

# European Business Register

---

Response to European Commission Green Paper:  
The Interconnection of Business Registers



*Date Issued: 29/01/2010*

*Issued By: Paul Farrell on behalf  
of the Board*

# Comments by the European Business Register on the Commission Green Paper on the Interconnection of Business Registers

## *Introduction*

The European Business Register (EBR) is pleased to respond to the consultation process initiated by the Commission in its Green Paper<sup>1</sup>. The EBR takes note also of the Progress Report set out in the Commission Staff Working Document that accompanied the Green Paper.<sup>2</sup>

This response has been prepared by the Board of the EBR EEIG in accordance with the strategy adopted by the network as a whole.

As stated in the Progress Report, EBR is a network of business registers. Its objective is to offer reliable information on companies all over Europe. The current function of the EBR network is to enable easy public access to the information contained on those business registers.

The BRITE project was established and administered by EBR. Almost all of the Business Registers in Europe (and some from outside of Europe) participated actively throughout the project through the Concertation Board that validated its principal activities and results.

Following from the BRITE project, and also as part of its own development processes, the EBR is enhancing its technology platform to enable secure BR-to-BR communications. Partners are working towards the implementation of this technology (EBR 3.0) over the coming year.

The EBR network offers a platform that can meet the principal objectives set out by the Green Paper, in particular:

- EBR offers a single access point to company information on the registers of its current 24 European partners, 18 of which are the registers of EU Member States. Of the 6 non-EU jurisdictions, Norway is a member of the EEA and Jersey and Guernsey are strongly associated with the UK. EBR currently supports a multi-lingual interface and is moving towards a fully multi-lingual service. EBR is also putting in place an index of all company names in business registers - the Central Names Index (CNI) - which could be useful to the e-Justice and IMI users and platforms. The index will establish the Registered Entity ID (REID), a unique numbering system for companies in accordance with the requirements of the 1st Directive.
- A Branch Disclosure Service (BDS) in support of the Eleventh Company law Directive (89/666/EEC) has already been tested and used by a limited number of participants and will soon be launched across Europe by EBR. EBR will allow access by all interested registries regardless of their membership of the EBR.

---

<sup>1</sup> SEC(2009) 1492

[http://ec.europa.eu/internal\\_market/consultations/docs/2009/interconnection\\_of\\_business\\_registers/green\\_paper\\_en.pdf](http://ec.europa.eu/internal_market/consultations/docs/2009/interconnection_of_business_registers/green_paper_en.pdf)

<sup>2</sup> COM(2009) 614 Final

[http://ec.europa.eu/internal\\_market/consultations/docs/2009/interconnection\\_of\\_business\\_registers/working\\_document\\_en.pdf](http://ec.europa.eu/internal_market/consultations/docs/2009/interconnection_of_business_registers/working_document_en.pdf)

- With reference to cross border mergers, EBR is in a position to dedicate itself, through its unchallenged domain expertise, to the establishment of the required BR-to-BR communication process.
- Flowing from the BRITE project, the European Commerce Register's Forum (ECRF), with EBR support, is already moving ahead in a practical way with the actual implementation of BR-to-BR links. A committee headed by the Registre du Commerce et Société of Luxembourg, the outgoing presidency of the ECRF, is examining the first set of BR-to-BR services. They are looking in particular at transfer of seat and cross border mergers.

## ***Responses to specific questions raised***

The EBR is pleased to address specific issues raised by the Commission.

### ***Green paper 4.1; "Access to information – the network of business registers:***

Interested parties are invited to give their views on

- whether an improved network of the business registers of the Member States is necessary,
- whether the details of such a cooperation could be determined by a "governance agreement" between the representatives of the Member States and the business registries,
- whether they see any added value in connecting, in the long term, the network of business registers to the electronic network set up under the Transparency Directive storing regulated information on listed companies.

