

UNICE

THE VOICE OF BUSINESS IN EUROPE

Ms Mary HARNEY
Tánaiste and Minister for Enterprises, Trade and
Employment
Kildare Street
Dublin, 2
Ireland

11 May 2004

THE PRESIDENT

Competitiveness Council on 17 and 18 May 2004

Dear President,

In view of the next Competitiveness Council on 17 and 18 May, I would like to reiterate the strong support of the European business community to your council formation.

At the informal Competitiveness Council meeting at Dromoland Castle, which UNICE Secretary General, Mr Philippe de Buck, had the pleasure to attend, there was a high level of consensus among ministers on the measures necessary to boost the competitiveness of Europe: a better regulatory framework for companies and more investment in business-related R&D and education. Therefore no further analyses on the causes of the weak economic performance in Europe are needed, but the forceful implementation of structural reform measures as already agreed on in the Lisbon Strategy agenda. The Competitiveness Council needs to play a vital role in that implementation process – first and foremost by “competitiveness-proofing” key proposals across other council formations.

This is all the more important since “de-industrialisation” in terms of relocation of high-productivity jobs and R&D to other parts of the world is becoming a real threat to Europe’s industrial base. In this context we welcome the Commission’s communication “Fostering structural change: an industrial policy for an enlarged Europe”. In this communication the Commission also lays out its plans to improve legislation. European business recommends creation of an independent body in charge of impact assessment, which is to be under the political responsibility of the President of the European Commission. This body should be able to set the parameters that have to be taken into account to assess the consequences of rules on competitiveness.

On REACH, UNICE wants to reiterate that the current volume-based approach needs to shift towards a system allowing prioritisation based on a risk-based approach. Furthermore it is crucial that the practical consequences of REACH for all industrial activities are completely catalogued and fully understood. In particular, it is essential to evaluate the sectoral economic impacts of REACH and the effects on innovation in Europe. In this context, UNICE is committed to further work on impact assessment which has been launched together with other stakeholders and the European Commission. European business strongly believes that the conclusions of this work, which will be available by November 2004, must be taken into account when decisions are taken on the subject.

.../2

As regards the political agreement you intend to reach on the directive on unfair commercial practices, UNICE would like to stress that a strong internal market clause as proposed in article 4 of the Commission's initial text is essential. If the directive is to benefit European consumers and companies, national regulatory discrepancies, which are holding up the internal market and chipping away at consumer and business trust should be eliminated. UNICE agrees with the Commission that the best way to do it is through maximum harmonisation and the use of the mutual recognition principle. UNICE urges Ministers to support and not to allow any derogations from those principles.

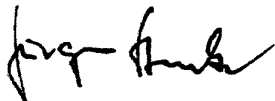
In addition, UNICE believes that for the proper implementation of the directive, it is necessary that the concept of average consumer, as set out by the European Court of Justice, is kept in the list of definitions.

Finally, even though UNICE appreciates the continuing efforts of the Irish Presidency to break the impasse on the Community Patent negotiations, it regrets to note that the current proposals on the table still do not correspond to the needs of users. UNICE wants to reiterate users' demands that there should be only one text for legal purposes, namely the text in the language of the grant of the patent. Translations of the patent claims should have no legal effect but remain informative.

UNICE hopes that our concerns will be taken account of in the Council discussions next week. Please find also a document in annex for more information on other issues on the Council agenda.

Please let me also take this opportunity to thank you and your team of officials, both for your tremendous efforts to advance the competitiveness agenda during the Irish Presidency, and for actively maintaining close relations with the business community throughout your Presidency of the Competitiveness Council.

Yours sincerely,



Jürgen Strube

Enclosure

11 May 2004

Annex

**UNICE positions on further issues to be discussed at the
Competitiveness Council meeting on 17-18 May 2004**

- **Regulation on consumer protection co-operation**

UNICE welcomes the amendments to the Commission's proposal which strike a fairer balance between the powers of the authorities and the rights of companies. However, UNICE is still worried about justification of some of the powers of the competent authorities and the impact on the national judiciary systems. UNICE calls on the Ministers to take full account of the proportionality and subsidiarity principles when discussing these issues.

UNICE also regrets the decision to create a Regulatory Committee and urges Ministers to clarify its role and competences, and to ensure full transparency of its discussions and procedures. Adequate involvement of representative stakeholders should also be foreseen.

- **Regulation on sales promotion in the Internal Market**

Companies are eager to see a genuine internal market in the field of sales promotion and believe that the regulation is the most suitable means. UNICE has constantly supported the internal market objective of the regulation and the full respect of the mutual recognition principle without any sectoral or temporal derogation.

UNICE would have preferred the regulation to be the uniform and common rule at Community level from its adoption. Yet, the proposed time derogation clause appears to be an acceptable compromise provided it is not too lengthy and facilitates adoption of the regulation. Against this background, UNICE urges the Competitiveness Council to strive to make progress on the proposed regulation without further delay.

- **Directive on patentability of computer-implemented inventions**

UNICE urges the Competitiveness Council to adopt a common position on the proposed directive on the patentability of computer-implemented inventions, on the basis of the consolidated compromise text proposed by the Irish Presidency, in accordance with current European patent practice and with the EU's obligations under the TRIPs agreement.

- **Community Customs Code**

UNICE fully supports efforts to increase security in customs controls and is ready to participate in initiatives taken with that aim. It believes, however, that security and trade facilitation should be mutually supportive. UNICE is concerned about the proposal for a summary declaration prior to any import into and export from the Community customs territory, which could have considerable consequences for organisation of the entire logistics chain. At the same time, UNICE also looks for recognition of the status of authorised operators in all EU Member States in order for them to benefit from facilitations irrespective of the state in which the customs office of entry or exit is situated.

- **Directive on services**

UNICE welcomes the Commission's intention to promote cross-border trade and establishment in the Internal Market for services. It is of great importance to Europe's enterprises to stimulate productivity growth in services industries. UNICE will present a detailed position paper on this directive at a later stage.

- **European Consumer Day**

UNICE would like to call for greater efforts to allow more business involvement in the events and discussions on the occasion of the European Consumer Day which often deal with matters that also affect companies. This will contribute to the consolidation of a culture of dialogue at EU level between consumers and business.