

EU SMALL BUSINESS ACT

UK Government Response to the
European Commission's Consultation

APRIL 2008

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

Introduction

1 The UK believes that improving the enterprise environment for Europe's SMEs is key to delivering economic growth. We support the initiative to develop an EU Small Business Act and welcome the emphasis placed on it by the European Commission.

2 On 12 March, the UK Government published a new Enterprise Strategy. In developing this, Ministers met with over 600 small business owners across the country to hear their ideas of what more the Government can do to help them. Officials have drawn on this information, economic and statistical data, and the views of business representative bodies to develop the new strategy. This work identified the following main enablers of enterprise:

- culture
- knowledge and skills
- access to finance
- regulatory framework
- business innovation

The Strategy also recognises there are wider benefits that enterprise can bring to communities in deprived parts of the country.

3 Through this and other work over the past 10 years, we have built up a strong evidence base on barriers to growth and we look forward to sharing this with the European Commission and member states in future discussions of the EU Small Business Act.

4 The UK Government welcomes the opportunity to contribute to the development of the Small Business Act. We believe it is crucial to build on the progress made over the past 10 years that has been based around the principles of open markets, competition and better regulation.

5 During this time, much effort has been devoted to making it easier, cheaper and quicker to set up a new company. We believe these efforts should continue, but that the Act should place particular emphasis on facilitating SME growth.

6 In taking this work forward, it will be important to ensure that proposed measures are designed to address specific market failures, supported by a strong evidence base and formulated in line with better regulation principles.

7 Furthermore, we believe that action should predominately be for member states to take forward, addressing individual national issues and circumstances. The EU should act where it can have the most impact and in our view this should primarily be ensuring that Europe has a well-functioning

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

Single Market that is underpinned by the best possible regulatory environment.

8 It is also important to ensure that SME-specific issues are systematically considered in other relevant Commission initiatives such as Lead Markets, Sustainable Industrial Policy, Sustainable Consumption and Production, and Standards and Innovation.

9 Finally, the UK believes the Act should give firm commitments for action and, where necessary, foresee future legislation, but should not itself be a legislative measure.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

General question

What are the most important problems that European SMEs are facing and which prevent their growth? How to tackle them?

Consultation with UK SME representative bodies on domestic and European matters consistently shows that the main issue for their members is **regulation**. The 2007 EU Observatory Survey found that 36% of SMEs within Europe reported that regulations acted as a constraint or had presented difficulties in the previous two years.

Evidence shows that smaller businesses face a regulatory burden that is considerably higher than that of larger companies. The Commission's expert group on the burden of regulations reported in May 2007 that where a large company spends €1 per employee on regulatory obligations, a small business might have to spend on average up to €10.

Whilst progress has been at the EU level, for example on the promotion of the "Think Small First" principle and the European Commission's commitment to reduce administrative burdens by 25%, we believe a much more ambitious set of measures should be introduced. Our response to Section 1 of the consultation presents a number of specific proposals.

Another important issue is **access to finance**, where we believe action should be focussed on improving the demand side, in particular investment readiness, and the supply of modest amounts of finance for entrepreneurs who, for various reasons, are deemed to be a higher risk.

In order to grow, SME must also have **access to new markets**. Generally, exporting firms have been found to benefit from greater productivity growth than non-exporters. A recent study indicates that between 1996 and 2004 some 60% of UK productivity growth was attributable to exporting firms. The EU Observatory, however, found that only 8% of SMEs report turnover from exports. SMEs still encounter barriers in trying to access and take advantage of the Single Market and its 490 million potential customers. We hope the Small Business Act, in tandem with the Single Market Review, will reflect the concerns and needs of the SME community. Our response to Section 3 of the consultation outlines some particular areas of concern.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

1. Better Regulation for the benefit of SMEs

1.1 Is the current EU SME definition an obstacle to targeting support for SME growth in the right way?

The UK has not seen evidence to indicate there are market failures not being met by the current SME definition. Statistics show that over the period 1998-2005, productivity growth was faster in UK SMEs than in larger companies. This would seem to argue against an increase in the definition and indicate that business support should focus on helping the smallest businesses to grow into larger businesses.

