



**Mr Sebastian Kurz**  
Bundeskanzler  
Bundeskanzleramt  
Ballhausplatz 2  
AT - 1010 Wien  
AUSTRIA

26 June 2018

Dear Chancellor, 

## **BUSINESSEUROPE'S PRIORITIES FOR THE AUSTRIAN PRESIDENCY OF THE EUROPEAN UNION**

The EU's approval ratings are at its highest since 1983. However, EU quarterly GDP fell to 0.4% in the first quarter of this year and businesses are increasingly concerned that EU growth is at risk of peaking. For 2018, BusinessEurope expects GDP growth of 2.4% in the EU and 2.3% in the Euro area and for 2019, we expect growth to slow down to 2.1% in both the EU and the Euro area. Furthermore, high level of policy uncertainty and rising protectionism constitute could undermine this relatively favourable economic outlook. The European Union must be united, strong and smart to strengthen the EU and tackle protectionism.

With only one year to go before the next European elections, the Austrian Presidency has a key role to play in bringing the European agenda forward. BusinessEurope identified 10 crucial priorities on which the EU will need to see progress during the next 6 months:

1. The EU should continue to promote **an ambitious trade agenda** while **responding to unilateral protectionist measures**. We must stand strong and united against protectionist tendencies worldwide and within the EU. The EU must remain committed to a multilateral and rules-based trading system. Being open to work together with like-minded partners in addressing global challenges and promoting solutions that contribute to a more open and fair worldwide trading system.

The EU must not refrain from global competition and strengthen the overall ability of companies to face this global competition, defending and prioritising the interests of European citizens and companies through a balanced and smart response to unilateral measures that disrespect international rules and damage the interests of the EU and its companies. It should pursue its efforts to shape globalisation according to our common values and negotiate comprehensive modern trade agreements which strengthen international cooperation and a liberal rule-based global trading system. These basic principles must be upheld in all legislative measures and all decisions taken at EU and national levels.



2. We need to have a withdrawal agreement on **Brexit** that includes transition ready for the October European Council to allow time for ratification both in the EU and the UK. Companies are under time pressure as they need to plan ahead. Furthermore, clarity about the future relation is key. The new model that will govern future EU-UK relations should maintain as close economic relations as possible between the EU and UK and preserve the integrity of the Single Market based on its four freedoms. Business needs certainty and a level playing field that allows trade and investment to remain stable. The worst case, a no-deal “cliff-edge Brexit”, must be avoided. It would have severe economic consequences and would negatively affect companies’ business activities in the EU27 and in the UK. The months ahead will be critical and we count on strong political will on both sides to find the best solution for business and citizens.
  
3. The EU must make progress with discussions on the **EMU**. Business investment requires a safe and predictable environment. BusinessEurope welcomed the roadmap the Commission published in December which sets out a number of important steps towards completing EMU and it is essential that the June Council takes concrete steps to strengthen EMU. We count on the Austrian presidency builds on agreements made at the Council and ensure the full implementation of longstanding initiatives such as the banking and capital markets unions.
  
4. The EU institutions must reach agreement on the next **Multi-annual Financial Framework (MFF)** for the EU budget after 2020 before the European elections. In early May we saw the publication by the Commission of its proposals for the next MFF and a series of additional specific proposals are being published. The Austrian presidency will have a crucial role to play in taking concrete steps to ensure this. Failure to agree on the proposal by then would most likely lead to delays in the start of programmes in 2021, and a lost year in investment by the EU budget. Europe cannot afford this when the US have their tax reform and China the Road and Belt Initiative;
  
5. We need to see real progress in reducing barriers in the **Single Market** by:
  - completing trilogue negotiations on the notification of services,
  - finding agreement on the market surveillance part of the goods package, after the good progress made by the Bulgarian presidency on the mutual recognition regulation, and
  - taking a balanced and practical approach to transport to the mobility packages to have enforceable solutions that does not hinder competitiveness (as was done when exempting international road transport from rules on posting of workers).
  
