



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2013)

Opinion

Title

DG MARKT - Impact Assessment on an initiative on e-invoicing in public procurement

(draft version of 21 February 2013) *

(A) Context

The EU's policy towards electronic invoicing (e-invoicing) is set out in the 2010 Communication "*Reaping the benefits of e-invoicing for Europe*", in which the use of e-invoicing was recommended and self-regulation on the basis of a number of guidelines was urged. Three years after, the EU landscape of e-invoicing in public procurement has not significantly changed. Member States called for measures to promote e-invoicing in the European Council Conclusions of June 2012 and the European Parliament called for making e-invoicing compulsory in public procurement by 2016 in a resolution adopted in April 2012. A key action on e-invoicing in public procurement was included in the Single Market Act II. This impact assessment looks at the effects of a possible EU initiative which would promote the uptake of e-invoicing in public procurement across the EU and enhance interoperability between national e-invoicing systems in order to avoid fragmentation of the Internal Market. This initiative only concerns public procurement above EU thresholds, i.e. covered by Directives 2004/17/EC, 2004/18/EC and 2009/81/EC.

(B) Overall opinion: NEGATIVE

The report needs to be significantly improved in a number of important respects. First, it should better explain the nature of the market failure in particular the practical barriers to the take-off of e-invoicing in the EU generally and in public authorities in particular, and why apparent lack of inter-operability is a problem, given the fact that service providers either have developed bilateral solutions or say they can solve it. The report should clarify why existing non-legislative approaches to standardisation have failed. The linkages between this initiative and other EU policies on e-invoicing should be better explained. Second, the report should strengthen the arguments supporting the necessity and value added of EU legislative action given the small proportion of cross-border invoicing, the proven capacity of Member States to act and firms' stated preferences for the development of voluntary solutions. Third, the report should make a better attempt to estimate the costs of the initiative, taking into account the proposed deadline for transition. The reasons why micro-enterprises are not excluded should be better explained. The significance of the impacts on employment should be clarified and

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

backed up by evidence. The feasibility of the introduction of a mandatory new standard within the given timeline should be discussed in greater depth and its concrete development described under the relevant options. Finally, the views of the different categories of stakeholders should be presented in a more balanced manner and clarified in some sections.

Given the nature of these concerns, the IAB requests DG MARKT to submit a revised version of the IA report on which it will issue a new opinion.

(C) Main recommendations for improvements

(1) Strengthen the problem definition. The report should demonstrate with evidence the nature of the market failure, given the claimed benefits of moving to e-invoicing. In particular, the problem drivers should be better analysed by explaining the barriers to the slow take off of e-invoicing in the EU generally and the public sector in particular. Moreover, the extent to which lack of interoperability represents a serious barrier to the single market should be better demonstrated particularly given the fact that service providers either have developed bilateral solutions or say they can solve the inter-operability problem. The report should better explain the reasons why existing and relatively recent non-legislative approaches have failed and especially why the standards formulated during project PEPPOL did not become a common standard and are used only by a limited number of Member States. The problems with the current system such as the missed opportunities for tackling fraud or facilitating the prevention of corruption should be better explained and supported with evidence. The linkages between this initiative and other EU policies including on e-invoicing and on introducing electronic communications in other phases of the process under the EU procurement Directives should be clarified.

(2) Strengthen the subsidiarity and proportionality analysis. The arguments supporting the necessity and added value of EU action should be strengthened given the proven ability of Member States to act and in particular the fact that some have already chosen to develop their own standards, despite the standardisation efforts already made at EU level. The report should also clarify the need for EU action given that the apparent lack of interoperability for cross-border procurement-related invoicing actually relates to a very small percentage of overall public procurement related invoicing, and given firms' stated preferences for the development of voluntary solutions.

(3) Improve the analysis of impacts. The report should better explain the assumptions underlying the estimated economic benefits given the relatively limited scope of this initiative. It should make a better attempt to estimate the costs of the initiative for contracting authorities, including those that have already developed systems, service providers and enterprises. Moreover, the cost analysis should take into account the proposed deadline for transition. The report should pay more attention to the costs of complying with new e-invoicing standards for SMEs and microenterprises and a justification should be given for the fact that microenterprises are not excluded from this initiative. The significance of the impacts on employment should be better explained and backed up by evidence. The feasibility, including the process and timing and potential risks, of the introduction of a mandatory new standard should be discussed in greater depth.

(4) Better present stakeholder views. The views of the different categories of stakeholders should be presented in a more balanced manner and better integrated throughout the text,

particularly in the problem definition and the impacts of options section. The positions of the various stakeholders on the diagnosis of the problem should be clarified.

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

(D) Procedure and presentation

The report should be shorter, moving non-essential information to an annex. In particular, the problem definition should be streamlined. The presentation of the options and the analysis of the impacts of the different options against the baseline should be completed and the comparison of options across stakeholder groups should be strengthened. An annex including key definitions and terms should be added.

(E) IAB scrutiny process

Reference number	2012/MARKT/015
External expertise used	No
Date of IAB meeting	20 March 2013