



Le Secrétaire Général • The Secretary General

Mr Michel Barnier
Commissioner for Internal Market and
Services
European Commission
BERL 10/034
B - 1049 Brussels
(Belgium)

Brussels, 25 February 2011

Subject: EUROCHAMBRES reaction to the Single Market Act

Dear Commissioner Barnier,

EUROCHAMBRES welcomes the publication of the Single Market Act (SMA), particularly as it includes several growth-oriented proposals. The SMA has the potential to prove a solid platform from which to re-launch the Single Market for businesses and improve its governance.

Out of the 50 proposals included, the draft SMA contains several measures that EUROCHAMBRES had welcomed in the framework of the Monti report. Chambers reiterate the need to strike the right balance between the various interests at stake (of businesses, consumers and citizens), as the Single Market will only contribute to long-term prosperity if the framework for doing business is sound and the competitiveness of Europe's economy is enhanced.

For the SMA to become a reality in the coming years, a great deal of political commitment from all European institutions and enhanced ownership of the Single Market by national governments will be needed to properly implement this wide ranging policy agenda. It is now up to decision-makers, policy-makers, business and the civil society to ensure that the relaunch of the single market occurs and is sustained.

Once the consultation process has been completed and the SMA finalised, swift and rigorous delivery will of course become the priority. Until then, we welcome the ongoing public debate and engagement with stakeholders. It is vital that this consultation remains transparent and credible.

In this framework, EUROCHAMBRES repeats its previously expressed surprise at the launch of several public consultations related to different SMA proposals, at the same time as the SMA itself and thus its measures are undergoing a consultation process. This does little to inspire confidence in the transparency and importance of the SMA public consultation and we await clarification.

EUROCHAMBRES believes that the SMA has the potential to act as a powerful catalyst for the completion of the Single Market and should be used to stress the huge potential benefits (for businesses, consumers and citizens) associated with further market liberalisation and with completing a Single Market without barriers.

With regard to the governance of the process, EUROCHAMBRES underlines the need to ensure a high profile for the SMA and calls on all European institutions, at the highest level, to adopt a proactive stance to promote the SMA, with the aim of enhancing its visibility. Moreover, with regard to institutional ownership, it would be useful to know rapidly which Commissioner will lead on each measure adopted.

In the following annex, you will find EUROCHAMBRES' detailed reaction to the SMA proposals. Having understood that the Commission aims to identify 10-12 new measures as priorities for adoption by 2012, the annex is divided in five main parts:

- i. Measures that we **strongly welcome and which we identify as 'new' priorities** in the framework of the 50 SMA proposals;
- ii. **Measures that we prioritise, but which are not new** and will therefore not feature among the Commission's top priority measures for adoption by the end of 2012;
- iii. Measures that **we support or that we are ready to explore**
- iv. Measures that we **clearly oppose** or **on which we ask for further clarification/reflection**
- v. Measures which in our view **are missing**

On the basis of the following detailed annex, EUROCHAMBRES will extrapolate a shorter input to be provided in the framework of the official Commission consultation ending on 28 February 2011.

I would be delighted to discuss these issues further with you and I remain at your disposal for any clarification you may require.

Yours sincerely,



Arnaldo Abruzzini

EUROCHAMBRES response to the Single Market Act

EUROCHAMBRES considers that **the following 10 'new' proposals should be prioritized**. Those measures listed below which are not yet the subject of a legislative procedure should be dealt with through a fast-track procedure.

- **Copyrights (proposal 2)** – EUROCHAMBRES supports strong and effective intellectual property protection that balances the rights of creators and users, as well as reasonable exceptions and limitations on intellectual property rights. We welcome further work on harmonisation and the proposals on management of copyrights and orphan works. Chambers also recommend a review of the economics of intellectual property rights and standards within the EU. Business in all sectors across Europe benefits from a digital environment characterized by free information flows, low barriers of entry for new online businesses and a stable, predictable legal environment. EUROCHAMBRES explores the challenges of IPR in its position paper Post i2010: Opening Up the Information Society.
- **Electronic commerce (proposal 5)** - EUROCHAMBRES welcomes efforts to increase cross-border business, which is beneficial for both consumers and companies. E-commerce can greatly contribute to a better functioning internal market. Chambers also welcome this proposal as it is highly instrumental to the full application of the rights set out by the Services Directive for businesses and consumers, as well as for the full functioning of the system of Points of Single Contact. Moreover, this proposal should be considered in the framework of the broader objective of offering consumers greater access to electronic commerce across the EU.

