

Charlie McCreevy

European Commissioner for Internal Market and Services

Simplification of the business environment for companies

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

Public event on Better Regulation/Simplification of Company Law
with the Portuguese Ministry of Justice

Lisbon, 13 September 2007

Minister, Secretary of State,

Ladies and Gentlemen,

I am very pleased to be present for this event which deals with a subject that is dear to my heart: the simplification of the business environment for companies.

I am also delighted to see that, when it comes to administrative requirements imposed on companies, we share the same conviction that "less is more". Setting-up a company is no mean feat. As regulators, we must not transform entrepreneurs' dreams into nightmares. Economic growth is not measured by the number of administrative forms to be filled out. What counts are new ideas and people who are willing to take risks. The quicker the administrative hurdles are overcome, the better. At European level, we have set ourselves a "one-week" target for the creation of companies: i.e. all administrative formalities for the creation of a company should be completed in one week. The quicker, the better.

Portugal's recent reforms

Portugal is outpacing all other Member States and is about to become the European benchmark in this respect. I understand that you have created a one-stop shop so that entrepreneurs need deal only with one authority that will take care of all administrative steps - in a single day. This won you the European Enterprise Award in the category "red tape reduction" in 2006. You have also extended the use of electronic means so that it is possible to set up a company over the internet, with no paperwork whatsoever. This is an achievement going far beyond the requirement of the EU First Company Law Directive. Sincere congratulations!

You have good reason to be proud of what you have achieved. I would like you to go on supporting our plans for simplifying the business environment at EU level with the same enthusiasm and skill with which you have steered your own projects to success.

Purpose of the Company Law Simplification exercise

The Commission put its plans for simplifying company law on the table just before the summer break, at the outset of the Portuguese Presidency. We want to do away with requirements at European level that make the life of companies unnecessarily burdensome and that prevent Member States from adapting their legal environment to changes in the real world. The Lisbon agenda aims at promoting growth and innovation. Innovative, young companies do not have huge armies of staff to deal with all administrative formalities. Why should they? Most companies are not set up to churn out administrative papers. Their objective is rather to produce marketable services or goods and generate productive employment. If we want these young companies to succeed in the market we have to reduce the costs and the complexity of administrative rules to the minimum.

The costs of administrative requirements deriving from EU law have already been measured by a number of Member States. And unfortunately, company law – including accounting and auditing – scored very high on the list of the most burdensome areas.

There are reasons for this. Company law and accounting were two of the first areas that were addressed through harmonisation measures at European level. The field of auditing followed soon afterwards in the early 1980s. Although we have, since then, made efforts to update the rules, their scope and basic content have remained largely untouched since their first adoption.

However, in the last twenty to thirty years the business environment in Europe has changed completely: technologies have developed at high speed and the globalisation of economies has changed the rules of competition in a fundamental way. Also, the legal environment has evolved with the adoption of international standards, for example in the field of accounting and auditing, and developments in the jurisprudence of the Court of Justice of the European Communities.

Content of the July Communication

Bringing the legal requirements at EU level in line with today's business needs is therefore a clear necessity and a priority. The Commission's plans of 10 July 2007 address two sets of questions:

First, do our rules still satisfy the principles of proportionality and subsidiarity? Do the advantages of harmonisation justify the related costs?

And secondly, to what extent can we reduce the administrative burdens created by Community legislation, and how?

I know that not everyone in the EU agrees with the idea of repealing directives in the area of company law. However, if we want to be serious about making real progress, we cannot accept any taboos.

In my view, we need to ask the question whether there is a need for Community rules on domestic mergers and domestic divisions, and whether the EU would not do better to focus on cross-border situations.

The same approach applies to the Second Company Law directive on minimum capital where, last year, we commissioned an external study to examine the feasibility of an alternative system to the current rules on capital maintenance. We expect the final result of that study in the autumn, and we will see from there how to move forward with the simplification of that directive.

Even if the result of our considerations is that these directives still serve a legitimate purpose, I really wonder whether the EU needs to go into the level of detail that some of the company law directives currently contain. In my view we must ensure the "less is more" principle is applied in practice.

In the field of accounting and auditing, the focus of the simplification plans lies on the possibilities of reducing costs for SMEs. The existing requirements entail administrative work which companies, and particularly small and medium-sized ones, often find unnecessarily burdensome. This has to improve.

The International Accounting Standards Board (IASB) has recently developed a draft accounting regime for SMEs. We have repeatedly emphasised that accounting for SMEs must be simple and reflect the nature of the business of small companies. The feedback we have received from Member States, the European Parliament and stakeholders is that the current IASB draft is not simple enough to be applicable for the bulk of SMEs in the EU. At this stage, therefore, I do not intend to propose that the IASB draft be endorsed for application in the EU.

Could Member States, nonetheless, allow their SMEs to apply the IASB draft standard? The starting point, in EU law, is that Member States have to follow the Accounting directives (the so-called 4th and 7th directives). It is not clear that the current IASB draft is in line with the existing EU accounting directives. Since there seems, at present, to be very little support from Member States and the European Parliament for the IASB draft, the Commission has no plans to propose changes, either to the existing Directives or to the IAS Regulation. If there are Member States and other interested parties who want to allow application of the IASB draft, then I would like to hear from them.

Next steps

As you can see, we have a lot of work ahead of us. We are seeking feedback from all interested parties and discussing the proposals of our July communication with Member States, the European Parliament and stakeholders.

I am looking forward to working with the Portuguese Presidency to steer this discussion in the most efficient and productive way.

Once these discussions have led to a conclusion, the Commission will start working on impact assessments. Ideally, these should be completed by the end of this year.

The administrative costs which companies have to carry are currently being measured. This should give us a better idea of how much money European companies could save if we abolished certain requirements. Depending on the outcome of the impact assessments, legislative proposals could then be tabled in the first quarter of 2008.

This timetable is ambitious. We will only be able to keep to it and deliver on it with your help. I am grateful that the Portuguese Presidency has already planned a first Council meeting at expert level for next week.

The aim of our joint work is clear: a regulatory environment that is conducive to competitiveness and innovation.

Thank you very much for your attention.