BUSINESSEUROPE

POSITION

19 July 2016

IMPROVE CONDITIONS FOR START-UPS AND OTHER GROWTH – ORIENTED SMEs IN THE EU

Examples of problems and solutions

Introduction

BUSINESSEUROPE submitted a response dated 20 July 2016 to the Commission consultation under the Start-up Initiative, in the form of a self-standing position paper. This response comments upon policy areas where improvement is needed to support SME growth:

1. Reducing barriers to finance and private investments
2. Suppress the obstacles to trade and investment by SMEs in the Single Market
3. Help SMEs seizing growth opportunities in the Digital Single Market
4. Support SME efforts to internationalize
5. Support SME efforts to innovate
6. Reduce regulatory burdens on SMEs.

The present document gives concrete examples of problems encountered by SMEs in these areas, and of recommended policy approaches to solve them.

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AV. DE CORTENBERGH 168
BE-1000 BRUSSELS
BELGIUM
VAT BE 863 418 279

BUSINESSEUROPE a.i.s.b.l.

WWW.BUSINESSEUROPE.EU
Follow us on Twitter @BUSINESSEUROPE

TEL +32(0)2 237 65 11
FAX +32(0)2 231 14 45
E-MAIL: main@businesseurope.eu
EU Transparency register 3978240953-79

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ACCESS TO FINANCE: IMPROVE THE CASH FLOW OF SMEs	
Problem The period for the VAT return of six months is highly costly for SME's and impacts negatively on their liquidity. This return period (legally established) comes from a time when the administration had to make double checks manually, but it is clearly unnecessarily long in the digital era.	Initiative to be taken at EU level The VAT Action Plan and the connected future initiatives should solve these problems
IMPROVE ACCESS TO NON-BANK FINANCE: BUSINESS ANGELS, VENTURE CAPITAL, OTHER EQUITY SOURCES AND CROWDFUNDING	
Problem For these non-bank financing tools to mature a strong legal and institutional environment has to be established, which does not reflect a culture of heavy and costly administrative obligations. This legal and institutional environment is missing is certain countries.	Initiative to be taken at EU level There is a need to ensure that across the EU minimum operational standards exist to allow these alternative financing tools to develop. Efficiency and capacity of justice to deal with law cases in the financing area is essential. Differences in the areas of contract law, bankruptcy law, company law etc should be narrowed (with harmonisation of rules being considered if appropriate). As a starting point, a benchmarking exercise could be made, considering a portfolio of fast growing SMEs that attract Venture Capital (VC), EU support and angel investment. The VC and an individual angel will invest in these benchmark companies, and a benchmark timing of success and failure will offer the opportunity to examine the tax treatment of losses and profits over say a 10 year period. Best practices and disincentives could be revealed by the exercise.

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INCREASE THE EFFICIENCY/IMPACT OF EU SCHEMES AND FINANCIAL INSTRUMENTS	
Problem In some EU programmes, complexity of rules and inflexibility of terms is a problem for many truly innovative SME's.	Initiative to be taken at EU level Streamline programs and time-tables, and allow more flexibility as business plans deviate from initial plans.
SINGLE MARKET: IMPROVE IMPLEMENTATION OF THE MUTUAL RECOGNITION PRINCIPLE IN THE AREA OF GOODS AND SERVICES	
Problems **Different technical standards** In the case of Spain, according to the Open Line of the identification of problems of Spanish companies in the european single market Report 2015 the trading obstacles that pose most problems for Spanish companies are those related to technical standards. National technical rules represent more than 40% of the total detected single market obstacles, the most noteworthy referring to the failure to standardise relevant products and to the misapplication of mutual recognition for certificates or approvals obtained in Spain. The sectors with the greatest number of obstacles are: capital goods (20%), processed foods and beverages (14%), construction materials (13%), agriculture and electronics. Obstacles related to the functioning of the Single Market are mainly concentrated in the States to which the majority of Spanish products are bound: France, Germany, Italy, United Kingdom and Portugal. **Different packaging requirements for pharmaceutical products** Pharmaceutical products have to be registered in each Member State before marketing. Member States have different requirements as to the information that must be or is allowed on the packaging. This makes it impossible to introduce common packaging, even where the same languages may be used. As an example, Finland requires a triangle in the "blue box", but this is not allowed in Sweden. Belgium requires a barcode sticker on the packaging, which is not permitted on other markets. Italy has a special "bollini sticker", and France requires two red lines on the blister cards. The consequence is reduced product range on some markets and a higher amount of scraps.	Initiatives to be taken at EU level The following actions should be taken forward: 1) The principle of mutual recognition should be better defined and consolidated through a revision of EU-regulation 764/2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State. 2) The introduction and establishment of a "Quick Assessment Procedure" could promote better application of mutual recognition in goods and services and would improve the transparency of national decisions. 3) New national technical regulations should be subject to an impact assessment with respect to the principle of free movement, and their justification and proportionality should be documented and based on

