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## **BUSINESSEUROPE PRIORITIES FOR THE COMPETITIVENESS COUNCIL UNDER THE FRENCH PRESIDENCY**

### **A stronger Competitiveness Council:**

- Leadership with respect to other Council formations to guarantee policy coordination
- More attention to energy and climate change
- Pro-active monitoring of competitiveness policies

- The Competitiveness Council is a central element of the Lisbon strategy but its profile and coordination role are not up to expectations.
- It should assume leadership with respect to other Council formations to guarantee the appropriate coordination of EU policies affecting European competitiveness, particularly those linked to SME development, research, innovation and internal market.
- Energy and climate change policies deserve more attention in Council meetings.
- The Competitiveness Council should monitor pro-actively and hold in-depth debates on EU microeconomic and industrial policies that create the conditions for enterprise development.

### **Energy and climate change policies deserve the Competitiveness Council's active involvement:**

- Any solution should safeguard Europe's industrial competitiveness in global markets
- Mitigate cost incurred by European energy-intensive industries for greenhouse gas reduction and renewable energy policies
- Free allocation of emission allowances according to benchmarking criteria
- Do not include import and exports in the Emission Trading Scheme (ETS)

- The EU energy and climate policy launched in 2007 contains a strong competitiveness dimension. The most important current legislative dossier in terms of competitiveness is the review of the Emission Trading Scheme (ETS).
- BUSINESSEUROPE supports the initiative of the French Minister of the Economy as well as six other members of the Competitiveness Council to ensure that this Council formation is more closely involved in the legislative discussion on the review of the Emission Trading Scheme.<sup>1</sup> In particular, criteria should be established as soon as possible for free allocation of emission allowances based on benchmarking criteria. In addition, the possibilities for companies which fall

<sup>1</sup> Letter signed by seven economy ministers and addressed on 15 February 2008 to Mr Vizjak, President of the Competitiveness Council under the Slovenian Presidency, and European Commission Vice-President Mr Verheugen.

within the scope of the ETS to comply with their ETS obligations by using credits from emissions reduced outside the EU (under “Clean Development Mechanism” and the “Joint Implementation”) should be enhanced.

- BUSINESSEUROPE is not in favour of protecting Europe’s competitiveness by including imports and exports in the ETS, because this might lead to retaliatory measures from other economic regions.
- The Competitiveness Council should take a comprehensive view on the cost incurred by European industry for the greenhouse gas reduction goals as well as for the goals to increase the share of renewable energy sources by 2020. The expected massive cost increases of electricity and direct energy sources like biomass must be mitigated.

**The French Presidency should be vigilant regarding the good functioning of the Internal Market**

**Single Market Review Package:**

- National governments to take up their responsibilities and put in place resources
- Monitor enforcement of legislation and standards
- Impact assessments, a “Single Market compatibility test” and benchmarks of international standards
- Better communication, consultation with stakeholders and legislative coordination
- Member States and European Commission to define a follow-up action programme

**Transposition of the Services Directive:**

- Timely and correct national transposition and implementation is a top priority
- Administrative simplification in collaboration with the private sector

**Consumer protection policy:**

- It must contribute to the well functioning of the Single Market and strike a fair balance between an adequate level of consumer protection and competitiveness of companies
- Revision of the EU consumer *acquis* and action on national contract laws should not place more burden on companies;
- Collective redress including damage claims for breaches for consumer rights and competition law must be treated with extreme care

**Single Market Review Package**

- A well functioning, competitive and innovation-friendly Single Market is essential for Europe’s future. However, there are still many remaining barriers that represent in total an unfulfilled economic potential of 275 to 350 billion euros.<sup>2</sup>
- The Commission’s Single Market Review Package provides a good basis but needs the ability and the ambition of national governments to take up their responsibilities and put in place the necessary resources.
- Following the conclusions of the Competitiveness Council on 25 February 2008 on the Single Market Review, BUSINESSEUROPE considers that the French

<sup>2</sup> BUSINESSEUROPE calculations based on the European Commission report “Steps towards a deeper economic integration: the Internal Market in the 21st century”.

