

Ms Elżbieta Bieńkowska  
Member of the European Commission

Rue de la Loi 200  
B-1049 Brussels

25 April 2018

Dear Commissioner, *Dear Ms Bieńkowska,*

Re: Revision of the EU SME definition

On 7 November 2017, I sent you an initial BusinessEurope contribution on the revision of the EU SME definition. In the context of the Commission public consultation on this issue, I am pleased to send you attached more detailed comments on making the EU SME definition fit for SMEs in need of venture capital and other sources of growth finance.

The key recommendations presented in our two contributions can be summarized as follows.

To start with, BusinessEurope holds the very broad consensus view that the basic structure of the 2003 definition should not be fundamentally modified, except possibly for increasing financial parameters to account for inflation since 2003.

However, technical provisions in the 2003 SME definition artificially deprive some companies from the SME status, which generates detrimental consequences for them. Our members are unanimous to insist that this should be remedied.

For example, an SME will typically lose its SME status when it gets financed by a venture capital fund taking a majority participation in it. As a consequence, this SME can not apply anymore for attractive national or EU financial instruments making reference to the EU SME definition. This can affect the SME growth prospects. For BusinessEurope, the solution lies in amending Article 3 of the EU SME definition in such a way that an SME is also deemed to be autonomous when a venture capital fund holds 50% or more of the capital or voting rights. The attached BusinessEurope comments give the full background to this recommendation.

This amendment would move away the erroneous view that, when an SME is financed by a venture capital fund taking a majority participation in it, it becomes part of a larger group and is integrated in a common group strategy.



A majority participation by a venture capital fund, combined with or followed by use of EU or national SME-g geared financial instruments is sometimes the only path that can get an innovative SME out of the "Valley of Death" and put it on a sustained high growth trajectory.

Under the current Commission interpretation of article 6 of the definition, SMEs can also lose their SME status when they get connected to particular chains of economic players, mixing "partner" and "linked" enterprises. This has been seen in the K- Chimica (case T-675/2013) and Crosfield cases (case T-587/14). In these cases, the General Court stated that the ECHA and the Commission interpretation of article 6 was wrong.

BusinessEurope therefore asks clarifying article 6 in line with the decisions of the General Court, putting a clear limit to the upward investigations and economic calculations that an SME has to do with regard to its indirect "partner" and "linked" companies in order to get its SME status firmly established. Amending the SME definition in that way would in particular ensure that SMEs concerned stop being deprived from the benefit of SME-g geared regulatory conditions.

I thank you in advance for the consideration that you will give to our recommendations. We really hope that the revised SME definition will not leave on the side an important number of SMEs that make a dynamic contribution in value chains and in the innovation area.

I am sending a similar letter to Vice-President Dombrovskis, to Vice-President Katainen, to Mrs Ann Mettler, Head of the European Political Strategy Center and Mr Martin Selmayr, Secretary-General.

Yours sincerely,

Markus J. Beyrer