If the measures considered above are not judged appropriate, stakeholders are invited to explain the benefits of an alternative solution or, as the case may be, of keeping the current situation unchanged. Moreover, stakeholders are invited to provide evidence of the potential impacts in terms of costs and benefits, including simplification and administrative burden reduction, of the above options or the alternative solutions proposed.

### ***Q1 "whether an improved network of the business registers of the Member States is necessary"***

EBR development has reflected the complexity of the business register domain across Europe. For reasons of history and constitutional structure, Member States have chosen different approaches to the registration of companies and compliance with the First Company law Directive. EBR has adapted to the complexity of that environment and, as progress on the SPE has shown, it is difficult but essential to cater for these differences.

In the Green Paper the Commission raised the possibility of the establishment of a service by all registers of a web service providing a limited data set from the registers. The new EBR platform is based on web services and will provide a minimum data set. However it is the experience of

EBR that as the network expands the amount of data that benefits from shared definitions diminishes. It is essential to cater for the diversity of data being issued by registers; EBR 3.0 provides for that complexity. Business registers operate on national charging regimes based on well established rules. An open free service would provide problems for a number of registers.

Notwithstanding the harmonisation of laws as set out in the company law directives, business registers have a heterogeneous set of legal structures and histories. The establishment of a single legal entity capable of meeting the resulting requirements of the various bodies has been difficult. There is currently no identified legal vehicle which is capable of catering better for this diversity. EULIS, (<http://www.eulis.org/>), the parallel organisation dealing with access to national land registers has decided to use the EEIG legal structure. EUMETNET, (<http://www.eumetnet.eu/>), the Conference of the European National Meteorological Services, operates under an agreement between those services supported by a secretariat established as a G.I.E./EIG.

EBR strongly believes that a network of business registers such as the EBR is necessary for the implementation of certain company law initiatives within the European Internal Market. With the new BR-to-BR communications, it will be necessary to put in place the appropriate legal framework to give recognition and legal value to the information exchanged.

EBR considers, however, that considerable progress can be made in the meantime by agreement with, and recommendations from, the Commission, for example that the remaining Member States should direct their official registers to join the network, implement the basic BR-to-BR services, and adopt the standards for the identification of registers and companies.

*Q 2) "whether the details of such a cooperation could be determined by a "governance agreement" between the representatives of the Member States and the business registries"*

EBR agrees that certain aspects of the proposed interaction will require regulation by governance agreement. Such an agreement would be greatly strengthened by being given recognition by an EU legal instrument such as a directive. This would bring legal clarity and a requirement for full EU coverage.

*Q 3) "whether they see any added value in connecting, in the long term, the network of business registers to the electronic network set up under the Transparency Directive storing regulated information on listed companies"*

With reference to the Transparency Directive (2004/109/EC), we consider that a unique access point to provide the financial information available at the registries would be beneficial for the stakeholders and the purpose of a central storage mechanism.

EBR strongly supports the cooperation and direct link between the electronic network set up by the Transparency Directive for the storage of regulated information on listed companies and the EBR centralised service providing access to the EU Member States companies registers. Some time ago the EBR offered its services to CESR in permitting this access to BR data and is willing to continue those discussions.

### ***Impact - Cost/benefit***

The use of EBR for BR-to-BR communications will be very cost effective and will build upon investments already made. Once the next version of the EBR platform is in place it will be capable of managing the required BR-to-BR messaging at little additional cost.

Progressing the current activities in respect of branches could bring major savings for businesses. In addition, costs can be saved for registers and, in accordance with well established legal principles, all such savings must revert to companies.

*Green Paper 4.2; “Cooperation of business registries in cross-border mergers and seat transfers”:*

Interested parties are invited to give their views on

- which solution or a combination of those solutions they favour to facilitate communication between business registers in the cases of cross-border mergers and seat transfers,
- whether they support the proposed solution on the disclosure of branches,

If any of the measures considered above are not judged appropriate, stakeholders are invited to explain the benefits of an alternative solution or, as the case may be, of keeping the current situation unchanged. Moreover, stakeholders are invited to provide evidence of the potential impacts in terms of costs and benefits, including simplification and administrative burden reduction, of the above options or the alternative solutions proposed.