6. The EU must pursue its work to improve **industrial competitiveness** and strengthen its research and **innovation** capacity:



- building on the Commission communication for a renewed industrial strategy for Europe and on the work of the High Level Industrial Round table to develop a dashboard of meaningful indicators; and
  - ensuring that the new EU framework programme accelerates research and innovation investment by allocating at least 60% of the budget to the second pillar, substantial funding of the Key Enabling Technologies (KETs) and to strengthen industry participation in all three pillars.
7. The EU needs to support the **digitalization** of its economy by setting the right conditions to ensure the free flow of data and improve cybersecurity. The proposed Cybersecurity Act must take into account industry established practices and guarantee a strong industry participation. We count on the Austrian Presidency to ensure that the Council up-holds its ambition, only restricting the free flow of data when justified on security grounds. On the important file on E-Privacy we urge the Presidency to take the time needed to find thorough solutions to ensure a sound legal framework. Regarding digital taxation, we are concerned by the Commission proposal for a Digital Services Tax whereby companies would be taxed on their gross revenue rather than profits, in violation of a long-standing international principle in this field. We call for an intensification of efforts to find a solution at global level. Whilst allowing the OECD a reasonable opportunity to reach agreement, the Commission should in parallel undertake thorough analysis with a view to identifying ways for the EU to address any clearly identified distortions in taxation of digital and non-digital businesses without undermining competitiveness.
8. EU social policy must ensure that **social progress is based on economic progress** and support Member States in their efforts to introduce labour-market reforms rather than imposing additional constraints and costs that undermine job creation or the sustainability of social protection systems through problematic proposals such as the EU definition of workers in the Commission proposal to revise the written statement directive. Improving education and training is also key as skills shortages undermine growth and employment.
9. We must make Europe fit for the **energy transition**, bring clarity on the key **climate** files and make a real business case out of the **circular economy** by:
- securing a level-playing field putting value on flexibility and treating all energy sources on an equal footing in the up-coming trilogue on the clean energy package;
  - minimizing distortive effects and comply with Single Market rules by ensuring that capacity mechanisms are open to cross-border participation and demand-side response;
  - pushing for significant progress on finalising the rulebook that sets out the rules and procedures to achieve the Paris climate agreement;
  - ensuring technology and fuel neutrality of the clean mobility package;
  - removing conflicting product requirements and helping to turn Europe into a net exporter of technological solutions for the circular economy;




- promoting a responsible use of plastics, without undermining investments in a key sector for the European economy and fostering a balanced responsibility between producers and consumers.

10. The EU needs balanced solutions regarding **company law** and **consumer protection** by:

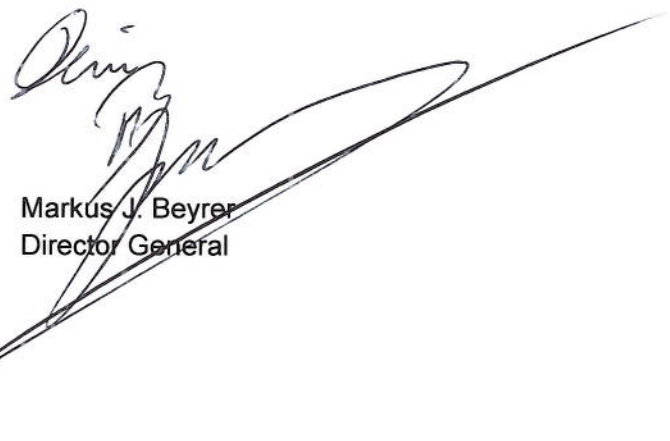
- modernising EU rules so that companies can merge, divide or move within the Single Market as foreseen on the long-awaited company law package;
- prioritising public enforcement and alternative means of redress than costly means of collective redress which often bring more benefits to law firms than consumers.

Further details about our priorities for the Austrian EU Presidency are set out at annex.

I look forward to working constructively with you and the different members of your government during the next six months in order to ensure that **better regulation** remains high on the agenda and make the EU regulatory process more competitiveness-friendly, to build a strong European Union answering companies' and citizens' concerns about the future.



Emma Marcegaglia  
President



Markus J. Beyrer  
Director General



## **Annex: BusinessEurope priorities for the Austrian Presidency**

### **1. An ambitious and rules-based trade agenda in challenging times**

Faced with rising protectionism and unilateral actions that put at risk the international trading system, the EU needs more than ever to show leadership. It needs to demonstrate that it stands by a rules-based trade system and that it supports the role of the WTO. It should also be ready to work together with like-minded countries in promoting reforms and creating rules that are fit to the trade and investment reality of the 21st century. We call on the Austrian presidency to prompt the EU to continue pursuing a dynamic and ambitious trade policy that would support growth and competitiveness.

