extent and way in which different stakeholders expect to be informed about company CSR approaches. Another challenge is managing stakeholder expectations in an efficient and effective way which fits the general business strategy.
7. There should also be acknowledgement of the cost of CSR for companies. Of course companies may assess that the potential benefits outweigh the costs. Nevertheless, the burden of creating the necessary internal structures to devise CSR strategies, dealing with stakeholder expectations and reporting (whether voluntarily or due to regulation) should not be neglected. This is especially true for SMEs where the administrative burden can be very high.
8. International developments should also be part of the forthcoming reflections. Taking into account the fact that many EU companies use global CSR frameworks

¹ Flash Eurobarometer 363, April 2013



and guidelines, the EU institutions should be inspired by global guidelines rather than setting new frameworks.

On a practical level

9. The EU should promote companies' CSR strategies and actions through awareness-raising, exchange of good practices, peer-to-peer learning, and constructive collaboration between companies and stakeholders. We believe this is the most effective way to encourage other companies to take a strategic approach to CSR and where the EU can provide most added value. This could be done within the EU but also with other regions in the world.
10. Activities in the area of capacity building could also have added value, focusing for example on SMEs, as well as on specific topics such as non-financial reporting, managing complex supply chains, implementing the UN Guiding Principles on business and human rights and on how investors apply environmental, social and governance criteria.
11. The European Commission could also usefully look into the potential administrative burdens and costs of CSR reporting, due to the new EU reporting requirements, diverse national and in some cases regional reporting obligations, as well as voluntary international reporting frameworks and CSR guidelines used by many companies. In this context, those companies covered by the new EU reporting requirements will need to be supported in implementing them in the most cost-effective manner and the Commission will have to pay attention that transposition of the directive at national level avoids gold-plating.
12. Due to the growing relevance of sustainable responsible investment on the market, we do not believe that regulatory intervention is necessary for its further development. However, the European Commission could usefully assess the extent to which social and environmental information are integrated into investment decisions as opposed to purely financial considerations, how this may have evolved over time, whether the disclosure of such information places additional obligations and administrative burdens on companies, and in what circumstances the benefits for companies, notably in terms of access to capital, outweigh any such burdens.
13. Linked to the recent Commission communication on private sector involvement in development cooperation, the Commission could also assess the possibility to mobilise some available resources for companies to promote and advance CSR and sustainability in developing countries. Partnership between government and the private sector will also play a major role in the new Post 2015 Development agenda.
14. In terms of delivery of EU CSR policy, DG Enterprise should take a stronger lead within the Commission. Of course it is logical, given the broad nature of CSR, that a range of Commission DGs take action related to CSR. At the same time, DG Enterprise should provide the overall direction to ensure coherence and a positive effect on growth and competitiveness. In terms of stakeholder input, BUSINESSEUROPE remains committed to a constructive multistakeholder approach, where the Commission should find the right balance in terms of representation and respect of the different interests.



Review of implementation of EU CSR Strategy

General remarks

15. Overall, BUSINESSEUROPE has a mixed assessment of implementation of the strategy. We were critical to a certain extent of the overall approach of the strategy and some of our concerns have been confirmed with implementation, in particular the legislative proposals on disclosure of non-financial information. Also, our doubts about the relevance and added value of some of the actions proposed in the strategy have been confirmed, for example the invitation to all large European enterprises to make a commitment to take account of at least one of a number of international CSR frameworks. More detailed information on specific actions is provided below.
16. The analysis of implementation of the strategy should not only include whether the specific actions have been completed or not, but also whether they were worthwhile.

Specific actions

- Enhancing visibility of CSR and disseminating good practices
17. This is an area where EU level action can have real added value and remain within its competences in the area of CSR. Showcasing what enterprises do in this field through dissemination of good practices is an effective and efficient way to encourage more enterprises to develop CSR strategies. Facilitating peer-to-peer learning can also help companies to understand the challenges as well as the potential business benefits in developing a strategic approach to CSR. This is especially the case for SMEs where action is often taken but not necessarily under the label of CSR.
 18. We support the **European CSR awards ceremony** which stemmed from the strategy. This was a good way to give visibility to company CSR actions and the importance of engaging with stakeholders in a meaningful way.
 19. We also take note of the development of **CSR multistakeholder sectoral platforms** as a result of the strategy, and welcome these in so far as the sectors involved deemed them appropriate and useful, and they were entirely free to set their own agenda. Positively, it seems that there were no obligations for the organisations involved to make public commitments, which we cautioned against.
 20. In terms of **supporting capacity-building for SME intermediary organisations** to improve CSR advice for SMEs, actions stemming from the strategy have unfortunately been minimal. The networking event organised for people and organisations that advise SMEs on CSR was useful, however we believe that much more can be done in this area. For example, the EU could usefully draw lessons from the project “Social Responsibility in SMEs” that was funded by the European Social Fund and enabled over 2000 SMEs in Germany to participate in CSR qualifying and training measures.



