

Draft 11 October 2007

Communication from the Commission on a simplified business environment for companies in the areas of company law, accounting and auditing

Comments of Cooperatives Europe asbl

Co-operative enterprises are established with the dual aims of realising economic success and that of answering social objectives. They follow co-operative principles that are guidelines by which co-operatives put their values into practice. These principles are Voluntary and Open Membership, Democratic Member Control, Member Economic Participation, Autonomy and Independence, Autonomy and Independence, Co-operation among Co-operatives, Concern for Community.

“Cooperatives Europe” represents 267 000 co-operative enterprises operating with 5,4 millions employees and 163 million members through Europe.

“Cooperatives Europe” objectives are to support and develop co-operative enterprises across Europe by:

- enhancing co-operative identity, visibility and recognition of their difference and added value,*
- recognition of co-operatives as main economic and social partners at EU institutional level,*
- developing a strong co-operative system in the enlarged EU and Europe region.*

Cooperatives Europe welcomes this opportunity to comment on the Communication on the simplification of the environment for companies in the areas of company law, accounting and auditing¹ published by the European Commission on 10 July 2007.

The members of Cooperatives Europe concur with the overarching objective of the Commission of review of existing EU directives on Company Law, Accounting and Auditing in the light of recent developments to assess their continued relevance. In fact, this exercise will contribute to measure administrative burdens and reduce administrative costs.

¹ COM(2007) 394 final.

Nevertheless, we would like to express some concerns about some of the Commission's proposed measures:

Individual simplification measures concerning the Company Law Directives (Section 3.1.2):

With regards to the proposed modifications in terms of abolition or simplification aiming at a higher degree of flexibility following less administrative burdens for rules on domestic mergers and divisions (III and VI directives); rules on the capital in particular capital maintenance (II directive) and rules on single-member private limited-liability companies (XII directive), Cooperatives Europe considers that these cases can be ruled in a satisfactory manner by domestic law.

Publication obligations under the First and the Eleventh Company Law Directives (Section 3.2):

With regards to the ways of publishing information concerning the companies (I and XI directives), Cooperatives Europe favours the proposal of adjusting the obligations to the offers of the new technology and the proposal to eliminate the heavy administrative burdens that are not anymore justified by the original aims.

Simplification measures for SMEs in accounting and auditing (Section 4):

Definition of "micro-entity":

Regarding Annex 4 on the simplification measures for SMEs in accounting and auditing, Cooperatives Europe supports the Commission's proposal on the exemption of micro entities from the application of the accounting directives, but underlines the importance of maintaining the definition of Commission recommendation C(2003)1422 of 6/5/2003 on the definition of micro entities and SMEs². We suggest that for clarification purposes cooperatives should be expressly included in said definitions

Although the Communication clarifies that in previous consultations with the Member States the thresholds contained in the recommendation of 2003 could have been considered too high for accounting and auditing purposes and that for SMEs such thresholds are much higher than those provided for in IV Directive, the specific reference to SMEs leaves some space for putting into discussion the thresholds for micro entities, on which an evaluation is expressly required by the Commission.

Trespassing thresholds for SMEs:

In relation to the provisions on the thresholds' crossing for SMEs (art. 12 of IV directive), at present if a small enterprise crosses the thresholds for 2 years one after the other, it must apply the accounting and auditing requirements of a medium size enterprise. If the enterprise goes again under the threshold, the directive states that the enterprise (back to small size) applies for 2 years the provisions for the medium size enterprises.

² Less than 10 employees; balance sheet total below 2,000,000 EUR or turnover below 2,000,000 EUR.

Cooperatives Europe agrees with the opinion that the provision of a period of 5 years, instead of 2 for the crossing of the thresholds which determines for a small enterprise the application of the accounting requirements of a medium size enterprise is in line with the real need of growth's consolidation of a SMEs. Also the provision for 1 year to go back to the criteria of a small enterprise seems to introduce more flexibility which is an advantage for the enterprises. It must be supported also the simplification of the procedure for the adjustment of the thresholds.

Relieve from publication requirements for small entities:

Cooperatives Europe considers in a favourable manner the proposal of complete exemption of small enterprise from the obligation of publishing. This proposal of simplification is fully part of the intention to lower the bureaucratic burdens both at European and national level.

On the other hand, however, these requirements (filling in of the “unique model” (taxation form); ways of presentation only by electronic format and communication via electronic format; need of the interested person of having an e-mail account; national charter of services or electronic identity card; electronic signature, etc.) will imply for the entrepreneur also functional skills and means for this modernisation not only from a technological point of view. It would be appropriate that the trade associations could be supported in their role of front office and of technical support in carrying out these requirements for the enterprises, which often, for their small or very small dimensions don't have the skills and competences to carry out these requirements by themselves.

Simplification regarding consolidation:

Regarding the clarification of the relationship between the IAS Regulation 1606/2002 and the Seventh Directive, the EACB welcomes the intention to clarify the treatment of subsidiaries with no material significance (Article 13 of the Seventh Directive). Article 13 is of high relevance. It should not lead to the situation that companies that have no material subsidiaries have to draw up consolidated accounts, while they would not be obliged to, since they do not meet the “materiality criteria” under IFRS.

Therefore, we strongly advocate for the suggested solution that parent companies that have no material subsidiaries should not be obliged to draw up consolidated accounts. The elimination of consolidation requirements or requirements to provide IFRS financial statements in cases where there are only immaterial subsidiaries would be a substantial simplification. Furthermore, it would also comply much better, with Article 5 of Regulation 1606/2002/EC, which gives member states the option to decide whether companies have to establish (only) consolidated accounts or also their individual accounts according to IFRS. An obligation to establish consolidated accounts also when there are no material subsidiary would in fact seriously harm this option.

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