There is a continuous need to address rising protectionist trends and ensure that the EU's trade negotiation agenda is conducted in an efficient manner. This includes, not only moving rapidly towards the ratification of the long-awaited agreements with Japan, Singapore and Vietnam, but also a successful conclusion of the negotiations for an ambitious agreement with Mercosur. Furthermore, we expect the EU to finalise the process of modernisation of the agreement with Mexico and to open negotiations for the revision of the Customs Union with Turkey.

Delivering an ambitious trade agenda also means implementing our trade agreements faster and better. We are confident the new architecture for trade agreements that was recently adopted will be a major step in the right direction. In parallel business insists on the importance of securing an ambitious access and strong protection for European investments in third markets.

We are at a turning point in the global trading system and EU must remain committed to open, fair and rules-based trade. At the same time the EU should stay united and committed in adequately protecting the interests of its companies and its citizens.

### **2. Progress in Brexit negotiations**

Negotiators are still discussing critical points of the withdrawal agreement and until both sides agree on a legally binding text "cliff-edge" cannot be excluded. Time is running fast and we need to have a withdrawal agreement that includes transition ready for the October European Council to allow time for ratification both in the EU and the UK. Companies are under time pressure as they need to plan ahead. Business needs certainty and a level playing field that allows trade and investment to remain stable. The worst case, a no-deal "cliff-edge Brexit", must be avoided. It would have severe economic consequences and would negatively affect companies' business activities in the EU27 and in the UK. The months ahead will be critical and we count on strong political will on both sides to find the best solution for business and citizens.



Furthermore, clarity about the future relation is key. The new model that will govern future EU-UK relations should maintain as close economic relations as possible between the EU and UK and preserve the integrity of the Single Market based on its four freedoms.

BusinessEurope appreciates that both the EU and the UK negotiators' aim is to have the deepest and most comprehensive trade agreement possible. However, there are limits to what a free trade agreement can deliver. A free trade agreement does not provide the same level of frictionless trade as a customs union or a similar regulatory alignment as staying in the Single Market. Choices will need to be made and we need to see concrete negotiating proposals from both sides rapidly.

### **3. Strengthening EMU**

Business investment requires a safe and predictable environment based on a well-functioning EMU. This is why completing EMU and strengthening trust in the euro is a priority for business. We count on the Austrian Presidency to ensure the adoption of longstanding initiatives such as the banking and capital markets unions and to build on progress to be made at the EU Council on 28-29 June. This process should be open and inclusive, with member states whose currency is not yet the Euro able to participate in the various aspects of EMU.

We believe the following objectives must be a priority for EMU deepening:

- EMU must deliver convergence towards strong growth rates in all member states. We must reinforce the European Semester's role in increasing growth, competitiveness and convergence, ensuring that all Member States implement agreed growth and employment enhancing structural reforms alongside strengthened implementation of the Macroeconomic Imbalance Procedure in both deficit and surplus countries. We therefore support the proposed reform delivery tool to support Member States in their efforts. We also underline that completing and enforcing the single market is a crucial and powerful convergence driver.
- The efficiency of the fiscal rules must be improved, paying more attention to the quality and composition of public finances for a proper implementation of the Stability and Growth Pact (SGP), drawing on its in-built flexibility to help member states put their public finances on a sustainable footing. Fiscal sustainability, including where appropriate fiscal consolidation, is key in order to strengthen investors' trust in the Euro area, while giving the fullest support possible to member states who wish to orientate their budgets towards investment and growth-supporting expenditure.
- A full banking union must be put in place, with rapid agreement and implementation of an EU deposit insurance scheme, alongside the existing supervision and resolution pillars to address the continued fragmentation of EU savings and credit markets. Member states have now implemented the bank recovery and resolution directive and are creating harmonised deposit insurance systems. In addition, further asset quality reviews of all



banks are necessary steps before establishing a common system. Moreover, implementation of a comprehensive Capital Markets Union improving access to diversified funding sources can also reinforce resilience to asymmetric shocks.