Presidency should work closely with the Czech Presidency, which will be in charge of reviewing progress on the internal market next year before the Spring European Council, and concentrate on:

- Correct and uniform enforcement of existing legislation and standards;
  - Systematic impact assessment which includes a “Single Market compatibility test” and benchmarks of international standards. This should be coupled with better communication and consultation of representative stakeholders;
  - Legislative coherence: new regulatory initiatives, particularly in the fields of energy, environment or social and consumer protection must not undermine the functioning of the Single Market or the competitiveness of European companies.
- In this respect, business urges Member States to define together with the Commission a follow-up action programme to realise these objectives, specifying levels of competence, tasks, precise timelines and targets.

#### **Transposition of the Services Directive**

- Timely and correct national transposition and implementation of the Services Directive must continue to be a top priority. Only two years are left for transposition and Member States still have a lot of work to do.
- National governments should cooperate closely with the private sector to move forward with genuine administrative simplification, creation of effective points of single contact which provide information and facilitate completion of formalities, effective enforcement through better administrative cooperation and implementation of interoperable electronic procedures.

#### **Consumer protection policy**

- It must contribute to well-functioning common market that is beneficial to both consumers and business. A fair balance between an adequate level of consumer protection and competitiveness of companies must be sought.
- Removal of barriers which still prevent business and consumers from buying or selling across national borders should remain the main objective.
- We are concerned about the following initiatives:
  - **Revision of the EU consumer *acquis***: the forthcoming legislative proposal on consumer contracts should provide legal certainty and should not result in more burdens on companies. The Council should ensure that there are no contradictions between proposals particularly with Community rules on the applicable law governing contractual obligations (Rome I), e-commerce or financial services.
  - **Harmonisation of national contract laws**: this project lacks clear objectives and priorities. BUSINESSEUROPE does not object to the idea of creating a Common Frame of Reference in European Contract Law setting out principles, definitions and model rules of contract law. But we firmly oppose the idea of developing a European civil code or any binding instrument.
  - **Collective redress**: business strongly supports effective and easy access to justice for EU consumers with adequate redress mechanisms. But the answer does not lie in promoting judicial litigation but rather in reinforcing existing mechanisms, particularly non-judicial mechanisms such as

arbitration, mediation, complaint-handling and information schemes and improve existing enforcement mechanisms.

**A European Small Business Act that lifts the obstacles to SME development:**

- facilitate SMEs' development throughout their life cycle
- Accelerate results of better regulation initiatives on the ground
- implement the "think-small-first" principle, rather than promoting exemption schemes
- Improve access to finance, qualified staff and public procurement

- BUSINESSEUROPE welcomes the idea of a European Small Business Act which can give a new momentum to Europe's existing SME policies.
- European SMEs today face many obstacles:
  - red tape and regulatory compliance costs, which represent a particular burden for SMEs.
  - high taxation and tax compliance costs
  - inflexible labour markets
  - lack of skilled workers
  - difficult access to finance
  - remaining internal market barriers hindering the internationalisation of SMEs.
- Regarding the French Presidency's priorities for the SBA, BUSINESSEUROPE highlights that it is necessary to:
  1. encourage SMEs throughout their whole life cycle.
  2. put into effect the Better Regulation strategy by cutting red tape (such as statistical requirements) so that it can be felt on the ground.
  3. Develop integrated policies that take into account SMEs' needs rather than preferential schemes for them.
  4. truly implement the "think-small-first" principle in EU and national law-making instead of creating general regulatory exemptions for SMEs.
  5. promote training programmes that can help SMEs access a better trained workforce.

SMEs and public procurement

- BUSINESSEUROPE believes it is crucial to foster SMEs' access to public procurement in order to establish a level playing-field with big companies and in respect of existing rules.
- Smaller contracts, centralised tender information, lighter financial guarantees and more simple information requirements are ways to achieve this.
- Providing "privileged access" through, for example, quotas is not the way to proceed. It will not help SMEs in the long run as it would make them dependent on ring-fenced procurement contracts rather than encouraging them to become both competitive and the best at what they do.