We would participate in any discussion on the definition more broadly, including looking at existing ownership rules and the restrictions these can place on, for example, business angel ownership. Our firm view is that any debate must be underpinned and steered by robust data and analysis. We would support a change to the definition only if the evidence clearly pointed to this conclusion.

We are also aware of calls for the creation of a separate “innovative SME” definition. Again, we believe thorough analysis must be undertaken before deciding whether to introduce such a definition.

The UK supports current Commission action on State Aid and would not favour any weakening of State Aid or competition rules.

1.2 In addition to the systematic application of the subsidiarity and proportionality principles in legislation (see question 6.2) could differentiation regarding the way legislation is elaborated and applied according to the size of the company be useful (e.g. lower fees, fewer reporting requirements, thresholds or longer transition periods)?

1.3a Do you consider that directly applicable EU-level legislation in certain areas creates a disproportionate unnecessary administrative burden on SMEs?

1.3b Would excluding SMEs from such direct application of EU legislation be a solution?

Evidence also shows that smaller businesses face a regulatory burden that is considerably higher than that of larger companies. We calculate that around 300 regulations are introduced each year that impact on UK business and 50% of those originate from the EU. So action to reduce regulatory burdens on SMEs must be taken at EU as well as national level. We believe the Commission should utilise the “think small first” principle and where relevant, introduce exemptions from administrative requirements and undertake specific

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

screening from a small business perspective. This could be done through two mechanisms:

Exemptions

The Commission should, where possible, look to exempt small businesses with fewer than 20 full time employees from new regulation. Where exemption is not possible, either for legal or policy reasons, Directorate Generals should work with small firms to design specific approaches for them, including simplified enforcement and effective guidance.

Small Firms element in impact assessment

The importance of the "Think Small First" principle is now widely recognised, but the challenge remains to convert the principle into reality. We believe the only way this can be achieved is to build a small business element into the impact assessment process. A small business filter would ensure that all new and amended legislation affecting business is systematically assessed to identify impacts and any unintended consequences on small businesses, with a view to introducing exemptions and/or thresholds.

The Government recently announced its intention to consult on the introduction of a new system of "regulatory budgets" for Government Departments which will set out the cost to business of new regulation that can be introduced within a given period. The Government is considering whether this new system could be piloted by focusing on the costs faced by SMEs. In the future, the Commission could consider introducing a similar approach within Directorate Generals, learning from the UK pilot project experience.

In addition, completing statistical returns can be time consuming and costly for small businesses. The coverage of Intrastat should be reduced so as to effectively minimise the burden on as many small businesses as possible while maintaining those aspects of the data that are essential. Also, if a small business is sampled, it should then be exempt from any further requirements for at least three years.

1.4 Would the introduction of common commencement dates for all SME-relevant legislation coming into force and/or publication of an annual legislation statement be useful for SMEs?

The UK strongly supports the introduction of common commencement dates, supported by annual legislation statements at the EU level. Common commencement dates and annual statements were introduced in the UK for domestic regulation in 2005. Feedback received so far from business (not just SMEs) indicates that they have been well received, in particular the reduced need for horizon scanning for impending new legislation. Our cautious estimate is that they have saved UK SMEs between €15- 30 million a year;

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

the figure could be as high as €1 billion a year if savings for large business were included.

UK business has also expressed a wish to see the concept extended to EU legislation. There would be clear advantages in having greater consistency over national and EU implementation deadlines. The UK believes that an approach of setting fewer, more consistent, transposition deadlines or implementation dates should be explored further subject to exceptions covering:

- emergencies; e.g. those involving public, animal or plant health;
- anti avoidance measures necessitating urgent closure of loopholes;
- measures which remove significant risk or detriment from business;
- instances where the costs of timing a measure to meet a CCD would be wholly disproportionate to the public purse and/or business;
- measures that do not impact on business.