Export of environmentally friendly, innovative CE-marked product hindered by national regulation Some years ago, a small manufacturer developed an intelligent solution for efficient pest control, completely without the use of poison. Since then, the products are in demand by an increasing number of countries around the world. The system monitors rodent activity and protects against rats entering the building or gaining a foothold in the area. The product is CE-marked under the Low Voltage Directive, but nevertheless meets many national obstacles in the form of national legislation aimed at animal protection (e.g. in Sweden and Germany). This de facto blocks the marketing of the products, even if they are proved to be both efficient and better than poison which remains in nature. **Upholstered furniture** Even if furniture is under the scope of the General Product Safety Directive and covered by European standards, special requirements in the UK for upholstered furniture – even for garden furniture – mean that a special range of products has to be developed for the UK. Due to fire protection, foam and textiles must be treated with flame resistant chemicals, which for environmental reasons are not wanted on other markets. The consequence calculated for one specific company is that it needs to have a double stock of furniture (binding capital of about 150,000 euro). There are extra initial costs for each product (about 50,000 euro per type), for which reason this company has been forced to reduce the product range in the UK by about 25 p.c. Spanish furniture companies have these problems also with France and Germany: Open Line of the identification of problems of Spanish companies in the european single market Report 2015 **CE-marked chipboards for construction and industry don't enjoy free movement** The manufacturer experiences that there is still more regulation, e.g. on environmental characteristics. Technical documentation often has to be adapted to local tradition. In Norway, a special national technical approval is required. National regulation often leads to new testing, which is considered to be mandatory. The company asks for more market surveillance as not all products on the market fulfill performance requirements. **Conflicting regulatory approaches in the environment and energy efficiency areas result in significant costs and administrative burdens** An SME exports wood burning stoves and accessories to all European countries and ends up being squeezed between optimization of emission targets and energy efficiency – requirements that are going into opposite directions. New labelling requirements addressed to consumers are increasing, e.g. regarding energy	special conditions of the Member State in question. What should apply is the recognition by EU state authorities of any EU laboratory that is certified for the needed analysis / non EU laboratories that conform with EU regulations.

efficiency. Irrespective of testing results according to the Nordic Swan standard, the stoves must be retested according to different national standards on several markets. This means that launching a new type costs about 70,000 euro alone in performing tests. In addition to this come annual or biannual audits from national test organizations, amounting to about 5 – 6,000 euro per audit. Additional to the actual costs, the administration of such different testing procedures takes a lot of time and resources. **Installation of steel chimneys complicated by national Health&Safety training requirements** An SME manufacturing and installing steel chimneys primarily within the Single Market has experienced that requirements for national training courses within health and safety for workers have increased considerably and differ from one country to another. This hinders flexibility in the posting of workers and represent a considerable increase in costs. A special challenge is experienced in Poland where the project manager must be on site during the complete installation phase. This complicates supplies and increases costs. The certification process under the standard EN 1090 on welding poses severe problems for sub-suppliers.	
SINGLE MARKET: OTHER PROBLEMS AFFECTING TRADE AND INVESTMENT	
Problems when national laboratories are not able to perform needed tests in time, with adequate quality The customs authorities at the national level do not always accept results from certified laboratories in the EU, but instead may work with only one designated national state laboratory in their area of responsibility (eg Thessaloniki customs for chemical analysis of food raw materials imports – TARIC or the Greek State Laboratory for analysing wheat imports for example from the point of view of the Karnal bunt bug risk). This creates problems when this single laboratory is slow, or does not have the capacity to deliver reliable or specialized results. More generally, many EU regulations stipulate that the marketing of a product is conditional to testing that product according to well defined test procedures. Problems occur when the national unique designated laboratory is not able to perform in time, with an adequate quality, the needed tests. This creates extra costs for SMEs, which need to get these tests done in another country.	<u>Initiatives to be taken at EU level</u> The Commission should ensure that the results of tests made by any accreditated laboratory in the EU should be recognised.