### **Foster Europe's competitiveness**

#### **Better regulation is crucial to reduce the burden on companies:**

- Simplification proposals should be a priority for the French Presidency
- Amendments to EU legislative proposals should go through careful impact assessments

#### **External dimension: counterfeiting and piracy problems should be addressed globally:**

- Completion of the legal framework at EU level
- Increased international cooperation, bilateral intellectual property dialogues with China, Russia and other regions
- Business involvement in the process of negotiating the Counterfeiting Trade Agreement

#### **Better regulation**

- The French Presidency will have to deal with a number of simplification proposals, both part of the rolling programme and part of the administrative burden reduction project (fast-track actions).
- These simplification proposals should be treated as a priority by the French Presidency and hence by the Competitiveness Council, without making amendments that would reduce the simplification objective or add new burdens.
- BUSINESSEUROPE urges the French Presidency to carry out impact assessments on all significant amendments to Commission proposals.

#### **Counterfeiting and piracy**

- Effectively combating counterfeiting and piracy is a key priority.
- BUSINESSEUROPE is willing to support the French Presidency with its efforts. Completion of the legal framework at EU level (harmonisation of criminal sanctions) remains an essential condition.
- Increased international cooperation is necessary to address the problem in a global context. The bilateral IP dialogues conducted by the European Commission with China, Russia and other regions are useful instruments but they need to deliver concrete results. Also, the new proposed Anti-Counterfeiting Trade Agreement is a positive step in the right direction and European business should be involved in the negotiation process.

#### **A European policy on clusters: The Competitiveness Council should focus first on:**

- Framework conditions for companies' growth such as a fully functional internal market and sound intellectual property right (IPR) practices
- Good coordination of EU policies and smart use of cohesion funds
- Supporting companies' efforts through education and training, infrastructures and financial incentives

- The conclusions of the December 2006 Council highlighted clusters as an effective tool to strengthen regional innovation. We welcome the intention of developing a

European policy on clusters, which should take into account the conclusions of the European Presidential Conference on Clusters in January 2008.

- Public authorities can play a very important role by complementing companies' efforts in clusters, by improving education and training, providing infrastructures and even financial incentives.
- However, in order to develop a successful cluster policy, the obstacles that impede companies grow should be eliminated. We need a fully functioning internal market, IPR practices that do not discourage trans-national cooperation, and the list goes on.
- EU funds must be effectively coordinated which requires the close collaboration among those in charge of managing significant EU funding.
- Cluster initiatives must be embedded in the regional strategies and the cohesion policy funds can co-finance investment in activities open to innovation. The European Regional Development Fund (ERDF) can support the interconnectivity between enterprises, universities and research centres through infrastructures and access to ICT. The European Social Fund (ESF) may support the update of skills, which is essential as clusters puts a diversity of professions together to work in new ways.

**Protection of intellectual property rights:**

- Improve the patent system in Europe in terms of costs, quality and legal certainty
- Renew efforts in setting up a truly unitary Community Patent

- 2008 will provide a small window of opportunity to make substantive progress. BUSINESSEUROPE will support the efforts of the French presidency to reach agreement on the patent dossier by the second half of 2008.
- Any solution on a European patent litigation system must bring real improvements for companies compared with the current situation.
- The highest quality, cost-effectiveness, efficiency, legal certainty and reliability are needed.
- A truly unitary Community Patent is necessary to boost Europe's innovation capacity. It must in any case fully meet users' needs in terms of costs, quality and legal certainty.

**A sustainable industrial policy that preserves competitiveness:**

- Ensure an integrated approach that encompasses all three pillars of sustainability (environment, economic and social)
- Encourage discussions at the global level to keep a level playing-field for EU industries

- As a contribution to its ambitious energy and climate change policy objectives, the EU is setting up in 2008 an integrated industrial and sustainable consumption and production strategy. It aims at establishing market conditions that create demand for more sustainable products, technologies and services.
- BUSINESSEUROPE stresses the importance of taking into account the environmental as well as the economic and social dimensions of sustainability, and the whole life cycle approach of products and technologies. In addition,

BUSINESSEUROPE recommends that these matters should preferably be discussed and harmonised at global level for keeping a level playing-field for EU industries competing in international markets.