An increase in the uptake of cross-border e-commerce may of course highlight the persistence of a variety of obstacles to a truly level playing field across the EU, which the Commission will need to take into account.

- **SMEs access to finance (proposal 12)** – Over the past years SMEs have faced difficulties in accessing finance, due to the financial, economic and fiscal crisis. Traditionally, European SMEs rely massively on bank lending, rather than on capital markets and alternative sources of finance, to get funding. Having repeatedly underlined the need for SMEs to have the possibility to dispose of alternative forms of financing, EUROCHAMBRES supports the Commission proposal to adopt an action plan for improving SMEs' access to capital markets in 2011. Clearly, such initiatives will complement existing national alternative financing sources. More specifically, listing and disclosure requirements must be adapted to SMEs by reducing burdens and duties for SMEs and should in no way lead to additional obligations for all SMEs.
- **Private investment and venture capital (proposal 16)** – EUROCHAMBRES supports the Commission proposal to ensure that Europe enjoys a comprehensive an integrated system of venture capital funds, in order to eliminate legal, fiscal (double taxation) and administrative barriers and thus foster cross-border investment activities. There is the need to extend the scope and presence of venture capital in Europe, making it a viable, accessible and better-known source of financing for European SMEs, particularly start-ups. Reforms of corporate governance should primarily be carried out through self-regulation (see also comment on SMA proposal 38 on page 9).

- **Public procurement (proposal 17)** – EUROCHAMBRES stresses the need to review and adapt public procurement rules by enhancing and streamlining existing approaches, with the aim of easing SMEs' access to public procurement. Chambers would thus welcome efforts to streamline procedures in order to pull barriers down, to reduce administrative burdens and thus facilitate businesses' participation in public procurement procedures.
- **Interconnection of business registers (proposal 21)** – EUROCHAMBRES welcomes the proposal to connect business registers of different EU member states. This could facilitate access to information, reduce costs and enhance businesses cross-border activities overall.
- **E-identification / authentication (proposal 22)** - The electronic integration of the single market and the creation of a genuine digital single market are paramount. Electronic interoperability of networks and the integration of national administration systems and databases, as well as the mutual acceptance of e-signatures, e-certificates, e-authentications and e-forms are highly necessary. EUROCHAMBRES thus welcomes the proposed revision of the e-signatures directive as well as a proposed decision on the mutual recognition of e-identification and e-authentication across the EU.

On the occasion of an event on the implementation of the SBA co-organised by EUROCHAMBRES on 2 December 2010, Chambers highlighted electronic interoperability as one of the top priorities to ease SMEs life and foster business activity in the single market.

- **Recognition of professional qualifications (proposal 33)** - For Chambers, the social dimension of the internal market relates to the promotion of the free movement of people and workers. EUROCHAMBRES therefore welcomes the SMA proposal to reform the system of recognition of professional qualifications with the aim of facilitating the mobility of workers and adapting training to labour market requirements. However, Chambers have reservations regarding the creation of a pan-European professional card. Such a card should in no way replace the evidence of qualification and must have clear added value in terms of transparency, without anticipating the procedure of recognition. Only competent bodies (for example Chambers) from the originating member state should be authorised to issue such a professional card.

Studies show that the annual demand for mobility has been about four times higher than the available budget through the EU programmes. This is particularly true for apprentices. Moreover, there is the need to enhance clarity for companies regarding the recognition of skills acquired in other countries. In this framework, Europass and EQF can be important elements in improving the situation.