- Regarding the important issues of the stabilisation function for the Euro Area, we support strengthening the long-term stability of EMU and its ability to handle asymmetric shocks to one or more of its economies through access to a Euro Area stabilisation fund, fully conditional on Member States implementing structural reforms and there being no increase in the overall tax burden. To ensure the stabilisation fund is effective, support should be rapid and temporary. We support the Commission proposal for an investment protection scheme and hope the EU will agree to build up the capacity of this in future years.

#### **4. Pave the way to an agreement on the MFF before the European elections**

In May we saw the publication of the Commission's proposals for the next Multiannual Financial Framework (MFF) post-2020. The next MFF will need to reflect the new context and speed-up the important transformations which have started occurring in the EU budget, namely an increased focus on areas with clear EU added value, greater role for innovation and interconnections, and being more results-oriented. Member States should work together in a logic of common benefits rather than reducing discussions to how much money each member retrieves.

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 counts on the Austrian Presidency to fully engage in the negotiations on the MFF, building on the Commission's increased emphasis on EU competitiveness, avoiding any additional upward pressure on overall taxation, focusing on what is important to strengthen the efficiency of the European Union as a whole.

It is essential to reach 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.



## **5. Real progress in reducing barriers in the Single Market**

Services markets integration is crucial for the competitiveness of European industry and the Services Package has not allowed to make real progress in addressing the regulatory barriers and ensure better implementation of the Services.

In order to ensure effective implementation of this directive and prevent new barriers adding costs for businesses and consumers, we call on the Austrian Presidency to complete the trilogue negotiations on the Notifications in Services proposal as soon as possible and give a clear signal on the Member States' commitment to good and transparent enforcement of rules under the Services Directive.

The realisation of the free movement of goods in the Single Market also requires a sustained effort to avoid unjustified national barriers and ensure that market surveillance is carried out effectively throughout the Single Market. The Goods Package and its proposals for a new Regulation in the area of mutual recognition and for a new Regulation in the area of market surveillance are long-awaited and welcomed by business community. Now that a good progress has been achieved by the Bulgarian Presidency on the mutual recognition regulation, we call on the Austrian Presidency to vigorously take up the market surveillance part of the goods package as a priority, so that there is a possibility to complete the agreement – both at Council and subsequently trilogue level – on the Goods Package by the end of the year.

Concerning the mobility packages, given all the difficulties in negotiations on packages 1 and 2, it is even more crucial that the Austrian Presidency takes a balanced and practical approach to the Single Market for transport. Industry needs practical and enforceable solutions that do not hinder efficiency of transport sector and competitiveness of European industry at large. For example, BusinessEurope fully supports the exemption of international road transport activities from rules on posting of workers.

## **6. Improving EU industrial competitiveness**

A strong industrial base is fundamental for strong economic activity across all sectors of the economy including services. Having a dashboard of meaningful indicators is central to help building-up a shared vision for industry and linked services for 2030.

The Commission Communication for a renewed industrial strategy for Europe of September 2017 was an important first step. However, we urgently need progress in putting in place a structured way forward with the support of both the EU and Member States. Building on the work of the High Level Industrial Roundtable, we count on the Austrian Presidency to foster agreement on set of indicators that

- are direct, measurable, easy to read, and strategic (i.e. aligned with Europe's long-term vision for the future of the EU);



- focus on comparing the EU with the rest of the World, with intra-EU comparisons only being made as complementary information;
- are restricted in number and focus on key issues to avoid dispersing attention across too many areas or issues;
- focus on areas where the EU must improve its performance in order to be able to face global competition rather than only pointing to a positive situation in Europe;
- can be complemented by a qualitative analysis but remain quantitative indicators.

## **7. Strengthen European research and innovation**

The new EU Framework Programme (Horizon Europe) should build on the achievements of Horizon 2020 and further strengthen EU's efforts to finance research & innovation. Europe has to increase its ambitions to turn ideas into new products and services to bring economic and societal benefits.