*Q 1) which solution or a combination of those solutions they favour to facilitate communication between business registers in the cases of cross-border mergers and seat transfers*

In accordance with the BRITE agreements, as EBR was the contractor for the components of the BRITE project being brought forward to EBR 3.0, it holds the right to the use of those services. EBR however proposes to use that knowledge for the benefit of the business registers.

All of the preliminary research has been done on cross border mergers and transfer of seat. Already the Luxembourg working party is convened to progress this work in cooperation with the EBR. EBR therefore considers that Option 1) as set out by the Commission is the most appropriate for the cases described by the Paper. A network of business registers such as the EBR is best placed to implement and exploit the results of the BRITE project. With the completion of the coverage of the EU Member States and the consolidation of certain legal and technical issues, EBR will have complete coverage in all the relevant business registers. Note also that companies transfer seat already to Member States from non-EU jurisdictions and that such transfers can be supported by EBR.

As is stated in the Green Paper, IMI and EBR have different purposes and functionality. The automated platform of the EBR is capable of handling services such as the Branch Disclosure Service without human intervention. That service generates tens of thousands of queries nightly on the home registers and enables the automatic update of the host registers. EBR will provide and support the platform tools, such as the Central Names Index, the Directory of Registers and the REID company identification system, that have been deemed essential components of a working BR-to-BR network. As far as we are aware the IMI service is not designed to support such services and hence meet the objectives set out in the Green Paper.

The EBR, like the registries themselves, works with publicly available data. As the EBR develops BR-to-BR communications, it will be possible to integrate services seamlessly into the public interface. For example, as the BDS identifies the home registration of companies on the register of the branch, it would not be technically difficult to show publicly on the home register the branches set up by a company. Such data would then be in the public domain and not stored in a dynamic and transitory message exchange environment.

EBR does not however see a conflict between the IMI environment and EBR services. EBR is happy to support IMI in its interface with business registers in the same way as it will work with e-Justice in providing information to the judicial and legal systems.

### ***Impact - Cost/benefit***

The use of EBR for BR-to-BR communications will be very cost effective and will build upon investments already made. Once the next version of the EBR platform is in place it will be capable of managing the required BR-to-BR messaging at little additional cost at the network level. Costs within registries would also be lower where the register has established the internal connections to the messaging systems.

### ***Q 2) whether they support the proposed solution on the disclosure of branches***

EBR agrees with the Commission Paper on the need to cater for a legal basis and regulation for the cooperation between Member States on the foreign companies Branch Disclosure.

Apart from the activities identified in the Commission's paper we must reflect on more advanced concepts such as the recommendation in the SLIM initiative that the Eleventh Company law Directive should be altered to provide that the registration of a branch should take place on the register where the company is registered, and that no further registration should be necessary in the jurisdiction where the company establishes the branch. It is understood that that proposal was not brought forward because the technological infrastructure was not in place to support proper control and disclosure. The adoption of EBR as the BR-to-BR connection would resolve that problem, at least from a technological point of view.

## **Conclusion**

EBR was associated with a meeting of the Commission's Company Law Experts Group in September 2009. From that meeting we drew the encouraging conclusion that the vast majority of Member States, and their experts, having given the matter considerable consideration in the light of the excellent work done by the Commission, were of the opinion that EBR work on deploying the conclusions of the BRITE project should be continued and adopted as the EU approach.