#### **Reinforce Europe's research and innovation strategies**

- A successful European Research Area should look at enterprises' needs – proper knowledge transfer between public research institutions and industry is crucial
- The European Institute of Technology need a guarantee financial basis and provide challenges and conditions to attract participation of business and researchers – reforms on higher education are very important.
- No more delays in delivery of the innovation agenda agreed in December 2006, which deserves higher priority
- The Joint Technology Initiatives (JTIs) should be in place and running as soon as possible
- Appropriate use of EU funds for innovation

#### **The European Research Area (ERA)**

- The ERA is a crucial goal for business and one that is fully consistent with the Lisbon objectives. The needs of industry as an integrated part of society must be taken into account if the ERA is actually to be realised.
- The EU's research and innovation capacity depends greatly on a fruitful knowledge transfer between public research institutions and industry. The Commission's recent communication on this subject is a positive contribution to bring forward the debate. We call on the Council to devote appropriate attention, budgetary conditions and time to this important issue. It is a necessary precondition for the successful functioning of the ERA.

#### **Innovation**

- At its meeting in December 2006 the Competitiveness Council stressed that efficient support for innovation was an integral part of the Lisbon Process. Joint action at the European level was stressed as being vital. The Council defined nine strategic priorities for action at EU level, later confirmed by the European Council.
- We are concerned with the delays in boosting Europe's innovative capacity. Any delay means that we would not be able to meet the ambitious targets in response to challenges that Europe is increasingly facing (climate change, energy dependency, etc.).
- The French Presidency should work on reinforcing Europe's innovation strategy, which deserves higher priority. Initiatives on lead markets, standardisation, clusters, innovation in services and on removing barrier to cross-border venture capital investments should be adopted without postponement.

#### **European Institute of Innovation and Technology**

- Strengthening knowledge transfer and fostering more effective cooperation between academia, research institutes and business is key to bridging the innovation gap that exists between Europe and its competitors. The European Institute of Technology (EIT) is one possible means of doing this. For it to truly contribute to bridging this gap it needs to create poles of excellence that directly contribute to more innovation and thereby more growth and jobs.

- The European Parliament approved in March 2008 the Council's common position on the establishment of the EIT. We would like to outline to the French Presidency that, in our view, EIT's viability depends on it complementing existing innovation, research and education efforts, assignment of significant amounts of public funding both in the initial start-up phase and during its later life, and developing clear linkages with the thematic priorities and strategic research agendas of the European Technology Platforms.
- For the EIT to be successful it will need to provide challenges and conditions that attract participation of business and researchers. A guaranteed financial basis for EIT, ensuring the success of investments is a precondition for companies to commit to specific knowledge and innovation communities. Reforms on higher education (including university reform) and lifelong learning should continue to receive proper attention.

#### **Joint Technology Initiatives**

- The Joint Technology Initiatives (JTIs) are a key element of the Seventh Research Framework Programme (FP7). We encourage the Council to stick to its intention to make them operation as early as possible. The JTIs are a key part of FP7's ultimate success. The sooner the JTIs are established and running the better for innovation in Europe.
- From a business and industry perspective it is very important that the JTIs become the public-private partnerships (PPPs) that FP7 intended them to be. The Council has approved the Commission's proposal that the JTIs should be set up under Community law as Community bodies while at the same time existing as real PPPs with a shared responsibility of enterprises in their joint management. This combination will be a complex undertaking but active participation of business in the JTIs is necessary so that they can evolve to become successful, workable examples of PPPs in the research, development and innovation domains.

#### **Good coordination of EU funds**

- The Council should ensure a better coordination for the period 2007-2013 between the Research Framework Programme (FP7), the Competitiveness and Innovation Programme (CIP) and the structural and cohesion funds. Effective coordination of these resources can play a decisive role in stimulating Europe's innovation performance.
- Effective spending can only be achieved if coordination between national and regional policy-makers and between regional authorities themselves works. Lack of a common strategic vision has in the past acted as an obstacle to the effective implementation of funds and has prevented projects from achieving a needed critical mass of finance or skills to be efficient. Regional and national authorities should also look to guarantee that the regulatory framework ensures innovation.



