



Brussels, February 2009

COMMENTS OF THE COMMISSION ON AN OPINION FROM THE GERMAN BUNDESRAT

COM(2008) 394 – COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS “THINK SMALL FIRST” A “SMALL BUSINESS ACT” FOR EUROPE

The Commission would like to thank the Deutsche Bundesrat for its comments on the Commission communication on the “Small Business Act” for Europe (SBA)¹. The close consideration given by the Deutsche Bundesrat to the SBA reflects the importance attached to this initiative which the Commission considers to be a crucial part of the Lisbon Strategy for growth and jobs. The Commission fully shares the Bundesrat view that SMEs are crucial to boost economic growth, employment and innovation in Europe and that the SBA can play a key role in releasing the full potential of SMEs.

The comments of the Bundesrat focus on several points:

- a) The Bundesrat highlights the importance of single and micro enterprises, including especially women entrepreneurs, and would like to attach a particular importance to this issue. The Bundesrat also welcomes the proposal to enhance the framework conditions for entrepreneurship.
- b) The Bundesrat welcomes that the actions foreseen in the SBA respect the subsidiarity principle and stresses the importance of the division of competences between the German federal states and the EU. In this context, the Bundesrat wishes to be involved early in the SBA follow-up process, to be able to share its experience as operational measures are defined and hopes to establish a fruitful cooperation with the Commission.
- c) There are also several points on which the Bundesrat raised some concerns. These are mainly measures which in Bundesrat's opinion may affect the national tax system or the existing German laws. Furthermore the Bundesrat mentions measures that could be seen as guidelines for national programmes or lead to double structures.
- d) Finally, the Bundesrat gives various suggestions, e.g. in relation to cutting the red tape, and proposes concrete measures.

¹ COM(2008) 394 final

The Commission wishes to make the following comments:

a) Single and micro enterprises including especially women entrepreneurs

The EU strongly supports the call for a greater attention to the specific situation of single and micro enterprises **including especially** the role of women entrepreneurs. The SBA stresses the need to recognise and respect the diversity of the SME sector and recognises the importance of single and micro enterprises and women-related issues².

b) Division of competences between the German Federal States and the EU

The Small Business Act fully respects the subsidiarity principle and hence the division of competencies between the EU and all other levels of government. The SBA provides a blueprint for addressing the needs of small and medium-sized enterprises through a political commitment at all levels based on a partnership anchored in the Growth and Jobs Strategy. It is a major step to make Europe more entrepreneurial and help its businesses thrive as it improves framework conditions for SMEs while taking full account of their diversity.

The division of competences is questioned by the Bundesrat with a particular reference to the federal school policy. In this context, the SBA includes an invitation to stimulate innovative and entrepreneurial mindsets among young people by introducing entrepreneurship as a key competence in school curricula, particularly in general secondary education. Given the lack of EU competence in this field, this invitation can only be followed up in the Member States according to their own constitutional arrangements.

The Bundesrat expressed concerns that Member States competencies could be affected through an enlargement of the system of state aid control. Community role in the area of State aid policy is well defined and it is not the ambition of the SBA to affect the prevailing division of competencies in any way. The Commission, however, points out that state aid well targeted at market failures can contribute to unlock SME potential especially under current economic circumstances.

The Bundesrat stresses the importance to be involved early in the further concretization of the measures proposed by the SBA. The Commission is keen to benefit from the useful experiences of the federal states and welcomes all forms of communication. The Commission wishes to inform the Bundesrat that a first concretisation of the SBA has already take place in the form of an SBA action plan proposed by the French Presidency and adopted by the Council of Ministers in charge of competitiveness in December 2008.

The Bundesrat finally raises the issue of the division of competences in relation to assessing the SBA implementation in each Member State. The Commission notes that the Lisbon Strategy for growth and jobs foresees a periodic assessment of progress achieved in the Member States, and that the monitoring of implementation of the SBA will take place in this context. The Commission is convinced that a regular assessment and comparison of economic policies based on partnership at all levels can substantially contribute to improve the business

² This is especially mentioned, for example, in Principle I ("Entrepreneurship"), Principle III (rules according to the principle of "Think small first") and Principle IV (Statistics obligations for micro-enterprises).

climate for SMEs. In this context the Commission refers to the position paper of the Federal Government of October 2008.

c) Further points on which the Bundesrat raised concerns

Referring to the SBA call on Member States to adopt the pending proposal to raise the threshold for VAT registration to 100,000 Euro, the Bundesrat claims that this could lead to competitive disadvantages and tax losses. The Commission is aware of these possible consequences and considered them when presenting the proposal but thinks that the potentially negative effects are outweighed by the positive impact on SMEs competitiveness achieved through a significant reduction of administrative burdens.