To ensure that Europe wins the global innovation race, the Austrian Presidency should ensure that:

- there is strong support for Horizon Europe and the new programme should cover the whole ecosystem of research & innovation, with a specific focus on close-to-market activities;
- a substantial research engagement of Europe's industry in Key Enabling Technologies (KETs) is being secured. The KETs should be anchored clearly visible and accessible in at least one pillar of FP9 with an appropriate budget not below Horizon 2020 figures.
- the EU accelerates R&I investment by both public and private sector, rather than taking a step back on the financing. The second pillar should be allocated at least 60% of the budget to address the innovation gap and address societal challenges.
- *Strengthen industry participation and collaborative approach:* Industry is key to bring great ideas and results of excellent basic research into market and benefit the society. Maintaining support to innovation, close-to-market activities and public private partnerships is therefore key. The pillars of 'societal challenges' and the 'industrial leadership' foster cooperation between public and private actors and leverage the necessary funds for large-scale European projects.

## **8. Free flow of data and cybersecurity**

Building a European data economy is one of the greatest challenges our policy makers, businesses and society at large face. Our data economy is rapidly growing. If the right conditions are set, it could continue to grow and be worth more than 106 billion EUR by 2020.



As a vital resource, it also has the ability to enable key technologies such as the Internet of Things (IoT), Artificial Intelligence (AI) and the industrial internet to function, in a way that will provide vast benefits to our societies.

BusinessEurope supports the Commission's free flow of data proposal and promotes its rapid adoption by the co-legislators as a priority. We count on the Austrian Presidency to ensure that the Council upholds its ambitious to enable the free flow of data in Europe. Restricting the free flow of data can only be justified on public security grounds. This ambition should not be watered down through adding additional exceptions at the expense of Europe's growing data economy.

We also support the Commission's intention to update the mandate of the European Union Agency for Network and Information Security (ENISA) and set up a framework to identify specific cybersecurity schemes that could meet pan-European application. We count on the Austrian Presidency to ensure that the proposal champions innovative solutions, encourages all players in the value chain to ensure products, services and systems are cybersecure from the earliest stage while enabling a smooth transition to a fully digitalised economy.

Moreover, we call to guarantee the active involvement of Member States in the response to the threat of ICT-enabled theft of intellectual property, including trade secrets or other confidential business information. The damage of industrial IP and trade secrets theft is expected to cost between 1-2% of GDP and result in a loss of competitiveness, reduced R&D investments and jobs. Combatting ICT-enabled theft of intellectual property should be one of the priorities for political debate in the Council.

Regarding digital taxation, we are concerned by the Commission proposal for a Digital Services Tax whereby companies would be taxed on their gross revenue rather than profits, in violation of a long-standing international principle in this field. We call for an intensification of efforts to find a solution at global level. Whilst allowing the OECD a reasonable opportunity to reach agreement, the Commission should in parallel undertake thorough analysis with a view to identifying ways for the EU to address any clearly identified distortions in taxation of digital and non-digital businesses without undermining competitiveness.

## **9. Ensuring sustainable social progress**

Following the Social Summit in Gothenburg on 17 November 2017, it was made clear that the European Semester should be the main framework for taking the discussions on Europe's social dimension forward and this was confirmed in the Commission communication on the social fairness package in March 2018.

Skills shortages act as a constraint on production capacity and undermine growth and employment. Further measures are needed to encourage people to stay longer in the workforce and facilitate labour market participation if we want to address labour market mismatches. This includes improving education and training to equip all age groups with



skills responding to labour market needs (paying special attention to digital skills) and adopting an employment friendly approach to social policy both at national and EU level.

European social policy should facilitate employment enhancing labour market reforms in the Member States, not impose additional constraints and costs that undermine the sustainability of social protection systems or job creation. BusinessEurope counts on the Austrian Presidency to ensure that the following proposals fulfil this objective:

- the proposal for a revision of the Written Statement Directive, which should respect the nature and purpose of this directive (informing workers about their working conditions), without introducing a harmful European definition of “worker”;
- the proposal for a directive on work-life balance, which increases the cost leave arrangements instead of improving child-care and other care infrastructures and needs to be modified in order to mitigate the cost impact of the proposed increase in compensation of parental leave.
- the proposed European Labour authority, which should not include dispute resolution in its scope and for which the aims improving labour mobility and combatting fraud in cross-border situations can be achieved by streamlining existing structures without creating a new agency;
- codification of ECJ case law as part of the revision of social security coordination regulation 883/04, where hope that a solution will be found after the missed opportunity of finding an agreement between Member States on codification of jurisprudence regarding economically inactive citizens’ access to certain social benefits;
- the proposed Recommendation on access to social protection for workers and the self-employed, which should encourage Member States to allow all individuals in employment and self-employment to adhere to corresponding social protection, leaving the space to Member States to decide whether and how to extend social protection coverage in the light of national circumstances and safeguarding the variety of forms of employment by leaving the definition of worker to the national level.