1.5 Do you think additional focused measures to alleviate the administrative burden on SMEs would be useful?

The UK welcomes the European Commission commitment to reduce administrative burden on business by 25% and the progress made in 2007. However, this exercise currently only covers existing legislation. We would like the Commission to be bolder and extend this work to new legislation. We believe that tackling both current stock and new incoming legislation would ensure an overall reduction in administrative burdens.

1.6 Would you suggest any other obstacles or additional issues to address?

Consultation periods

Business representative organisations that are invited by the Commission to submit views on new and amended policy, need time to assess the relevance of a consultation to their members, consult them, analyse their responses, build alliances and submit views to the Commission. The current consultation period of 8 weeks is insufficient when potentially contacting 23 million businesses in 27 member states. Consideration should be given to extending the period to a minimum of 16 weeks (as recommended by the Mandelkern Group) to give SMEs and SME organisations adequate time to distribute, collect and analyse members' views.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

2. Putting SMEs at the forefront of society

2.1 Do you see a need for additional measures in the Member States or at EU level to stimulate entrepreneurship through education?

We believe it is important to have an enterprise culture where everyone with entrepreneurial talent is inspired to take up the challenge of turning their ideas into wealth.

The UK has implemented measures to stimulate entrepreneurship through education. As well as these, other existing measures, such as the work of the UK National Council for Graduate Entrepreneurship (NCGE), already play a significant role in supporting international entrepreneurship education. The NCGE has a founding role in the EU Expert Group for Entrepreneurship Education and has been involved in developing a proposed learning outcomes framework.

The role of education in fostering entrepreneurship is an area where the European community can add value by facilitating peer learning activities and exchange of best practice. The European Skills review should include entrepreneurial skills in its scope to assess gaps and identify future needs.

2.2 Is entrepreneurship sufficiently reflected in school curricula?

The Government is keen to promote an enterprise culture. It wants to see stronger links between business and schools, giving pupils and students a better understanding of their future role and responsibility in the economy. The Department for Children, Schools and Families has an Enterprise Education Strategy to help young people to be creative and innovative and take and manage risks. Its work embraces future employees, not just future entrepreneurs, and social enterprise.

Enterprise is now written into most School Development Plans in England and the proportion of secondary schools providing enterprise education for all or most of their students has increased to well above 90 per cent. Moreover, the Government has recently announced that it will extend enterprise education in England from secondary to primary and tertiary education. Enterprise is also reflected in school curricula in the Devolved Administrations in Scotland, Wales and Northern Ireland. For example, Wales has introduced interactive material into its National Curriculum to equip young people aged 5-19 with entrepreneurial skills, knowledge and experiences by effectively utilising successful SME role models in schools and placing entrepreneurship champions in every higher education and further education institution.

The NCGE is working to ensure a stronger role for enterprise within Higher Education curricula, particularly for those HE institutions and teaching disciplines where these have not traditionally been strengths. NCGE's Flying

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

Start programme has radically improved the support available to HE students thinking about or planning to start up their own business.

2.3 Do you see a need for the media to take a stronger role in fighting negative stereotypes towards entrepreneurship?

While there is no fixed stereotype towards entrepreneurs/entrepreneurship in the UK, the media is contributing to addressing any potential stereotyping, through popular television programmes such as "Dragons' Den". The media has an important role in promoting positive images of entrepreneurship, particularly in relation to representing and targeting entrepreneurs from under-represented groups.