Pharmaceuticals: information procedures should keep pace with modern communication procedures According to EU regulation in the pharmaceutical area, a company can give updated information (data, measurements) to patients, doctors and pharmacists when it becomes available with respect to the use of a pharmaceutical that is already on the market. Rules from EMA (European Medical Authority) foresee that a company can either give a notification to the competent authority, which in turn notifies customers, or use of electronic means of disseminating the new information to patients, doctors and pharmacists. In some countries (eg Greece) the law postulates that the company should set aside a budget of 10-15,000 euros in order to send traditional paper mail.	<u>Initiatives to be taken at EU level</u> The Commission should push for the use of electronic means of communication, as sending physical letters is an outdated practice.
Pharmaceuticals: problems arising when national licensing authorities do not conform with the standards set by EU regulation National authorities tasked with the recognition of new pharmaceutical products have to reply within a defined deadline (set by EU law) to an application for market authorization for a pharmaceutical. The deadline for replying to a request for first authorization is 180 days. In some countries (eg Greece), national authorities often exceed significantly this deadline. In addition, the delay is not only long but it is also unpredictable. This is especially damaging for SMEs, which need to be able to market a new product fast and which have difficult cash flow issues to manage**.**	<u>Initiatives to be taken at EU level</u> A closer supervision of the ability of national authorities to conform with the standards set by EU regulation is desirable. In addition, as foreseen by EU regulation, all member states' national authorities working according to EU rules should be able to deliver authorisations.
Application of EU regulations at the national level with respect to customs Issues arise with the non-proper or consistent application of EU regulations that relate to customs. For example, in certain customs (eg Thessaloniki) takes place a non-proper application of the EU regulation regarding the import of high quality wheat. In addition, EU regulation permits custom clearance for the whole shipment that is imported in a country, to happen at the first port of entry irrespective of subsequent deliveries to other ports in the same country. At the national level (eg Greece) the EU regulation is not adhered to, and multiple custom clearance processes are required at each port of delivery. Finally, the application of the Binding Tariff Information (BTI) process has been frozen in Greece, awaiting clarifications from Brussels (TAXUD). A speedy provision of these clarifications would be appreciated and, overall, a more uniform application of EU regulations at the level of member states.	<u>Initiative to be taken at EU level to ensure adoption of best practices</u> The Commission should push (in the context of the SBA implementation process) for abandoning the multiple custom clearance processes and clarify how the BTI process has to be implemented.

Burdensome procedures to register a company or to open subsidiaries in other EU countries In only 16 Member States can SMEs access digital facilities to register subsidiaries (branches). In all the others they have to physically go to commercial/business registers and/or to notary offices (eg Austria) to perform these operations.	Initiative to be taken at EU level Take measures at EU level in order to make the digital facilities available in all Member States.
HELP SMEs SEIZING GROWTH OPPORTUNITIES IN THE DIGITAL SINGLE MARKET	
Problem There is a deficit in pan-European e-logistics platforms, which leads to increased transport costs and can trigger geo-blocking practices	Initiative to be taken at EU level Encourage pan European e-logistics platforms
Problems linked with VAT administrative duties A webshop, open to customers from all over Europe, has to 1) Keep track of the different thresholds for distance sales and change the VAT treatment for that particular country's customers when they cross the threshold. 2) Once a threshold is crossed in a country, the webshop needs to register for VAT, which in certain countries requires opening a bank account and having a fiscal representative. 3) Manage the up to 27 different VAT-returns, including translation, understanding the different legal systems and ensuring that they apply the correct VAT-rate. 4) Consider by year end, whether they want to maintain the VAT-registrations in the different member states (with the average cost of 8,000 Euro/country) The EU-Commission estimates that the average annual costs of supplying goods to another EU country are at the level of EUR 8,000 (cfr VAT Action plan section 2.1).	Initiative to be taken at EU level Strive towards a unified VAT for cross-border e-commerce in the EU. The VAT Action Plan and the connected future initiatives need to solve these problems.
Problem The national diversity of rules can be a problem and burden, which should be addressed. VAT burdens and complexity is a barrier to entry for SMES in e-commerce	Initiative to be taken at EU level Reduce VAT and other administrative burdens when selling goods to consumers via internet