➤ Improving and tracking levels of trust in business

21. We remain concerned that the strategy concentrates on measures to repair an apparent lack of trust in business and much less on the positive role of business in society. By doing so, it indirectly strengthens a negative image of business. The CSR strategy should have been an opportunity to promote a more accurate and positive picture of business and its role in society.

22. We do however acknowledge that the **Eurobarometer Survey** undertaken as part of the implementation of the strategy attempted to look at both positive and negative perceptions of company actions. Opinion surveys have limitations, since they are subjective. This being said, it is important to note that according to this survey, a majority of Europeans think that the overall influence of companies on society is positive. It is unfortunate that this result was not communicated more widely, as it could have helped the EU in pushing a more positive message about business. It is also worth noting that according to the survey, citizens in the rest of the world perceive the influence of companies on society more positively than citizens in the EU. This seems to be an anomaly considering the much higher level of regulation on business and protection of workers in Europe. This shows that citizens' trust of business is not only based on real life experience, but also very much on individual perception, which is subject to many influences.

➤ Improving self- and co-regulation processes

23. We support the Commission's decision not to launch a code of good practice on self- and co-regulation in the area of CSR. We do not believe that specific criteria should be set for self- and co-regulation instruments, since it is the flexibility of such tools which makes them useful and attractive for business often in collaboration with their stakeholders. In this context, they should always be considered as an alternative option in an impact assessment. The development of principles in this area is more appropriate, as long as self-/co-regulation initiatives that follow these principles are not deemed more valuable than others. We believe that the community of practice can be a useful way for those engaged/wishing to engage in self-/co-regulation to exchange experiences and learn from each other.

➤ Enhancing market reward for CSR

24. As already stated, BUSINESSEUROPE does not believe that a compliance-driven or regulatory approach is appropriate to encourage company action in the area of CSR. We believe that the market reward for CSR is provided through the business opportunities, increased recognition and trust it generates and the fact it is increasingly seen not only as a competitive asset for companies, but also as a way to develop shared value.

25. Our overall assessment of the **reform of EU public procurement legislation** is mixed. Positively, there was no major overhaul of the legislation and the consideration of environmental and social aspects by contracting authorities when they award contracts remains voluntary. However, we are concerned that some of the new provisions may hamper competition for public procurement contracts across the internal market. This relates in particular to the possibility for contracting authorities to refer to social or environmental factors linked to the production



process in the technical specifications and in the award criteria for contracts. BUSINESSEUROPE fears that in practice this will lead to the link with the subject matter of the contract being lost. This could open up opportunities to steer contracts to favoured - e.g. local – suppliers, thereby threatening the principle of non-discrimination and competition in the internal market.

26. The issue of **sustainable responsible investment** has gained in prominence over the last few years. This reflects the growing trend for companies to integrate social and environmental information into investment decisions, as well as the attention given to the topic by the European Commission and stakeholders. This issue is also linked to broader discussions on the need for a long-term perspective regarding financing of the economy and the role of financial market actors as long-term investors. At the same time, it is not clear to what extent and in what circumstances the benefits for companies outweigh the additional obligations and administrative burdens that disclosure of such information places on them.

➤ Improving company disclosure of social and environmental information

27. BUSINESSEUROPE is not in favour of the recently agreed amendment to the Accounting directive, which introduces mandatory disclosure of non-financial information for certain companies. We do however acknowledge that some improvements have been made to the Commission's original proposal, particularly regarding the more restricted scope of the directive. We continue to believe that binding EU level requirements are not appropriate as a steadily growing number of companies report on CSR, sustainability or corporate responsibility. The KPMG 2013 survey of corporate responsibility reporting² highlights that almost all the world's largest companies report on corporate responsibility. Between 2011 and 2013 the share of the 100 largest companies in each European country which report increased from 71 to 73%. In national transposition of the directive, it will be important to provide flexibility for companies, including leaving it to them to define their own Key Performance Indicators. It will also be important to facilitate capacity-building to ensure that implementation does not become a tick-box exercise for companies.