- **Student mobility and recognising skills and training (proposals 34)** – EUROCHAMBRES welcomes the Commission's plans to help further young people to study in another member state, through its 'Youth on the move' scheme. In order to be useful, the "European Skills Passport" must have a clear and concrete added value compared to the already existing European transparency instruments like Europass and EQF. Too many passports and instruments will certainly confuse the potential users instead of being helpful. The skills passport should therefore integrate the existing instruments and ensure a more user-friendly logic. More fundamentally, there should be a stronger focus on the mobility of apprentices from vocational education & training. EUROCHAMBRES encourages reflection on the potential added value of a dedicated 'Erasmus for Apprentices' mobility programme.
- **National transposition of EU rules (proposal 47)** – Chambers believe that single market rules should be more strictly and effectively applied at member states' level. The Commission plans to prepare transposition and draft correlation tables for the legislative SMA proposals are welcomed, in the framework of the overall objective of reducing member states' transposition deficit of single market directives to 0.5%. In this framework, as repeatedly done in the past, EUROCHAMBRES underlines the important role that alternative dispute resolution mechanisms such as SOLVIT can play to help businesses and citizens overcome problems related to internal market legislation. This is also in line with proposal 50.

With regard to the specific proposals included in the SMA, EUROCHAMBRES strongly supports the ones below. **However, such proposals are not new and should thus be considered separately from our list of 10 new measures which we would like to see prioritized by the Commission at the end of the consultation process.**

- **EU patent (proposal 1)** – EUROCHAMBRES believes that the modernisation of the patent system in Europe is a pre-requisite to efficient, effective and affordable protection for innovation leaders. Chambers thus maintain their support for the creation of an EU Patent and invite member states to find an EU-wide agreement on the package under the Hungarian Presidency of the EU.
- **Internal market for services (proposal 4)** – EUROCHAMBRES supports the Commission proposal to continue developing the internal market for services on the basis of the 'mutual evaluation' process. The process used in the framework of the Services Directive implementation has showed that much can be gained from cooperation and joint work between Commission and member states and can be a key instrument to enhance the quality and efficiency of internal market rules. The process could be used also to look at how specific sectors operate in practice, with the aim of taking measures to enhance their growth and competitiveness.

EUROCHAMBRES particularly stresses that the successful completion, promotion and optimised uptake of the services provided by the Points of Single Contact alone could lead to dramatic progress in removing the many remaining obstacles businesses still encounter between member states.

- **Small Business Act review (proposal 13)** - The SBA has the potential to allow SMEs to profit more fully from the possibilities offered by the internal market. It contains a series of measures which can help tackle some of the key problems that SMEs face and it represents a valuable framework in which SMEs policy within the internal market can be developed, notably through the application of the 'think small first' principle. Progress has undoubtedly been made by the Commission and in certain member states since the adoption of the SBA two years ago. However, if the early signs of economic recovery are to be harnessed into a long-term upswing coupled with sustained growth and new jobs, the delivery of the SBA and compliance with its overriding 'think small first' principle must be perceptible across the EU27.

Feedback from the Chamber network reveals worrying shortfalls in the compliance with the principles and delivery of the measures contained in the SBA. The Commission's SBA Review of 23 February rightly focuses heavily on the crucial aspect of governance and implementation.

Besides the 10 priorities identified above, EUROCHAMBRES also **supports or is ready to explore** the following proposals:

- **Counterfeiting and piracy (proposal 3)** - Chambers support the Commission's initiatives aiming at fighting against counterfeiting and piracy. For instance, the reinforcement of customs control to avoid the entrance on the EU territory of goods that do not respect European standards/regulations is of primary importance to businesses and consumers. Chambers would also support enhanced powers and a broader mission for the European Observatory on Counterfeiting and Piracy.
- **CCCTB (proposal 19) and VAT (proposal 20)** – While supporting the principle of tax competition, Chambers believe that it is important to fight harmful tax competition and eliminate taxation biases. The elimination of tax barriers which can distort competition could prove beneficial to businesses. EUROCHAMBRES would thus welcome further Commission work on corporate taxation and will comment on the Commission proposal on a CCCTB and on the review of the VAT system. Chambers believe that a reform of the VAT system will help reduce costs and bureaucracy for businesses. In line with the above, EUROCHAMBRES also urges the European institutions to analyse carefully and evaluate the potentially harmful nature of certain national taxation measures which have recently been implemented in some member states.
- **Informal and non-formal learning (proposal 35)** – The envisaged Council recommendation for the validation of non-formal and informal learning must primarily promote the exchange of best practices. Furthermore, the planned European Taxonomy of Skills, Competences and Occupations (ESCO) must be compatible with the EQF and not overrule existing national skills taxonomies. Generally, ESCO is to be regarded as a long term project that can not be implemented quickly. It must be preceded by pilot projects and must have a positive cost-benefit ratio.

