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Position paper on the Single Digital Gateway Regulation proposal COM(2017) 256 final

Foreword

The Single Digital Gateway was announced in the 2016 Digital Single Market Strategy to facilitate access to information on all national requirements, to provide assistance and to facilitate compliance procedures. These aims resonate strongly with EUROCHAMBRES and among Chambers. It is encouraging that the proposal covers information aspects comprehensively, but it is equally important that it encompasses also the most important e-procedures that businesses are obliged to complete in order to trade cross-border.

EUROCHAMBRES has been active in providing input to policy makers in recent years on the single market, mapping out the needs of businesses and proposing policy solutions. At our October 2014 European Parliament of Enterprises¹ (EPE), 84% of the participating entrepreneurs voted NO to the question “*Is the EU Single Market sufficiently integrated, allowing your company to operate and compete freely?*” This underlined why it is crucial that tools like the Services Directive’s Points of Single Contact and, in the future the Single Digital Gateway, perform effectively and cater to the real needs of entrepreneurs.

To better estimate why so many business owners and managers consider that the Single Market is under-delivering, EUROCHAMBRES carried out a follow-up [survey](#) one year later. This autumn 2015 study focussed on the existing obstacles and solutions in the Single Market. The study revealed that the main obstacles encountered by companies that want to offer services or products cross-border are heavily interlinked:

- Differing national rules and requirements on products and services
- A lack of information about these rules and requirements
- Complex administrative procedures to demonstrate compliance with them

The European Commission noted the outcomes of this study and used them and cited them as a key argument for the development of the Single Digital Gateway proposal.

¹ The European Parliament of Enterprises is organised every 2 years by EUROCHAMBRES. The last edition took place in October 2014: <http://www.parliament-of-enterprises.eu/>

Businesses are realistic and do not expect differing rules and requirements within the single market to be removed overnight. Nonetheless, they do expect administrations to provide instruments to alleviate their negative impact on cross-border trading and thus on the EU economy. To this end, improvements in the online availability, quality and accessibility of relevant information and procedures are urgently required.

Following this logic, **we believe that the Single Digital Gateway can be of added value if it draws the right lessons from the past.** For instance, much can be learnt from the experience of the Points of Single Contact (PSCs), which should allow service providers to access information and complete administrative procedures online. In June 2015, EUROCHAMBRES, together with consultancy Capgemini, assessed the performance of the PSCs² in relation to criteria set out in the PSC charter on behalf of the European Commission. The criteria used in that assessment may also prove relevant to the Single Digital Gateway:

- Quality and availability of information;
- Transactionality of e-procedures (the availability of administrative procedures for online completion and the extent to which they can be completed online);
- Accessibility for cross-border users;
- Usability.

EUROCHAMBRES supports all efforts designed to diminish the complexity of administrative procedures for companies.

Specific recommendations

- Transactionality, i.e full electronic completion of the most important business procedures related to the registration and termination of a business from abroad, as well as changes in registrations. In the future more should be possible;
- The Gateway can only be successful if findability of information and ease of retrieval are guaranteed;
- We endorse the “once only” principle so that a company at its own request, does not need to provide more than once its information nationally and so that this information is exchanged between authorities;
- The information needs to meet measurable quality criteria regarding accuracy, relevance and plain language;
- The users of the Gateway should be able to report about breaches in the Single Market in a correct way. This means that “free-text” options should be made available;
- The language barrier needs to be addressed by making information available in at least one other widely spoken official language, preferably English.

² The Performance of the Points of Single Contact- An Assessment against the PSC Charter (Cap Gemini/Eurochambres, June 2015):

http://ec.europa.eu/growth/toolsdatabases/newsroom/cf/itemdetail.cfm?item_id=8342

Specific comments on selected parts of the SDG proposal

On the chosen policy option

As findability of information is a core requisite for the project to succeed, we believe that **the retained option could deliver** and is realistic in terms of what will be demanded to administrations.

Option 2 also foresees the set-up of a **“common assistance finder”**, which we believe to be a core deliverable of the instrument.