The Bundesrat supports the proposal of the Commission to raise awareness about the needs of SMEs of the national authorities and administrations. However, the Bundesrat questions the measure to reduce the fees of business registration to the lowest level of all Member States. Fully respecting national competencies in this field, the Commission encourages a general reduction of administrative fees by inviting Member States to take inspiration from EU best performers. This does not necessarily mean that all fees throughout the EU have to be aligned at the lowest existing level.

In the field of standardisation, the Bundesrat considers that Member States should not be expected to cover costs of new measures due to the fact that SMEs also have a cost benefit. The Commission, in cooperation with the European Standards Organisations, has launched a debate in view of a better access to standardisation for stakeholders, especially SMEs. Beyond the specific support allocated to the SMEs representative organisations to strengthen their participation in the standardisation process, the Commission supports financially the European Standards Organisations, taking into account their degree of openness to all stakeholders. The Commission is working with the standards organisations to review their business model. The Commission is aware that standardisation is a private activity, financed mainly by industry. On the other hand, it is of crucial importance for the competitiveness of SMEs that standards are available easily and at reasonable costs.

The Bundesrat assumes the Commission will issue central guidelines in the field of cluster policy. The Commission stresses in the SBA the need for the EU and Member States to encourage investment in research and invites the Member States to help SMEs become high growth companies including through participation in clusters. The Commission also refers to the development of a cluster strategy and provides example of related measures. In this context, the Commission draws the attention of the Bundesrat to its communication "Towards world-class clusters in the European Union: Implementing the broad-based innovation strategy"³, in which the actions to promote clusters have been presented in detail. This policy communication adopted as a follow up of the SBA, makes it clear that the EU does not have the ambition to develop a centralized EU level cluster policy, but rather to support national and regional efforts where an EU value-added can be demonstrated. The Bundesrat also suggests excluding cluster activities, such as cluster management from the regime of state aid. In this regard, the Commission draws attention to section 5.8 of the current Community

³ COM (2008) 652 final, available at: http://ec.europa.eu/enterprise/innovation/index_en.htm

Framework for State Aid for Research and Development and Innovation, which allows operating aid for cluster animation for a limited duration of five years.⁴

In the area of internationalisation of markets, the Bundesrat expresses some concerns about the potential risk of duplication and competition distortions. The Commission fully agrees with this assessment, but is convinced that the potential of foreign markets opportunities for SMEs can be better exploited, including through common efforts. It is why the Commission intends to set up pilot European Business Centres in selected markets, starting with the fast-growing economies of India and China, in full cooperation and coherence with the existing support structures, such as Chamber organizations. The new business centres are therefore expected to be complementary to existing ones.

d) Analysis of suggestions of the Bundesrat

The Bundesrat and the Commission have the common goal of reducing administrative burdens for small and medium-sized enterprises, for example in the participation to research programmes. The Commission reached already a lot and is very keen to continue pursuing this goal under the current budgetary rules.

In this connection, the Bundesrat wishes to know the calculation basis to reduce the administrative burden by 25%. The Commission has identified 13 priority areas that should account for 80% of administrative burdens stemming from EC legislation and its implementation by the Member States. The assessment of those burdens is done on the basis of the EU Standard Cost Model.⁵ So far, reduction measures presented or foreseen represent savings in excess of €30 billion, largely to the benefits of SMEs. Further details are provided in the 3rd strategic review of Better Regulation presented by the Commission in January 2009⁶.

The Bundesrat asks for the added value of the planned Community patent. The Commission believes that a Community patent would be far more attractive than models under the present system which is a bundle of national patents. It would give the EU the possibility to catch up with more cost efficient systems for example in the US and Japan and make up for a significant competitive disadvantage faced by EU innovators. In addition, the existing system of patent litigation in the EU, with the risk of multiple patent litigation in several countries on the same patent issue, leads to unnecessary costs for all the parties involved and causes a lack of legal certainty.

⁴ OJ 2006/C 323/01, available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:323:0001:0026:EN:PDF>

It should be noted that these rules do not apply exclusively, so clusters may be eligible for other types of aid.

⁵ Further information is available at: http://ec.europa.eu/enterprise/admin-burdens-reduction/action_program_en.htm and http://ec.europa.eu/governance/impact/index_en.htm

⁶ COM(2009) 16 final.

e) Conclusions

The Commission welcomes the Bundesrat opinion as generally supportive of the Small Business Act.

The Commission invites the Bundesrat to participate also in the follow-up process including the further concretization of the individual measures.. The concrete examples of the SME policy from the German federal states may represent an excellent possibility for benchmarking and serve as an excellent opportunity to exchange best practices with other European countries and regions.