



HEADLINES

Competitiveness Council Special

Government Ministers met in Brussels on the 17-18 May for a meeting of the Competitiveness Council, chaired by Mary Harney of the Irish Presidency. The agenda included several items of direct concern for SMEs.

EU / Competitiveness Council: Agreement reached on Unfair Commercial Practices Directive

The Council reached political agreement on the proposed Directive on unfair business-to-consumer commercial practices by qualified majority, following the adoption of the Ghilardotti report by the European Parliament during the plenary session in April.

The draft Directive contains both a general prohibition on unfair commercial practices and lists a series of misleading or aggressive practices which are to be deemed unfair in all circumstances. The intended result is that consumers are afforded the same degree of protection whether they shop locally or from a website based in another Member State. Political agreement was based on a Presidency compromise on the degree of harmonisation and the duration of exemptions. Consequently, the adopted text provides for 'full harmonisation', ensuring that the same rules apply in all Member States and obviating the need for a 'country of origin' (mutual recognition) clause. However, Member States will be permitted to apply more restrictive provisions for six years from the transposition of the Directive.

The Common Position will now be returned to the European Parliament for a second reading during the next parliamentary session, with agreement expected before the end of the year.

For more information [click here](#).

EU / Competitiveness Council: Deal on recognition of Professional Qualifications

The Council reached political agreement by qualified majority (with Germany and Greece voting against) on the proposal for a Directive on the recognition of professional qualifications. The purpose of the Directive is to make it easier for professionals to work abroad by deeming national qualifications as valid EU-wide.

The most contentious issue proved to be the provision of cross-border services on an occasional or temporary basis. Under the terms of the agreement, professionals providing cross-border services for the first time will be required to submit a written declaration containing details of insurance cover and other forms of professional liability cover. Member States will also be able to demand proof of nationality, evidence of professional qualifications, an attestation of legal establishment and proof that the provider has practiced the activity for at least two of the last ten years. This declaration will have to be renewed on an annual basis if the provider continues to provide occasional cross-border services.

ESBA Bulletin of 25 May 2004 – Volume 6 – Number 11

Once the text has been formally adopted, it will be returned to the European Parliament for a second reading.

For more information, see [here](#).

EU / Competitiveness Council: Ministers agree on timetable for regulatory reform

Following a public debate on several aspects of competitiveness, innovation and ‘Better Regulation’, the Competitiveness Council reached agreement on a timetable for the identification of priority areas for reducing the administrative and regulatory burden on industry and hence for boosting European competitiveness.

Ministers expressed their intention to reach agreement on a set of priorities by the end of the year and have called upon the Commission and national governments to play their part in removing unnecessary burdens on industry. To this end, the Commission has been asked to develop a method to assess administrative burdens on business and to report back before the European Council in November. National governments are requested to exploit e-government and one-stop shops, to stimulate private investment in research and to encourage industry to network with universities.

Further Council work on competitiveness, innovation and better regulation will now take place under the forthcoming Dutch presidency.

For more information: [click here](#).

EU / Competitiveness Council: Ministers address impact of REACH on SMEs

The Council held a policy debate on the proposals for the REACH system of chemical registration and the creation of a European Chemicals Agency. Drawing on the reports of the Ad-Hoc Working Group on Chemicals and presentations from Commissioners Wallström and Liikanen, the Council made several requests for further assessment of the proposals, with a view to balancing competitiveness concerns with the environmental and health objectives of the proposal.

The Council invited the UK to formally present its proposals for a system of ‘one substance, one registration’, which would help to alleviate the onerous registration requirements of the existing proposal. Moreover, with regard to the ‘duty of care’ imposed on industry by the proposals, the Council asked the Ad Hoc group to further investigate the impact on the competitiveness of SMEs and how the European Chemicals Agency could be mandated to simplify the administrative process.

The dossier will now be considered by the Environment Council on 28-29 June. Meanwhile, the Commission is committed to further assessing the impact of the proposals on the business supply chain, with particular reference to SMEs, as part of the latest impact assessment procedure.

For more information: [click here](#).

EU / Working Time: Commission calls on social partners to negotiate on working time

With a view to updating the existing Working Time Directive, the Commission has called upon workers’ and employers’ representatives to negotiate on several key issues, including the treatment of on-call time for health professionals, the application of the opt-out from the 48 week and the period of time over which the 48 hour average is calculated.

ESBA Bulletin of 25 May 2004 – Volume 6 – Number 11

The operation of the opt-out clause has proved particularly contentious, particularly given its widespread use in the United Kingdom and the resultant increase in working hours. However, the Commission has sought to keep its options open, merely identifying four possible approaches to the improvement of the opt-out, namely:

- Tighten the conditions under which individual workers can opt out, so as to ensure that it is genuinely voluntary;
- Allow derogations on the basis of collective agreements between employers and employees;
- Retain the possibility of an individual opt-out where no collective agreement is reached; or
- Remove the opt-out.

Social partners now have nine months to reach an agreement. If they fail to do so, the Commission will formulate a proposal for a revision of the Directive based on the above proposals and the results of the recent consultation.

[For more information.](#)

IN BRIEF

EU / Competitiveness Council: No agreement on Community Patent

Following more than a decade of political negotiations, the Council once again failed to reach agreement on the proposed Community patent. A Presidency compromise, requiring unanimous support, was rejected by Germany, France, Spain and Portugal, with Italy abstaining. The translation of patent claims has thus far proved to be an insurmountable obstacle and the matter will now be referred back to the European Council.

Meanwhile, agreement was reached on the proposed Directive on the patentability of computer-implemented inventions. Political agreement was reached by qualified majority on measures that provide for the patentability of computer-implemented inventions in cases where they are susceptible to industrial application and involve an inventive step.