We agree with the Commission that **certain aspects cannot be left merely to the goodwill of the Member States**. This approach has unfortunately led to the inconsistent implementation of worthy initiatives which ultimately created a patchwork framework. Ultimately, the benefits of initiatives such as the PSCs have not lived to the expectations and the benefits for the end-users, ie the companies, are not proportionate with the ambitions that were expressed. European policy-makers should therefore make sure to introduce a sufficient amount of safeguards which would guarantee **that the parties that need to implement the commonly-decided rules really live up to their commitments**.

Chapter 1: General provisions

The gateway should give access to information to citizens and businesses which intend to exercise their rights deriving from Union law in the field of the Single Market in areas listed in **Annex I of the proposal**.

EUROCHAMBRES also endorses the *“once only”* principle as described in article 1§1(b) so that a company at its own request, does not need to provide more than once its information nationally and so that this information is exchanged between authorities.

Chapter 2: Single Digital Gateway Services

The Single Digital Gateway proposal would make the availability of the procedure for **registering a company** online mandatory. EUROCHAMBRES is very pleased to see this as the obligation would create more of a level playing field across national and foreign companies. However it should also be mandatory for the end of the lifecycle of a company: the **procedure for the termination of activities (closure)** should also always be available online. The same applies for **changes to a registration**. Both the change of a registration and the termination of a business are interconnected to the registration of a business and should therefore be available online.

EUROCHAMBRES took note of the Commission’s intention to promote the use of **digital processes throughout the companies’ lifecycle** though another initiative to be announced in the Autumn of 2017³. We expect that the Commission will introduce rules to modernise company law to foster the use of digital communication technologies between the company and authorities throughout the companies’ lifecycle.

In article 5 § 4 the Commission leaves it up to member states to decide whether an individual needs to **appear physically** at some stage of a procedure. It is not clear what the Commission means with the terms *“strictly necessary”* and *“objectively justified”*. There should be enough safeguards so as to ensure that member states do not abuse from this derogation to the rule that everything should be carried out electronically. However, we do acknowledge there should be some discretion margin for member states about when it’s necessary for a person *“to appear physically at some stage of a procedure”*. It can indeed be justified, in the case of for instance combat fraud and other illegal activities.

³ See second part of consultation on *“EU Company law upgraded: Rules on digital solutions and efficient cross-border operations”*: http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=58190

While endorsing the availability of procedures online, it would be helpful to have **more harmonised procedures without imposing strictly binding rules** in this regard. As stated in article 5 § 3 procedures will only be considered as fully online when a number of conditions are met. In addition to this conditions, member states authorities and their national coordinators could exchange best practices in the gateway coordination group. Best in class solutions could be used as a blueprint for authorities who have made less progress in the past years. The Commission secretariat could then be in charge of making these practices available among the authorities and make available workable solutions to concrete challenges that have been implemented by other authorities.

Article 6 § 3 mentions that the national coordinators can propose **links to non-state services** provided by private and semi-private organisations. Typically, chambers offer services to their members that fulfill the conditions set out by the Commission. It is less clear however what the Commission has in mind when stating that the these services should be affordable for micro-enterprises. No definition is given of what would deemed within the realm of their (financial) reach. Also, small companies with a similar turnover can have very different strategies and rely in different ways on foreign markets. What is reasonable for one micro-enterprise might not be for another one.

Chapter 3: Quality requirements

As already mentioned before the implementation of different other portals happened very erratically in the member states. As a consequence, the quality of the online public services is very eclectic is well. Problems can relate to completeness, accuracy, user-friendliness, language etc. Sometimes **procedures are discriminatory** towards non-nationals when they impose national data formats (eg zip codes). The proposal seems to address these issues in a satisfactory way.

Article 7 § 2, article 8 § 3, article 9 § 2 and article 11 § 1 (a) all require that the national authorities would make services available in one **additional language next to the national language**. This is important especially for the interaction between businesses and problem-solving services. Ideally, the authorities should agree in the coordination group on one single language which all would use. Although the language should probably not be defined in the Regulation itself, the authorities should make an informed choice based on what they believe to be the most used language in business in the EU.

