

FINLAND
Ministry of Employment and the Economy

1 March 2010

Reply prepared by the Ministry of Employment and the Economy

Subject: Green Paper on the Interconnection of Business Registers, COM (2009) 614 final

The European Commission has issued a green paper initiating public consultation on possible ways forward to improve access to information on business across the EU and more effective application of the company law directives. The commission has invited Member States to submit their views on the suggestions set out in the Green Paper.

General remarks concerning the reply of Finland

In this reply, Finland gives its preliminary views with regard to the Green Paper. It should be noted that the views expressed are not final, as the national consultations are still in progress.

The questions raised in the Green Paper (page 10)

'Interested parties are invited to give their views on

- *whether an improved network of the business registers of the Member States is necessary'*

REPLY 1: Finland supports the targets set in the Green Paper, with the aim of improved co-operation between business registries and access to register information. As cross-border procedures become more commonplace in companies, the co-operation between national business registries must also be enhanced.

Enhancing the co-operation between business registries and developing access to information are highly commendable actions, especially from the standpoint of reduction of the administrative burden on companies, the smooth functioning of the Single Market, and increased legal certainty. Facilitating cross-border access to company information enhances transparency and strengthens trust in the functioning of the markets. Moreover, improved access to information on companies will contribute to combating the grey economy and financial crime.

However, the practical achievement of the objectives set in the Green Paper largely depends on the solution chosen and its practical functionality. Finland is ready to discuss various solutions. In assessment of solutions, Finland emphasises the cost-effectiveness of the system, the functionality and flexibility of the information system chosen, the reliability and timeliness of the registers, and consideration for data and identity protection.

In terms of the practical functioning of the system, it must be taken into consideration that no uniform business ID, allowing reliable and Union-wide identification of a company, has been introduced in Europe. Reliable identification of companies, as well

as compatibility and non-ambiguity of other information provided by the system, must be ensured in the system so that the information available through that system may be utilised well and targeted at the right company.

To begin subsequent work, the commission must investigate the cost effects of various alternatives, the European Union's share of funding, and the legislative measures required by various alternatives. Only after this can ranking of the alternatives proposed be commented upon at a more specific level.

- *whether details of such co-operation could be determined by a "governance agreement" between the representatives of the Member States and the business registries'*

REPLY 2: It is not altogether clear what 'governance agreement' refers to. Therefore, in this phase it would be premature to make comments on the appropriateness of the agreement. It may be sensible that the details concerning co-operation be agreed upon in a so-called government agreement whereas a firmer legal basis would be created for the most essential obligations of the business register network.

- *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'*

REPLY 3: Finland is ready to consider the commission's plans to connect the network of business registers in the long term with the electronic network that is to be set up under the Transparency Directive, storing regulated information on listed companies. Even though connection of business registers with the information storage set up under the Transparency Directive will not necessarily provide any essentially new information to investors, it may be useful to enable the comparison of published information with registers maintained by authorities.

The questions raised in the Green Paper (page 12)

'Interested parties are invited to give their views on

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

REPLY 4: In this phase, Finland has no definite view on which of the solutions presented in the Green Paper would provide the most appropriate basis for organising registry-to-registry co-operation in some cross-border procedures. The development of the existing European business register system may be considered a starting point for development of the co-operation. However, the EBR co-operation has been established to facilitate cross-border access to company information only and not to promote registry-to-registry co-operation in cross-border procedures such as cross-border mergers and seat transfers.

The EBR co-operation should be developed through enhanced co-operation in the above-mentioned situations. Moreover, the form of organisation of the EBR co-operation should be developed so that national registries of all Member States may act as full members of the EBR. The commission has presented three alternative solutions for enhanced co-operation. Finland is ready to discuss further measures based on these alternatives. Finland's view is that the procedures developed within the framework of the BRITE project concerning cross-border seat transfers, mergers, and checking of the data on branches registered in another Member State could provide a suitable starting point for subsequent work. However, it may prove problematic that the rights to the technological solutions of the project belong to the members of the BRITE consortium. Finland is not a member of the consortium. Moreover, the costs of the project may be too high.

The Internal Market Information system (IMI) could provide a functioning channel for communication even though it was not originally meant for exchange of information between business registries. This system is used to exchange information under the Professional Qualifications Directive and the Services Directive. The benefit of IMI is that it has already been introduced in all Member States. The costs of this alternative could be lower than those of the alternative addressed above.

When assessing the solutions, Finland focuses on the cost-effectiveness of the system, functionality and flexibility, the reliability and timeliness of the registers, and data and identity protection considerations. Moreover, the system must not impede the development of national business registers for the sake of improved functionality of a national legal system or on the basis of other national needs. The extent of verification of the correctness of the information provided by the system must meet the requirements generally applied in other Member States.

(See also Reply 1, to the first question on page 10)

'- whether they support the proposed solution on the disclosure of branches'

REPLY 5: In Finland's opinion, it is important that up-to-date register data be gathered on branches as well. It is probable that some of the data on branches contained in Finland's business register, too, is not up to date. The most problematic situation arises when the main company has been removed from the relevant national register and a branch continues operating in another Member State in spite of this. It is our view that the service allowing a check of the status of a foreign branch, developed within the framework of the BRITE project, could contribute to the timeliness and reliability of information. It may be necessary to amend the Eleventh Company Law Directive (89/666/EC) such that a legal basis is established for exchanging information concerning the transmission of data on foreign branches between business registries.