

**Mr Emil Karanikolov**  
Minister of Economy  
Ministry of Economy of Bulgaria  
8, Slavyanska Str.,  
Sofia 1052  
BULGARIA

25 May 2018

Dear Minister,

**Message to the Competitiveness Council meeting on 28 May 2018**

The Competitiveness Council will discuss a number of important regulatory and policy dossiers in the run-up to the closure of this EU legislature next year. BusinessEurope appreciates the efforts made by the Bulgarian Presidency in order to conclude discussions on the following questions, which are of great importance to European business.

**Regulation on Mutual Recognition (Goods Package)**

We appreciate that the Council is handling the mutual recognition file in a swift manner. This is necessary to reach the final outcome under the current Commission and Parliament mandate.

For BusinessEurope it is key that the public interest grounds that can be invoked to deny mutual recognition of lawfully marketed goods are as clearly defined as possible. Therefore, we call on the Council to take further steps to define legitimate public interest grounds so that the provisions leave no room for loose interpretations.

Moreover, companies should have recourse to an accessible problem-solving tool when mutual recognition is denied. We appreciate changes by the Council to streamline the timelines for the Commission intervention in SOLVIT.

Concerning the other part of the Goods Package, the Regulation on Compliance and Enforcement (the so-called "market surveillance"), we urge the Council to have further active discussions and to make as much progress as possible before the next Council Presidency takes over. The whole "Goods Package" is of utmost importance to the European businesses.

## **Regulation on Platforms-to-Business (P2B) Relations**

BusinessEurope is starting the analysis of this newly tabled proposal and wishes to draw your attention to a few provisional remarks.

Promotion of transparency in the P2B situation is important to create fairness in the market. It must however also be recognised that users rely on the platforms to multiply their businesses reaching big markets very quickly.

Collective redress mechanisms through organisations are a concern. Many organisations could exist or be established merely for this reason and thus disrupt the market.

BusinessEurope believes the freedom of contract should remain a fundamental right between businesses.

To sum up, the proposed Regulation is a right step overall and can bring beneficial results to improve user business conditions, but not at the expense of platforms through disproportionate legislation.

## **New Deal for Consumers**

The New Deal for Consumers proposes a shift on two major pillars governing EU consumer law until now.

The collective redress (*or injunctions plus*) proposal seems to aim at shifting the responsibility of enforcement of consumer laws to private entities via courts. BusinessEurope underlines that litigation is a slow, costly and complex mean of redress, often bringing more benefits to law firms than to consumers. We remain convinced that the EU should continue to prioritise public enforcement in Europe and alternative means of redress. We count on the Competitiveness Council to ensure that any new EU judicial instrument is accompanied by the necessary safeguards against frivolous litigation (currently missing in the Commission proposal).

In addition, other proposals of the package (e.g. provisions amending the Unfair Practices Directive) seem to invert the approach of full harmonisation of EU consumer law of the last 10 years, bringing back unnecessary legal fragmentation. BusinessEurope urges the Competitiveness Council to continue to combat legal fragmentation, which remains a major barrier in the single market.

## **Company law package**

BusinessEurope welcomes the long-awaited company law package aiming to modernise the legislative framework for European businesses so that companies can merge, divide or move within the Single Market in a clearer and legally certain way, whilst protecting



the interests of all relevant stakeholders. It is essential to avoid the creation of additional burdens for companies and ensure trustworthiness of the framework to avoid abuse, including access to digital tools which bring the EU Company Law into the 21<sup>st</sup> century.

### **Unitary Patent/Unified Patent Court**

Following the recent ratification of the Unified Patent Court Agreement by the United Kingdom, one of the last necessary steps to make the Unitary Patent a reality has been completed. The rapid entry into operation of the Unitary Patent and the Unified Patent Court would provide a major boost to competitiveness, growth and job creation in Europe and remains a priority for all of our members except two, who have a different view. We invite Member States to take all necessary steps to make this happen as soon as possible.

### **Next Multi-annual Financial Framework (MFF)**

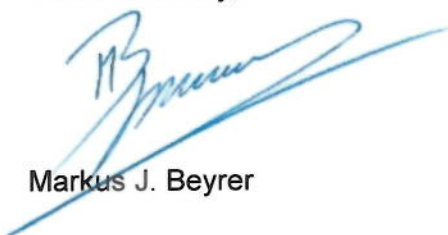
Last but not least, the Competitiveness Council will discuss the next MFF, which we are currently analyzing with the aim of developing a more comprehensive position.

At this stage, we would like to recall that the European budget after 2020 should reflect the future priorities of the EU and concentrate efforts on enhancing our competitiveness, particularly in areas where the EU can deliver concrete benefits and help preparing us for megatrends like digitalisation, industrial policy and energy transition. Furthermore, the EU should boost the success of cohesion policy by turning it into an integral part of a European investment strategy, with an adequate financial framework to support a cohesive Europe. We acknowledge the Commission's efforts to increase spending on research and innovation activities but would have liked to see even more ambition.

BusinessEurope therefore urges the Competitiveness Council to fully engage in the negotiations on the MFF, supporting the priorities mentioned above and building on the Commission's increased emphasis on EU competitiveness, including research and innovation.

We also recall that it is essential that all parties reach a swift agreement on the MFF post-2020 before the European Parliament's elections in May 2019. We cannot afford delays in powerful investment incentives at a time when the US are moving on with a major tax reform and China implements the Belt and Road Initiative.

Yours sincerely,



Markus J. Beyrer