- **Evaluating implementation of rules with member states (proposal 44)** – EUROCHAMBRES welcomes proposals to create a consistent and integrated system to monitor the development of the single market, by using several tools and methods, such as scoreboards, surveys, market surveillance as well as the ‘mutual evaluation’ process set out in the Services Directive. The latter should be applied in the future to other key pieces of single market legislation.

Chambers stand ready to actively contribute to regularly set out internal market ‘wishlist’ from a business perspective. While the creation of a Single Market Forum is to be applauded, EUROCHAMBRES stresses the need to ensure that the dialogue between EU institutions and stakeholders on these issues is regular, and rigorous. This is also in line with SMA proposal 48.

- **Information exchange between public authorities (proposal 45)** – EUROCHAMBRES welcomes the extension and further integration of the Internal Market Information system (IMI) beyond its current status. Reinforced administrative cooperation and data exchange through an enhanced and enlarged IMI system could prove to be highly beneficial to administrations as well as to ‘users’ (businesses and citizens).
- **Alternative dispute resolution and collective redress (proposal 46)** – Chambers welcome the first part of the proposal, namely to improve the use of alternative dispute resolution mechanisms in the EU, with the aim of making litigation swifter and more cost-effective, particularly for small business. Chambers continue to oppose the establishment of an EU-wide mechanism for collective redress. As the need remains unsubstantiated and the risks huge, Chambers continue to oppose any proposal of the European Commission on this dossier (see comments on proposal 46 on page 9).
- **Consultation and dialogue with civil society (proposal 48)** – Chambers welcome the Commission’s intention to increase consultation and dialogue with civil society in the preparation and implementation of legislative texts. This should start from an early stage in the preparatory process and the input obtained should also be taken into account in the Commission’s impact assessments.

In this respect, Chambers remain willing to provide the Commission and the other European institutions with the point of view of European business, particularly SMEs. At the same time, Chambers criticise the increasing Commission tendency to use oversimplifying and limited ‘multiple choice’ consultations and the simple quantification of responses. The Commission must ensure that input received is weighted as much as possible according to the representativeness of the respondents.

- **One-stop for info and assistance (proposal 49)** – EUROCHAMBRES welcomes this proposal as it can help render the single market more transparent and accessible. In its reaction to the Monti report, EUROCHAMBRES had underlined the need for businesses, citizens and consumers to enjoy one single ‘point of entry’ to the internal market. Various existing networks and contact points (Enterprise Europe Network, SOLVIT, PSCs in the context of the Services Directive etc) could be further developed and progressively integrated into a single, multifunctional system of contact points which can deal with different issues.

- **Informal problem-solving tool (proposal 50)** – EUROCHAMBRES welcomes the Commission proposal to consolidate and reinforce alternative dispute resolution mechanisms. Chambers believe that SOLVIT in particular has the potential to prove more useful for businesses. Figures show however that SOLVIT's business cases are far fewer than citizens' cases: awareness-raising and communication campaigns could greatly help in this respect.
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Upon reflection on their potential impact, EUROCHAMBRES **calls for careful reflection** or **opposes** certain proposals included in the SMA draft:

- **Business-to-business services (proposal n 9)** – EUROCHAMBRES will closely monitor developments related to this proposal, as it could have a major impact on business activities, particularly on business-to-business relations and on supply chain operators.
- **EU project bonds (proposal 15)** – Chambers are open to reflect on the potential benefits of this proposal but clearly caution that it should be very carefully assessed.
- **Social business (proposal 36)** – EUROCHAMBRES underlines the need for clarification on this proposal, particularly when it comes to the revision of public procurement rules. In this respect, mandatory requirements for businesses in the framework of public procurement contracts must be avoided. The potential introduction of ethical, CSR or ECO-Labels must be avoided, as they could be misused and lead to considerable additional costs and obstacles for companies. Furthermore, the development of indicators of such labels that suit all sizes and kind of companies is almost impossible.
- **Corporate governance (proposal 38)** – EUROCHAMBRES states that the current regime of disclosure of non-financial information based on European accounting directives is appropriate. Creditors, banks, business partners, i.e. the addressees of the enterprise accounts, receive significant information. An extension to non-financial information is unnecessary.