Under the Swedish EU Council Presidency, Bolagsverket (the Swedish Companies Registration Office) arranged a conference under the heading "Cross Border Business Information Sharing" in November 2009. Representatives from business registers across Europe as well as from China were invited and the attendance was good; about 70 delegates from 29 countries took part. The conference considered in particular the Commission Green Paper and a presentation on that paper by a Commission representative. In considering necessary cooperation between the BRs, and the need to accomplish a suitable solution for that cooperation, the issue was explored from the legal, functional and technical perspectives. A declaration was produced and unanimously approved by the conference. This declaration establishes a road map with the explicit, but also ambitious, target to have a fully operational infrastructure in place at January 1, 2012, and this infrastructure will contain several key components that support the collaboration as requested in the Green Paper.

The Conference concluded as follows:

## THE CONFERENCE:

- ACCEPTS the need to establish a standardised and legally valid solution for cross border cooperation between business registers across Europe as required in the relevant EU directives and otherwise;
- COMMITS TO participation in a process for the identification and implementation of the necessary actions, including the creation of a standardised and secure messaging environment; to the early establishment of a directory within which business registers will be properly identified and the use of a uniform company identification system; to working with existing projects; to the establishment and identification of the relevant authorities and institutions to undertake the agreed actions and
- to have a fully functioning infrastructure in place by January 1, 2012.

What is inherent in the Conference conclusions, unanimously agreed by the participants, is that there are different roles and tasks to be performed and that the appropriate authorities need to be identified to perform those roles and task. It is not a matter of establishing or identifying a single institutional structure governing laws, messages to be exchanged and technologies. Different roles will be played by different authorities bringing to bear different expertise and institutional strengths. That is in complete accord with the approach being taken by the EBR in carrying forward the BRITE recommendations.

EBR acknowledges that certain matters require an enhanced legal foundation. Business registers must be able to issue and accept documents from other registers on the basis that they have full legal effect.

EBR considers that it is logical to build on earlier political commitments. The EBR was initially established by the European Commission as part of the European Nervous System (ENS) within the Third Framework Programme of Research and Technological Development. At the conclusion of the initial research phase, it was continued and expanded by the registries themselves. EBR is by far the greatest success to emerge from the ENS investment by the Commission. ENS was established to create links between administrations; as far as we can determine EBR is the only surviving network established from that process. While its coverage is not complete it is undoubtedly one of the most comprehensive voluntary intergovernmental telecommunications networks of its type in existence.

Having been established by the European Commission it is established EBR policy to work towards recognition of its activities and role.

The European Business Register dedicates itself to the furtherance of the Internal Market in accordance with the principles set out in the Commission Green Paper and Progress Report. We do that strengthened with domain expertise and appropriate technologies. In support of the business registers we seek solutions that avoid duplication of effort and cost.

## About EBR

The European Business Register (EBR) is an internet based network, established in 1992, between providers of official public information on companies originating from currently 24 different business registers all over Europe.

The overall aim of EBR is to disseminate this information as widely as possible in order to support one of the founding ideas of the European Union, i.e. an effective operation of the Single European Market by the improvement of business transparency across Europe.

The EBR Service is a one-stop-shop service that allows users to inquiry the Companies Registers' databases and retrieve public company data through standard reports and with a multi-language interface.

EBR currently offers 5 standard on-line services and some other products delivered off-line.

The standard EBR services are the result of a first attempt to standardise company information across Europe. The data originally extracted from the Business Registers are compiled into common reports with the same layout and fixed data set.

Registers can make other products available, such as company statutes and annual accounts, delivered in the format as originally filed at the Business Registers.

### European Business Register EEIG

Headquarter  
Square de Meeûs 37  
BE-1000 Brussels, Belgium  
Phone: +32 2 514 13 00  
Fax: +32 2 514 44 45  
Registration number: BE 0464304653

Website: <http://www.ebr.org/>

Contact: Ms Simona Boscolo Bragadin

Via G. Moroni 8  
I-00162 Rome, Italy  
Phone: +39 347 7628992  
email: [sbb@ebr.org](mailto:sbb@ebr.org)