

20 October 2008

FOR THE ATTENTION OF THE MEMBERS OF THE EUROPEAN PARLIAMENT COMMITTEE  
ON LEGAL AFFAIRS

European Private Company Statute – MEP Lehne's draft report on the proposal for a  
regulation on the statute for a European Private Company

Dear Member of the European Parliament,

In view of the on-going discussion on the above-mentioned report by MEP Klaus-Heiner Lehne, we would like to share with you BUSINESSEUROPE's concerns and to ask you not to amend the Commission proposal regarding the cross-border element, minimum capital and employee participation. These elements are key to provide the companies we represent with a flexible optional tool adapted to their needs, and this is why we urge you not to amend the Commission's proposal on these aspects.

- Introducing a cross-border element would deprive about 90% of European SMEs that do not have cross-border activities from adopting the statute and would go against the Commission proposal's objective: enhance the competitiveness of SMEs by facilitating their establishment and operation in the Internal Market;
- The minimum capital of € 1 as proposed by the Commission should not be changed. The argument that the level of capital is the best guarantee for creditors is not valid nowadays and the Commission has put forward a number of other guarantees (solvency test, balance sheet requirement, etc.) that offer the necessary assurances to creditors. We urge you to keep this minimum capital as low as possible to make it attractive for SMEs and fully accessible to start-ups;
- We strongly believe that regarding employee participation, the rules concerning the information and consultation of employees and where applicable their involvement in the company's corporate bodies should be determined by the laws governing the SPE's registered office. Discussion on this matter must not lead to any change that will impose extra burdens or hinder the adoption of the statute.

We consider that if amendments to these elements are introduced, the overall objective of the European private company Statute will be jeopardised.



You will find at annex BUSINESSEUROPE's comments on the Commission proposal for ease of reference.

We thank you in advance for taking our comments into consideration and remain at your disposal should you wish to discuss this subject further.

Yours sincerely,

Jérôme P. Chauvin  
Director  
Legal Affairs Department  
Internal Market Department