For more information, [Click here.](#)

EU / Competitiveness Council: Agreement on consumer protection cooperation

The Competitiveness Council adopted without debate the proposed Regulation strengthening cooperation between consumer protection authorities.

The new law will help to prevent rogue traders from evading national authorities by targeting consumers in other Member States. Under the Regulation, a Community network of national authorities will be created, able to take coordinated action against traders who exploit the internal market and the internet in order to operate cross-border scams. National authorities will be able to ask their counterparts to investigate possible breaches of consumer law and to take action where necessary.

The European Parliament accepted the Council compromise at the end of April, hence the political process has now been completed and final adoption of the legislative text will take place later in the year.

[For more details, click here.](#)

ESBA Bulletin of 25 May 2004 – Volume 6 – Number 11

EU / Innovation: Innovation by SMEs lagging behind large enterprises

According to a survey recently conducted by Eurostat, only 39% of SMEs carried out innovative activities in the period 1998 – 2000, compared to 77% of large enterprises. The discrepancy was most conspicuous in France, Luxembourg, Spain, Italy, Austria and the Netherlands, where the share of large enterprises with innovative activity was more than twice that of SMEs. The survey also revealed that industrial enterprises were more likely to innovate than services industry (47% of firms surveyed, compared to 40%) and that 21% of enterprises believed that innovation costs were too high.

For more details, [click here](#).

EU / Enterprise: Commission announces results of MAP consultation

The initial results of the stakeholder consultation on the new Multiannual Enterprise Programme have been published by DG Enterprise. The Commission received 123 written contributions and 218 replies were received via the Internet survey by the deadline of the 10 May.

Detailed analysis of the responses will be published shortly and will contribute to the development of the MAP for 2006-10.

For more details, see [the Commission website](#).

CONSULTATIONS

DG Enterprise - A new Action Plan for innovation

Closing Date: 31 May 2004

An Action Plan is being developed to address the main issues that currently hamper innovation in European enterprises. It will concentrate on key-issues relevant for the innovation process in enterprises, placing the enterprise at the centre of innovation policy. Those key issues include the regulatory environment, the market in knowledge, and the financial and human resources that help or hinder innovation.

[More details](#).

DG Employment - European Works Council Directive

Closing Date: Not Announced

The European Commission is consulting workers' and employers' representatives on how European Works Councils can best respond to the challenges of a changing economic and social environment.

[More details](#).

DG Internal Market - Role of Independent Directors

Closing Date: 4 June 2004

The European Commission has launched a consultation on the role in listed companies of non-executive or supervisory directors, focusing in particular on those who may be considered as independent. Responses will be taken into account in the preparation of the Commission's forthcoming Recommendation to Member States on this issue, scheduled for autumn 2004. The

ESBA Bulletin of 25 May 2004 – Volume 6 – Number 11

consultation document covers, inter alia, the composition, role, operation and transparency of board committees, and the criteria according to which directors can be regarded as independent. The deadline for responses is 4 June 2004.

[More details.](#)

DG Internal Market - Services in the Internal Market

Closing Date: 20 June 2004

In order to address a number of serious obstacles to the freedom to provide services and the freedom of establishment in the internal market, the Commission is proposing to amend the existing Directive 98/34/EC to incorporate a broader range of services. The public consultation will form the basis for the impact assessment of a future proposal to this effect.

[More details.](#)

DG Internal Market - Public Procurement

Closing Date: 30 July 2004

On the basis of a Green Paper, the European Commission has launched a debate on the desirability of adapting the Community rules on public procurement and concessions to accommodate the development of public-private partnerships (PPPs). The main objective is to see whether it is necessary to improve the current rules in order to ensure that economic operators have access to PPPs under conditions of legal clarity and real competition.

[More details](#)

DG Taxation and Customs Union - VAT One-Stop-Shop project

Closing Date: 31 July 2004

The European Commission has launched a wide consultation of European enterprises on the VAT One-Stop-Shop project. According to the present rules indeed, the place of supply of an operation determines the Member State where tax obligations (declaration, payment...) have to be fulfilled. A taxable person having activities in several Member States may therefore be confronted with tax obligations in several countries. The Commission considers that a one-stop-shop could, in many cases, simplify tax obligations of Community traders having cross-border activities. The aim of the present document is therefore to explain the different aspects of a one-stop-shop mechanism and to collect feedback from interested parties, in view of making a legislative proposal in the autumn.

[More details](#)

DG Competition - UK Enterprise Capital Fund

Closing Date: Not Announced

The United Kingdom proposes to establish a funding mechanism to improve capital funding for small and medium-sized enterprises (SMEs) throughout the UK the Enterprise Capital Funds scheme. SMEs seeking to raise initial equity funding of between £ 250,000 (EUR 357,000) and £ 2 million (EUR 2.9 million) will approach licensed Enterprise Capital Funds (ECFs) to be set up under the scheme. Before assessing the scheme under the applicable State aid rules, the Commission wishes to collect information from other interested parties, notably from potential providers of risk capital to SMEs in the United Kingdom. It is only with the help of such observations that the Commission can decide

ESBA Bulletin of 25 May 2004 – Volume 6 – Number 11

whether such aid is necessary and does not adversely affect trading conditions to an extent contrary to the common interest.

[More details](#)

COMING UP

EU / Important Dates

May 27	DG Enterprise Conference: Industrial Policy in an Enlarged Europe
June 1-4	Green Week
June 10-13	European Parliament elections
June 17-19	ESBA Annual Event, Brussels
June 28-29	Environment Council
June 29-30	Conference on the European Charter for Small Enterprises