### **Company law also requires an active review**

#### **European private company statute:**

- should provide SMEs with a legal form suited to their specific needs and size
- help reduce companies' cross-border operation costs
- increase legal certainty

#### **Simplification of company law, auditing and accounting:**

- on a case-by-case basis through the revision of obsolete measures
- discussion on instruments that could improve business development

#### **European private company statute**

- BUSINESSEUROPE has for years been calling for a European Private Company Statute. Therefore, we welcome the Commission announcement that a legislative proposal on this issue is to be put forward by mid-2008.
- We strongly believe that this optional tool should provide SMEs with a legal form suited to their specific needs and size. A simplified common European legal form will help these companies to reduce the costs they currently incur when crossing borders, while gaining from increased legal certainty. This should also motivate SMEs to expand their businesses beyond national borders.

#### **Simplification**

- BUSINESSEUROPE believes that the simplification of company law, auditing and accounting should be pursued on a case-by-case basis through the revision of the obsolete measures. Scrapping some or all of the directives which mainly deal with domestic issues could put at risk the achievements of the internal market, given also the enlargement process and related need to create a common level playing-field in the area of company law.
- This exercise should also include a discussion on instruments that would improve the development of business such as the European private company statute.

## BUSINESSEUROPE PRIORITIES FOR THE TELECOMS COUNCIL UNDER THE FRENCH PRESIDENCY

### The review of the telecoms regulatory framework should pursue:

- Correct enforcement of existing rules
- Legal certainty
- Efficiency
- Competitiveness
- Investment in new infrastructures

BUSINESSEUROPE welcomes the proposal to update the EU framework for electronic communications. The Framework Review should focus on the contribution that the telecommunications and ICT sectors make to Europe's **competitiveness**, both within the Internal Market and globally. In practical terms, this means encouraging and facilitating:

- **investment** in deployment of new ICT infrastructures;
- **competition** and choice among innovative new services.

This will work most effectively in an Internal Market based on efficient and consistent application of rules, with regulation kept to the minimum necessary for competition in accordance with the principles of subsidiarity and proportionality.

The Commission proposals include several positive elements but also raise a number of issues where BUSINESSEUROPE has concerns.

### Regulatory remedies

- BUSINESSEUROPE believes that ex-ante access regulation kept to the minimum necessary, balancing the needs of investment in infrastructure and choice of supply.
- National regulators should have the primary role in assessing their national markets and considering appropriate regulatory responses. The first option should always be to ensure more effective and consistent implementation of existing remedies. National regulators should be able to consider applying stronger forms of non-discrimination *only* where there is clear evidence that the usual remedies have been applied and failed, and no other approach will guarantee competition.

### The European Electronic Communications Market Authority (EECMA)

- Businesses are currently facing different regulatory approaches in different countries. BUSINESSEUROPE approves the Commission proposal for further action in this area, but does not support the plan for a new European Authority for Telecommunications. The case is not made for such an additional authority.
- The existing European Regulators Group is an appropriate forum for considering the inconsistencies of current regulatory approaches. At the same time, the ERG is likely to have limited scope to require changes of behaviour by its own members, so some reform is needed.

### **Commission's powers**

- BUSINESSEUROPE does not see a justification for an unlimited extension of the Commission veto to cover all aspects of the regulatory remedies currently subject to notification. However, a selective extension, based on the Commission's right to prior notification and approval could be an effective solution in the context of a simplified/reduced notification procedure. Such an extension of Commission power would have to be part of the overall checks and balances in which the ERG should also have a more prominent role than at present

### **Spectrum management**

- The main principles of the Commission proposals regarding the "digital dividend" are acceptable. However, sufficient safeguards should exist to prevent harmful interference or distortion of competition and the principles of technology and service neutrality should also apply.

### **Security**

- Measures aimed at increasing business users' confidence in the security of networks are welcome. However, it is not clear that there are *de facto* market failures which would justify action beyond self-regulation or codes of conduct. BUSINESSEUROPE shares the aim of enhancing security as a means for increasing customers' confidence in electronic communications, but any proposed measures should be implemented in a manner which is proportionate and subject to proper impact and cost-benefit analysis

### **Privacy**

- BUSINESSEUROPE is concerned about the introduction of obligations to notify users and NRAs any loss/alteration or disclosure of personal data. It would lead to the need for costly systems to be established, potentially creating discriminatory conditions for smaller market entrants. Furthermore, the EU already has the Data Protection Directive and therefore we urge the Commission to stick to the fundamental principles enshrined therein rather than adding sector-specific obligations. BUSINESSEUROPE does not believe that these changes are needed in the Framework Review.