➤ Better aligning European and global approaches to CSR

28. A sustainability chapter is part of the new generation of **EU Free Trade Agreements**. We see this as a positive way of addressing CSR in dialogue with EU partner countries and regions. In implementing such actions or going further in the scope of the sustainability chapter, we should avoid the risks of making trade agreements difficult to conclude or deterring and possibly excluding European companies from trade activities. This would be detrimental not only to EU business but could also jeopardise the economic development of many developing countries.

29. We remain positive regarding the Commission's intention to take into account the many **international CSR frameworks** that exist, when developing EU CSR policy. As part of this, the Commission aimed through the strategy to monitor the

² <http://www.kpmg.com/global/en/issuesandinsights/articlespublications/corporate-responsibility/pages/corporate-responsibility-reporting-survey-2013.aspx>



commitments made by certain European enterprises to take account of internationally recognised CSR principles and guidelines and invited all large European enterprises to make a commitment to take account of at least one of these international frameworks. Given that the EU cannot oblige companies to commit to these instruments, we welcome the fact that the Commission's action was restricted to an analysis of the references that 200 randomly selected large enterprises make to certain CSR guidelines and principles. This analysis clearly highlights the diversity in the frameworks that companies use, depending for example on their size, sector and national preferences. This reinforces our point that it is for each company to choose which frameworks are most relevant and useful for their specific context. Notwithstanding the usefulness of this analysis, we believe that the fact that other actions were not taken in this area confirms the lack of relevance and added value of including such an 'invitation' to companies in the EU strategy. This was also due to a lack of ownership of the strategy outside the EU institutions.

30. The **UN Guiding Principles on Business and Human Rights** (UNGPs) are now in the process of being implemented and it is important that any action at national, EU or international level does not run counter to the principles or jeopardize their implementation. In this context, we are very concerned about the resolution by the UN Human Rights Council to start an open-ended intergovernmental process for a new international legally binding treaty on business and human rights. The unanimous adoption of a resolution by the UN Human Rights Council, prolonging the mandate of the UN Working Group on Business and Human Rights for three more years, underlines that the UN Guiding Principles remain the authoritative global reference in this field. The task is now to implement them.
31. It is important to recall, in line with the UNGPs, that states have the duty to protect and fulfil human rights, including implementing and enforcing legislation, whereas companies' responsibility is to respect human rights. The development of CSR approaches is a dynamic process, where the concept of CSR itself is evolving and in this context, more companies are choosing to take action in the area of human rights. However, this is not in all cases part of CSR approaches to the same extent as other core issues such as environment, social and employee matters. A particularly complex and challenging task for companies is dealing with global supply chains, in particular where they operate in countries in which fundamental human rights legislation is not implemented or enforced. Companies increasingly cooperate with their suppliers as part of their CSR strategies. However, we caution against making companies liable for the actions of their suppliers or subcontractors. Such a requirement would be hugely complex and costly and in many cases not possible for companies to comply with.
32. The guidance developed for SMEs on the UNGPs may be useful for some SMEs and/or intermediary organisations. In particular, it explains in a simple way the UNGPs six basic steps for business to promote respect for human rights, giving examples of how businesses can achieve each step. It also highlights the important difference between the obligations of the state and companies in implementing the guidelines. However, there is too much focus on potential violations; the positive role that business plays in raising local standards when offering people the possibility of employment, an income, and potential for professional and personal development, should have been acknowledged more strongly.



33. BUSINESSEUROPE was not directly involved in the development of Human Rights Guidance for the three industrial sectors – Employment and recruitment agencies, ICT, and oil and gas. We believe that the sectors involved are best placed to comment on this specific action.
34. The Commission is still due to publish a Staff Working Document regarding the UNGPs. In doing so, it should not duplicate the work of international organisations in promoting or providing guidance on implementation of the UNGPs. A plethora of guidance documents, in particular if they are inconsistent, should also be avoided as this would only create confusion. This issue should be dealt with at the international level, where there is already a specific working group responsible for promoting the guiding principles, and at national level, where member states are now developing action plans. In principle we support the more practical approach of the Commission to publish a Staff Working Document on this topic, rather than a political document such as a communication. This is more in line with the Commission's competences in this area, i.e. to provide analysis of existing EU and member state policies on human rights and a platform for peer to peer review between member states.