## **10. Make Europe fit for energy transition**

The Austrian Presidency should successfully finalize negotiations on the key element of the clean energy package, the electricity market regulation. Together with other proposals of the package, the regulation should ensure the functioning of integrated power markets and create an enabling framework to incentivize investments in the power sector.

A more decentralized and distributed energy system will require complex solutions, an active role of consumers and more flexibility. We need cost-effective interconnections and

infrastructure at all levels, as well as more institutionalized cooperation. The electricity market must also provide incentives for low-carbon sources contributing to supply security.

BusinessEurope welcomes the more European approach present in the proposals made. However, some improvements are needed concerning the balancing of responsibility, regional cooperation, adequacy assessments and capacity mechanisms.

In the context of the upcoming triologue meetings, the Austrian Presidency should secure a level-playing field that would put a value on the flexibility. The role of the industry and demand side are crucial prerequisites in this regard. Furthermore, it is necessary to put all energy sources on an equal footing and to remove specific exemptions, notably for balancing obligations, priority dispatch and access of new entrants. The transformation and integration of the electricity system will also necessitate a more integrated approach to transmission system operation over borders. A more institutionalized cooperation of the transmission system operators can be achieved by setting up regional coordination centres.

Last but not least, to avoid fragmentation of power markets, it is necessary to ensure that capacity mechanisms comply with the internal market rules, minimize distortive effects and do not disincentivise interconnections. The capacity mechanisms should be open to cross border participation and demand-side response. They should be technology neutral, limited in time and comply fully with the state aid guidelines. Harmonised and enhanced resource adequacy systems, both at national and European level, is the basis for optimal use of the mechanisms.

## **11. Bring clarity on key climate files**

With the 2018 Facilitative Dialogue on measuring progress in reaching the global climate targets taking place at COP24 in Katowice, this year will be the most important year in global climate negotiations (COP) since the Paris Agreement.

The European Union, with the Austrian Presidency in the driving seat, should push for significant progress on finalising the “Paris Rulebook” which sets out the rules and procedures needed to achieve the objectives of the Paris Agreement. Furthermore, Europe should continue to push other major economies to converge their climate ambitions as soon as possible with those of the European Union, which has the most ambitious climate targets out of any major economy. Only by doing so will the world be able to achieve real emissions reductions and secure a global level-playing field for European business.

That being said, Europe’s efforts should also continue within its own borders. Now that the European Emissions Trading System (EU ETS) reform has been concluded, the next important step is to achieve lower emissions in Europe’s transport systems while retaining their global competitiveness. In discussions on the Commission’s “Clean Mobility Package”, we urge the Austrian Presidency to ensure technology and fuel neutrality, apply an integrated approach (with impacts assessments focusing on both environmental benefits, jobs, security



of supply) as well as the Innovation Principle and to secure sufficient public financing to create a critical mass for new ideas.

## **12. Make a real business case out of the circular economy**

BusinessEurope's European Circular Economy Industry Platform shows how European business adds to the circular economy and what challenges we face to become even more circular.

After the long-awaited reform of waste legislation, the European Commission launched a series of legislative proposals. The Austrian Presidency will be in the driving seat on crucial files, such as the EU strategy on plastics, the interface between chemicals, waste and product legislation and the proposal for single-use plastics. It should promote a responsible use of plastics, without undermining investments in a key sector for the European economy and foster a balanced responsibility between producers and consumers.

Only 2% of plastics ending up in the world's oceans originate from Europe and the United States and these proposals can remove conflicting product requirements and at the same time help making Europe a net exporter of technological solutions for circular economy. In order to make that happen, the final versions of the above-mentioned proposals should:

- help create real markets for quality secondary raw materials;
- develop international standards on the quality of recyclable materials;
- continue a strong stakeholder dialogue;
- prevent taxes of which the proceeds are not used for circular economy.
- Is flexible on how Member States can reach the ambitious circular economy goals.
- Focus on voluntary approaches and better implementation of existing regulation.
- Raise consumer awareness and support digital solutions.
- Encourage more cooperation and communication within and across value chains.
- Make life cycle assessments (LCAs) and cost-benefit analyses (CBAs).
- Support the development of market-based economically-viable alternatives for fossil fuel feedstocks and minimise landfilling.
- Ensure secondary raw materials are on the same legislative framework as virgin raw materials.
- Prevent overlapping product, waste and chemical regulation.
- Promote research and innovation to create circular economies of scale.

