

Ms MarianneThyssenCommissioner for Employment, Social Affairs, Skills,
and Labour Mobility

Rue de la Loi 200

1049 Brussels

Belgium

26 February 2018

Dear Commissioner,



Following the social partners' consultations the Commission published on 21 December 2017 a proposal for a Directive on transparent and predictable working conditions. I am pleased to send you herewith our position on this proposal.

As you know, BusinessEurope was ready to negotiate a revision of the written statement directive, focused on modernising and adapting it in line with the needs of companies and their employees and of course respecting the principles of subsidiarity and proportionality.

We acknowledge your efforts to balance the proposal, but the Commission's proposal does unfortunately not deliver on this. The proposal will create unnecessary costs, rigidity and fundamental legal uncertainty for companies and employees. Key aspects of the proposal do not respect the principles of subsidiarity and proportionality.

The European business community is in particular concerned about the proposal to include a broad definition of a 'worker'. This definition would create fundamental legal uncertainty. It could lead to a customer relationship being requalified into an employment relationship, by covering what many Member States rightly consider today as self-employed consultants or freelancers. This goes against the need to foster entrepreneurship across Europe. The proposed definition would also not allow for adaptation to future developments. This would hamper Member States' and social partners' efforts over the years to adapt definitions of work/employment and self-employment in law, collective agreements and jurisprudence to take into account new forms of work and changes in national labour law and social security.

The definition of worker/employee should therefore be handled through cooperation between Member States and social partners, keeping away from one-size-fits-all solutions that would prove counter-productive in practice.

Furthermore, the proposed new minimum rights will introduce restrictions for often high-paid, high-skilled key staff for companies harming the competitiveness of companies. They address issues that are best dealt with at national, sectoral or company levels, including in collective agreements.

As recognised after the Goteborg Summit held last 17 November, the European semester process is the main framework for taking the discussions on the social dimension forward. We therefore encourage the Commission and the Council to only focus on a genuine modernisation of the directive, and deal with labour markets challenges such as labour law adaptations to new forms of work as part of the European semester process.

Yours sincerely,


Markus J. Beyrer