Considering the burden and costs to analyse and to edit this kind of information, EUROCHAMBRES calls for voluntary, optional reporting on such activities. The choice to provide information must remain a strategic one for enterprises. While CSR should be encouraged, its elements must not become mandatory requirements/obligations for businesses. EUROCHAMBRES has submitted a contribution to this effect in the framework of the specific Commission consultation on this issue.

- **Alternative dispute resolution and collective redress (proposal 46)** – While welcoming the first part of this proposal (see comments on proposal 46 on page 7), EUROCHAMBRES objects to the idea of setting up an EU-wide mechanism of collective redress. As the need remains unsubstantiated and the risks huge, we continue to oppose any proposal of the European Commission on this dossier. Chambers will thus follow very closely the Commission's idea to carry out a public consultation on a European approach to collective redress in 2011 in order to identify arrangements which could be introduced into the legal framework of the European Union and the legal systems of the Member States.

EUROCHAMBRES also believes that the following measures **are missing** from the SMA list:

- **European Private Company Statute** – EUROCHAMBRES regrets the omission of the European Private Company Statute (SPE) from the list of SMA proposals. Chambers consider this proposal vital to fostering entrepreneurial flexibility and reducing administrative burdens and it is crucial therefore that the Commission continues to encourage the Council to reach a satisfactory solution. The SPE should be included in the final version of the text as it was one of the key legislative proposals included in the Small Business Act (SBA), as well as in the Council's SBA Action Plan.
- **Electronic procurement** – While referring to public procurement several times (and e-Procurement is briefly mentioned in the framework of proposal 22), the SMA does not address specifically the issue of e-procurement. EUROCHAMBRES notes that cross-border e-procurement, and indeed cross-border procurement overall, remains at a low level in Europe. The EU needs to reform the structure and perhaps even the policy incentives to encourage the use both of technology and cross-border procurement. The interoperability of e-signatures is indispensable in this respect.
- **Access to finance, financial regulation and capital requirements** – While containing some good proposals on access to finance for SMEs (proposal 12) and on venture capital (proposal 16) and alternative financing sources, the SMA does not refer to the forthcoming financial regulations and particularly on new bank capital rules (Basel III). Given the potential impact of the new Basel III/CRD IV rules (coupled with potential new financial taxes and levies) on bank lending conditions, the SMA should include a reflection on the need to ensure that bank lending to businesses, particularly SMEs, is preserved.
- **Enterprise Europe Network** – The SMA does not make any reference to the Enterprise Europe Network. EUROCHAMBRES believes that the network plays an important role in communicating the benefits of the single market to businesses, particularly small and medium, and helping them to make the most of the business opportunities in the European Union. This role can also be enhanced.

- **Smart Regulation** – While the SMA generally touches upon the issue of reducing administrative burdens and cutting red tape, there should be a more holistic approach to ensuring that the SMA pushes forward key Smart Regulation elements, such as cutting administrative burdens by 25% by 2012, reflecting on an agenda post-2012 and ensuring the systematic application of the SME Test in impact assessment systems both at EU and at national levels, as indicated in the SBA.
- **EU Budget resources to improve the Single Market** – We believe that greater resources from the EU Budget should be allocated to ensure that the single market works better for businesses. EUROCHAMBRES will be active to ensure that the single market features prominently in the framework of the Commission's proposals on the new Multiannual Financial Framework for 2014-2020.
- **Over-implementation** – the SMA rightly addresses the issue of transposition shortfalls, as supported in the first section of this response. However, EUROCHAMBRES also underlines that the phenomenon of over implementation, or so-called gold-plating, also damages the functioning of the internal market and prohibits the creation of a true level playing field for companies.

EUROCHAMBRES considers such practices contradictory to the better/smart regulation agenda which member states have endorsed. EUROCHAMBRES welcomes the Commission's commitment in the October 2010 Smart Regulation Communication and the February 2011 Review of the Small Business Act to Smart Regulation Communication to explore the possibility for reducing gold plating by member States. The Single Market Act should also reflect this commitment.

EUROCHAMBRES – The Association of European Chambers of Commerce and Industry represents over 20 million enterprises in Europe – 93% of which are SMEs – through members in 45 countries and a European network of 2000 regional and local Chambers.

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