## **13. Balanced solutions regarding company law and consumer protection**

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. We believe opening the access to digital tools to perform basic corporate operations (e.g. company registration) will bring EU company law

into the 21st century and reduce unnecessary administrative burden. However, this goal should not be undermined by attempts to pursue other objectives such as the fight against tax evasion and non-compliance with social rights. There are other more appropriate tools at EU and national level to address those concerns. The proposed new procedures for conversions and divisions are complex and filled with avoidable duplications. We should ensure trustworthiness of the framework to avoid abuse, but in a proportionate way.

The New Deal for Consumers, on the contrary, proposes a shift on two major pillars governing EU consumer law until now, which BusinessEurope does not support. 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 Austrian Presidency to ensure that any new EU judicial instrument is accompanied by the necessary safeguards against frivolous litigation (currently missing in the Commission proposal).

Moreover, other proposals of the consumer package (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 Austrian Presidency to continue to combat legal fragmentation, which remains a major barrier

Regarding the digital content proposal, the Austrian Presidency should endorse the original proposal's full harmonisation approach. BusinessEurope welcomes the effort to fully harmonise the legal guarantee period for digital content but regrets that minimum harmonisation has been proposed for goods with embedded digital content. Different rules will not simplify cross-border shopping.

Aligning contract rules for 'digital content' and 'goods', to the greatest extent possible, this is the most effective way of ensuring that legislation remains future-proof in the case of goods with embedded digital content; and that legislation continues to be clear and easy to understand.

Furthermore, it is important to maintain consistency with the existing European data protection rules and clarify data aspects. We appreciate the efforts to align the rules with the General Data Protection Regulation, as recommended by the European Data Protection Supervisor and as proposed by the Council. It is best if this proposal only covers personal data with respect to portability.

Last but not least, it is important to refrain from regulating lifespan and durability in contract law. Policies to improve sustainability and durability of goods are best pursued via product specific rules and not via contract law which serves different purposes. Companies should remain free to decide whether to provide commercial guarantees and inform about the duration of lifespan, as to foster competition. They need to rely on a simple and predictable legal environment to be able to offer best remedies and service to their consumers.

infrastructure at all levels, as well as more institutionalized cooperation. The electricity market must also provide incentives for low-carbon sources contributing to supply security.

BusinessEurope welcomes the more European approach present in the proposals made. However, some improvements are needed concerning the balancing of responsibility, regional cooperation, adequacy assessments and capacity mechanisms.

In the context of the upcoming triologue meetings, the Austrian Presidency should secure a level-playing field that would put a value on the flexibility. The role of the industry and demand side are crucial prerequisites in this regard. Furthermore, it is necessary to put all energy sources on an equal footing and to remove specific exemptions, notably for balancing obligations, priority dispatch and access of new entrants. The transformation and integration of the electricity system will also necessitate a more integrated approach to transmission system operation over borders. A more institutionalized cooperation of the transmission system operators can be achieved by setting up regional coordination centres.

Last but not least, to avoid fragmentation of power markets, it is necessary to ensure that capacity mechanisms comply with the internal market rules, minimize distortive effects and do not disincentivise interconnections. The capacity mechanisms should be open to cross border participation and demand-side response. They should be technology neutral, limited in time and comply fully with the state aid guidelines. Harmonised and enhanced resource adequacy systems, both at national and European level, is the basis for optimal use of the mechanisms.

## **11. Bring clarity on key climate files**

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The European Union, with the Austrian Presidency in the driving seat, should push for significant progress on finalising the “Paris Rulebook” which sets out the rules and procedures needed to achieve the objectives of the Paris Agreement. Furthermore, Europe should continue to push other major economies to converge their climate ambitions as soon as possible with those of the European Union, which has the most ambitious climate targets out of any major economy. Only by doing so will the world be able to achieve real emissions reductions and secure a global level-playing field for European business.