Article 12 describes how the cross-border exchange of evidence between authorities should follow the **once-only principle**, in the case companies request it. While such an objective is highly recommendable, a word of caution is appropriate as member states have progressed at different paces in this respect. This might be again a subject matter that needs to be put on the list of topics the coordination group can discuss. It would be appropriate for member states to exchange best practices on this and the Commission to distribute these. EUROCHAMBRES also believes that the implementation of the principle can only be put in practice on the condition a secure and fully-functioning technical system is established.

Chapter 4 Technical requirements

Article 15 lays down **principles for a common user-friendly interface**. As stated in the same article, findability should be a key concern for both the Commission and the member states. To that effect article 15 § 3 foresees that the Commission “*may adopt implementing acts laying down the detailed organisation, structure and marking of each of the information, procedures and assistance or problem solving services to enable proper functioning of the common user interface.*”

The coordination group is the appropriate place to exchange best practices on this matter and to try to achieve a maximum level of homogeneity in the presentation of information. At the same time, there is little added value to be reaped in artificially trying to impose identical structures and use of terms if national authorities are convinced that a particular way is better suited to present their procedures and information.

It should be made clearer how broken links will be dealt with. Will member states be obliged to review links submitted to the SDG regularly, or will some sort of alert system be put in place in order to alert the relevant national coordinator that an update of the link is required?

Chapter 5: promotion

Article 20 on the promotion of the gateway is the link between a successful implementation by member states and the impact on companies. Without a proper promotion, the efforts in the set-up and implementation will be disproportionately low in relation with the benefits for the end-users of the tool.

It is however insufficiently clear whether the Commission will dedicate enough financial means despite a reference in article 28 which lays down the commitment of budget lines to the promotional aspect of the tool.

As without promotion, the gateway is destined to undergo the same unfortunate demise as other similar tools, it should be made more explicit **how the promotional aspect will be financed**. In other words the Commission should provide more guarantees that it could for instance draw money from eg European structural and investment funds or the Connecting Europe Facility.

Chapter 6: User feedback

No modern service can maintain a high credibility without the provision of a well-functioning user feedback system. It is however key that the Commission creates an environment of trust so that national authorities effectively share the feedback they receive with the coordination group. This should lead to the continuous improvement of the offered services. The **exchange of user feedback** should therefore be included as one of the tasks of the coordination group in article 26.

While article 22 ensures the introduction of the user feedback mechanism, it remains undefined how the users will be able to provide their feedback. We believe it is crucial that users can give detailed feedback through a **free-text option**. Standard rating system only allowing the user to give a rating and no explanation would not be sufficient.

Article 23 gives the possibility to citizens and companies to report on obstacles in the single market. Associations like EUROCHAMBRES already provide the Commission with as much information as they can, but this feature in the gateway is certainly a welcome complementary useful source to identify gaps in the functioning of the single market. However, in order to ensure the gathering of high quality information, users should have an appropriate interface. This article should be considered one of the fundamental elements of the SDG, however much of its utility is lost if the user interface would not allow for free text, particularly since 'obstacles in exercising their internal market rights', is a very generic term.

Chapter 7: Governance

While member states and the Commission should have mutual trust in the goodwill of member states to share data and experiences, a number of **safeguards should be built in order to ensure the proper sharing of information**. The implementing acts should foresee clear and adequate rules to ensure and encourage a proper follow-up carried out by the national authorities.

Further information Mr. Erwan Bertrand, Tel +32 2 282 08 67, bertrand@eurochambres.eu

All our position papers can be downloaded from www.eurochambres.eu/content/default.asp?PageID=145

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ASSOCIATION OF EUROPEAN CHAMBERS OF COMMERCE AND INDUSTRY

Chamber House, Avenue des Arts, 19 A/D • B - 1000 Brussels • Belgium

• Tel +32 2 282 08 50 • Fax +32 2 230 00 38 • eurochambres@eurochambres.eu • www.eurochambres.eu