



COMMISSION DES COMMUNAUTÉS EUROPÉENNES

Bruxelles, le 9.3.2009

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**AVIS DU COMITÉ DES ANALYSES D'IMPACT**

PROPOSITION DE DIRECTIVE DU PARLEMENT EUROPÉEN ET DU CONSEIL  
CONCERNANT LA LUTTE CONTRE LE RETARD DE PAIEMENT DANS LES  
TRANSACTIONS COMMERCIALES

(REFONTE DE LA DIRECTIVE 2000/35/CE)

{COM(2009) 126}

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Brussels,  
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17 DEC. 2008  
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## Opinion

**Title**                    **Impact Assessment on a proposal amending Directive 2000/35/EC on combating late payment in commercial transactions**

(Version of 27 November 2008)

**Lead DG**                    **DG ENTR**

### **1) Impact Assessment Board Opinion**

#### **(A) Context**

Many payments in commercial transactions between businesses or between businesses and public authorities are made later than agreed in the contract or laid down in the general commercial conditions. These practices complicate the financial management of enterprises; particularly SME's and can also affect their competitiveness and profitability. Combating late payments in commercial transactions is the main objective of Directive 2000/35/EC. The revision of this Directive is one of the initiatives announced in the communication "Think Small First - A Small Business Act" for Europe (COM(2002)394) and in the Commission Communication "A European Economic Recovery Plan for Growth and Jobs" (COM (2008)800).

#### **(B) Positive aspects**

The IA report is written in a clear way. Good use of overview tables is made throughout the text.

#### **(C) Main recommendations for improvements**

*The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report, subject to the discussions that took place in the meeting with the Board.*

**General recommendation: The IA report should be improved on a number of aspects. Firstly, it should explain more clearly to which extent late payment problems are a consequence of ineffective national and/or European payment rules. Secondly, the IA report should provide a more quantitative and more differentiated assessment of the economic impacts by exploiting more effectively the information available in the annex and by refining the qualifications used for the degree of impact. Finally the report needs to better rank the preferred set of measures and give the overall net benefits for the preferred option. At the meeting with the Board, DG ENTR largely accepted these recommendations.**

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Moreover the Board suggested that DG ENTR contact DG ECFIN for support in quantifying economic impacts.

**Specific recommendations:**

**(1) Present more clearly the problem causes which the initiative aims to address.** The IA report should better demonstrate the causes for late payments and separate more clearly to which extent they are related to the ineffectiveness of the relevant national as opposed to European late payment rules. This analysis should include an explanation of the significant differences in late payments practices as regards domestic and non-domestic trade and a thorough analysis of the subsidiarity aspects related to further harmonization measures in the field of late payment. The analytical framework presented in table 3.11 should be used as the starting point for a more logical problem analysis and the development of related objectives and options.

**(2) Provide a more quantitative and differentiated assessment of the economic impacts of the identified options.** The overall analysis should contain a more thorough economic and quantitative assessment of the magnitude of the problem and the impacts of the envisaged measures. For instance on the basis of the tables presented in annex 3 (in particular table 3.10) it should be possible to provide (rough) estimates of the economic impacts of the legislative options assuming realistic "take-up rates" by the undertakings concerned. Given that options 2c, 3a to 3e are considered to have a 'strong' impact and that options 3e to 3b are identical in terms of effectiveness ('medium') the IA report should explore whether a more differentiated assessment would be possible. With respect to options 3e ('late payment penalty') and 2c ('publication of information on bad debtors') the report should assess more thoroughly the proportionality of these measures in the light of the economic damage inflicted or the resulting administrative burden. Finally the IA report should clarify whether the proposal will have any impact on the EU budget as a consequence of a harmonisation of payment periods for public authorities (option 3a/2).

**(3) Clarify the preferred set of actions in terms of net benefits.** Given that the identified options are not exclusive the report should clarify whether the actions constituting the preferred option would enhance the net benefits or whether other, less comprehensive action packages (in particular from a Member State or proportionality perspective) may actually lead to larger net benefits.

**(D) Procedure and presentation**

The IA report should have had a more targeted consultation of public authorities, particularly as regards the cost and benefits of the envisaged harmonisation of payment periods for public authorities.

## 2) IAB scrutiny process

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Author DG	DG ENTR
External expertise used	No
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