Problem Administrative burdens linked to invoicing	Initiative to be taken at EU level Advance the standardization and adoption of e-invoicing. Additionally: initiatives in member states for streamlining of customs procedures (e.g. single window) , tracing, port community systems, etc
SUPPORT SME EFFORTS TO INTERNATIONALIZE	
Problem A Danish SME supplies machinery to a German customer. Before delivery, the machine is coated by a subcontractor, located in Germany. In order to save costs (and reduce carbon emissions at the same time), the machine should be transferred from the subcontractor directly to the German customer. The VAT consequence of this would be a German VAT registration because the delivery takes place from the location of the subcontractor and the final customer. Consequently, the machinery is shipped back to Denmark only to be re-exported to Germany in order to avoid a German VAT registration. All three companies are registered for VAT and can recover their input-VAT so both models result in the same VAT being paid at the end.	Initiative to be taken at EU level The VAT Action Plan and the connected future initiatives need to solve these problems
Problem/challenge There is a need for a stronger integration of European SMEs in global value chains.	Initiative to be taken at EU level Encourage the creation of clusters, both locally and globally
SUPPORT SME EFFORTS TO INNOVATE	
Problem In some countries, SMEs feel there is close to zero support (public or private) to research, such as tax deductions, technical or administrative assistance, funding, etc.	Initiative to be taken at EU level To improve policy on the basis of evidence, a benchmarking exercise should be undertaken, complementing the one mentioned above with respect to financing. This benchmarking exercise should consider a typical case of tech start-up involving international partnerships, which could be: a tech start-up that is co- founded by 2 professors in a publicly funded research institution

	and 2 graduate students, and seeks to attract a non-native EU angel investor and an investment from a large non EU Company (say, US). The board of the company will include one of the two professors, on the insistence of the investors, a non-EU citizen representing the company and the angel investor that is a citizen from another EU country. Before the investment takes place, an agreement with the research institution regarding the sharing of intellectual property will have to be reached, and then incorporation with the deposit of the investor's capital will proceed. The case should consider the filing of a patent in the area of advanced biotechnology: nationally, EU wide (to compare national patent agencies with EU agencies especially regarding their capacity to support the writing of an advanced and strong patent) and in the US.
REDUCE REGULATORY BURDENS ON SMEs	
Reduce the administrative and compliance costs linked to EU legislation In a number of areas, the administrative burdens and compliance costs linked to EU legislation are too high	Initiative to be taken at EU level The EU should define a new quantitative objective for further reducing administrative and compliance costs linked to existing EU legislation
Make national administrations more responsive to SME needs Problem Impact assessment of new regulation at national level should take account of the competitiveness of SMEs in broad terms, ensuring that legislation is proportionate, ie that policy solutions are proportionate to the perceived problem or risk and justify the compliance costs imposed. In this context, the SME test is an important instrument. In too many Member States, this instrument is not yet applied or its results are far from satisfactory.	Initiative to be taken at EU level Strengthen the exchange of best practices implemented at national level regarding the SME test

Problem There are huge differences in administrative efficiency across Europe. According to a CSES study of 2014, a small firm planning to manufacture simple steel products (with no production of toxic waste or effluents) gets the technical licences needed after 3 days in 3 EU countries, and after 3 months in 7 other EU countries.	Initiative to be taken at EU level An EU objective should be set whereby the national licenses needed to operate a company are obtained within 1 month.