



To: Members and Substitutes of the Internal Market and Consumer Protection Committee (IMCO) of the European Parliament

Cc: Members and Substitutes of the Employment and Social Affairs Committee (EMPL) of the European Parliament

20 February 2013

Dear Member of the European Parliament,

On 21 February 2013, you will vote on the opinion regarding the proposal for a Posting of Workers Enforcement Directive.

With this letter, we encourage you to support amendments to delete Article 12 establishing joint and several liability in subcontracting. Moreover, we stress the need to find a balanced solution on control measures on article 9.

On article 12 on joint and several liability

Subcontracting is a legally sound business practice that brings significant economic benefits, and is crucial for the development of small and medium size enterprises. This concerns in particular EU SMEs in the construction sector, 36% of which are currently engaged as subcontractors.

Establishing joint and several liability in the context of posting of workers directive would increase costs and risks associated with cross-border subcontracting, breaking the existing level playing field between companies operating in the EU single market. This would clearly be at odds with EU efforts, including the work of this Committee, to further develop the single market in services.

On the amendments proposing an EU set of rules for a voluntary introduction of joint and several liability, it would be unacceptable that this would prescribe a specific system to be applied by all Member States opting for joint and several liability in the context of posting of workers. Each Member State should be free to decide and reconsider if and in what form to introduce a liability system, taking into account their labour market context and the nature and scale of the problems encountered.



On article 9 on control measures

Cross-border provision of services requires national control measures to carry out inspections and supervisory tasks.

At the same time, these measures must be proportionate and in compliance with the Treaty in order not to hinder cross-border service provision. In principle, that points to defining in the enforcement directive an exhaustive list of allowed national measures. However, in practice, drawing up such a list is difficult given the diversity of existing national control measures.

What matters is that the enforcement directive gives Member States sufficient scope to put in place proportionate control measures that allow them to carry out control duties effectively.

Yours sincerely,

Markus J. Beyrer