That being said, Europe’s efforts should also continue within its own borders. Now that the European Emissions Trading System (EU ETS) reform has been concluded, the next important step is to achieve lower emissions in Europe’s transport systems while retaining their global competitiveness. In discussions on the Commission’s “Clean Mobility Package”, we urge the Austrian Presidency to ensure technology and fuel neutrality, apply an integrated approach (with impacts assessments focusing on both environmental benefits, jobs, security

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Only 2% of plastics ending up in the world's oceans originate from Europe and the United States and these proposals can remove conflicting product requirements and at the same time help making Europe a net exporter of technological solutions for circular economy. In order to make that happen, the final versions of the above-mentioned proposals should:

- help create real markets for quality secondary raw materials;
- develop international standards on the quality of recyclable materials;
- continue a strong stakeholder dialogue;
- prevent taxes of which the proceeds are not used for circular economy.
- Is flexible on how Member States can reach the ambitious circular economy goals.
- Focus on voluntary approaches and better implementation of existing regulation.
- Raise consumer awareness and support digital solutions.
- Encourage more cooperation and communication within and across value chains.
- Make life cycle assessments (LCAs) and cost-benefit analyses (CBAs).
- Support the development of market-based economically-viable alternatives for fossil fuel feedstocks and minimise landfilling.
- Ensure secondary raw materials are on the same legislative framework as virgin raw materials.
- Prevent overlapping product, waste and chemical regulation.
- Promote research and innovation to create circular economies of scale.

## **13. Balanced solutions regarding company law and consumer protection**

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. We believe opening the access to digital tools to perform basic corporate operations (e.g. company registration) will bring EU company law



into the 21st century and reduce unnecessary administrative burden. However, this goal should not be undermined by attempts to pursue other objectives such as the fight against tax evasion and non-compliance with social rights. There are other more appropriate tools at EU and national level to address those concerns. The proposed new procedures for conversions and divisions are complex and filled with avoidable duplications. We should ensure trustworthiness of the framework to avoid abuse, but in a proportionate way.

The New Deal for Consumers, on the contrary, proposes a shift on two major pillars governing EU consumer law until now, which BusinessEurope does not support. 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 Austrian Presidency to ensure that any new EU judicial instrument is accompanied by the necessary safeguards against frivolous litigation (currently missing in the Commission proposal).

Moreover, other proposals of the consumer package (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 Austrian Presidency to continue to combat legal fragmentation, which remains a major barrier

Regarding the digital content proposal, the Austrian Presidency should endorse the original proposal's full harmonisation approach. BusinessEurope welcomes the effort to fully harmonise the legal guarantee period for digital content but regrets that minimum harmonisation has been proposed for goods with embedded digital content. Different rules will not simplify cross-border shopping.

Aligning contract rules for 'digital content' and 'goods', to the greatest extent possible, this is the most effective way of ensuring that legislation remains future-proof in the case of goods with embedded digital content; and that legislation continues to be clear and easy to understand.

Furthermore, it is important to maintain consistency with the existing European data protection rules and clarify data aspects. We appreciate the efforts to align the rules with the General Data Protection Regulation, as recommended by the European Data Protection Supervisor and as proposed by the Council. It is best if this proposal only covers personal data with respect to portability.

Last but not least, it is important to refrain from regulating lifespan and durability in contract law. Policies to improve sustainability and durability of goods are best pursued via product specific rules and not via contract law which serves different purposes. Companies should remain free to decide whether to provide commercial guarantees and inform about the duration of lifespan, as to foster competition. They need to rely on a simple and predictable legal environment to be able to offer best remedies and service to their consumers.



#### **14. Better regulation**

To conclude, in order to support economic growth and employment through investments, it is essential to make the regulatory process more competitiveness-friendly, transparent, and evidence-based. Better Regulation underpins all legislative work and is key to ensure high quality legislation and public confidence in EU policy-making. BusinessEurope fully supports the Better Regulation Agenda and strongly encourages the Austrian presidency to help establish it as permanent programme and develop it further. In addition, we urge your presidency to increase the Council's own involvement in better regulation by fully implementing its commitments under the 2016 Interinstitutional Agreement on Better Law making.

Furthermore, to foster mid-to-long-term innovation friendly regulatory practices, the Innovation Principle should be a guiding principle to take full account of policies' and decisions impact on innovation. It should ideally be applied at all stages of the legislative process.