



Ms Elżbieta Bieńkowska
Commissioner for Internal Market,
Industry, Entrepreneurship and SMEs
Rue de la Loi 200
BE-1040 Brussels
BELGIUM

11 March 2015

Dear Commissioner, *Dear Ms. Bieńkowska,*

It took nearly 40 years for Europe to create a Unitary Patent. If the Commission, Member States and the European Parliament finally succeeded at the end of 2012, it was because competitiveness, growth and job creation in Europe were their common goal.

We are now at a crucial time when Member States will decide on the cost of the Unitary Patent.

The cost of intellectual property protection has been identified as one of the main hindrances to the EU's capacity to innovate. It is now that we will see whether the Unitary Patent will have the ability to boost EU's innovation and the competitiveness of European businesses.

BUSINESSEUROPE has taken note of the recently published proposals by the European Patent Office on the renewal fees for the Unitary Patent.

BUSINESSEUROPE is seriously concerned about the current proposals because of the following reasons¹.

- The cost attractiveness of the Unitary Patent is put into question by much higher renewal fees in the early years than anticipated by the European legislators when it was adopted. The TOP4 presented in the proposals is not a real TOP4 as our calculations in the annex indicate.
- Incentives for SMEs are always welcome but it is key for the success of the Unitary Patent that the overall level of fees remains attractive for all companies.

¹ This is not supported by CEOE, the Confederation of Employers and Industries of Spain.



- We fully acknowledge and support the need to ensure that the balance of the European Patent Office budget will not be disrupted by the uptake of the Unitary Patent as a source of renewal fee revenue. At the same time, the cost of the Unitary Patent must be set at a level, which will preserve its competitiveness objective.
- BUSINESSEUROPE has presented a proposal for a level of fees based on a true TOP4 at the time the level is first set combined with a modified progressivity in the late years. This proposal constitutes what companies would consider appropriate for the Unitary Patent to be attractive.
- These early years of the system should be used to assess the true financial effect of reasonably attractive renewal fees for the Unitary Patent. A revision clause would enable potential adjustments, e.g. five years after the entry into force of the system. It will always be more difficult to decrease high fees than the opposite.

European business believes it is now that the right political decisions have to be made to ensure that the original objective of enhancing the competitiveness of Europe is not lost. We urge you to defend the interests of the users of the system. No other considerations should be allowed today to jeopardise this major contribution to the industrial renaissance of Europe.

A similar letter is being sent to Vice-President Katainen.

Yours sincerely,

Markus J. Beyrer