2.4 Would you suggest any other obstacles or additional issues to address?

Women's enterprise

While women make up an equal proportion of the EU adult population, they remain a minority in terms of enterprise activity. Data from the Global Entrepreneurship Monitor shows that across all EU countries women have low rates of entrepreneurial activity, in particular in comparison with the US, where the rate is 9.7%, with the EU average being just 3.5%. The UK has already established a Women's Ambassadors Network and recently announced plans to pilot women's business centres, a national women's mentoring networks and dedicated enterprise support for women. We believe member states should increase efforts to encourage female enterprise and that the European Network to Promote Women's Entrepreneurship (WES) should play a stronger role in identifying barriers/solutions and facilitating the sharing of good practice.

Social enterprise

Social enterprises are playing an increasing role in the economy. As well as contributing to the economy, social enterprises also draw new people into business from groups historically not attracted to entrepreneurship. They also help tackle some of our most entrenched social and environmental challenges in innovative ways. It is important, therefore, to consider the specific needs of social enterprises when developing new legislation and devising support activities.

Business to business mentoring

Feedback from UK SME business has shown there is a growing demand for business to business mentoring with experienced entrepreneurs willing to give time to mentor other entrepreneurs. This is not just true of high growth entrepreneurs but also of those in underrepresented groups (women, ethnic minorities, young people and the over 50s). The UK is about to undertake work to establish better links between existing mentoring programmes and the

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

overall business support network. We believe the Commission and member states should look at how to promote and facilitate mentoring as a source of business advice for established SME owners seeking to grow their business and to help encourage entrepreneurial success in underrepresented groups.

Global Entrepreneurship Week

The UK has been running its annual Enterprise Week since 2004. This aims to help create a more enterprising culture amongst young people in the UK. The 2007 event attracted over half a million participants. The first ever Global Entrepreneurship Week will run from 17th – 23rd November 2008 and will be the world's biggest single event of its kind. So far over 30 countries have signed-up to take part. We believe the event will encourage young people all over the world to realise their entrepreneurial potential and leave a legacy of people inspired to think and work globally in order to create value for their own local economies and communities. We believe a strong European participation would contribute to creating a more enterprising culture amongst young people in Europe.

2.5 Would it make a significant difference to further reduce the time and costs for registering a company?

Clearly it is important to make it easier to set up a company, but it should be recognised that authorities often need time to make necessary checks to prevent potential fraudulent activity. Cost, however, is still an issue. The Commission announced last October that the average cost of starting a business across Europe had fallen to £382. This is still very high; in the UK it costs a minimum of £20 to set up an incorporated company.

2.6 Do you think it would be useful to propose additional measures to facilitate business transfer and tackle bankruptcy?

The UK thinks that measures to facilitate business transfer and tackle bankruptcy are largely for action at member state level. On the latter, recent studies, including one prepared by an EC expert group in 2006, have found no conclusive evidence of the benefit of public sector intervention in the buying and selling market. There could, however, be a role for the Commission in helping member states share good practice.

The UK is seen as having a tax and legal environment that generally offers a level playing field for the various possible transfer options. A UK cross-Departmental review of the barriers to successful business transfer and an independent study into the operation of the UK market for buying and selling have been undertaken in recent years, but no fundamental market failures were identified to necessitate new policy initiatives.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

The Enterprise Act 2002 introduced major changes to UK insolvency law that had the overarching aim of alleviating the social consequences of bankruptcy and reducing the fear of failure, with a view to promoting more start-ups. It is still too early to assess whether the Act has met all its objectives; however, evaluation reports indicate that administration is being used by more SMEs. We intend to continue this evaluation and will review the need for changes over time.

However, in the immediate term, the Government has announced its proposals to change the law so that insolvency officers have the discretion to decide whether or not an advertisement should be placed in the local press with the aim of reducing embarrassment and the associated risk of stigma.

2.7 Would you suggest any other obstacles or additional issues to address?

N/A.

Helping SMEs acquire the skills they need

2.8 Do EU education systems deliver the necessary basic skills needed by entrepreneurs?

Europe needs more people who are equipped with the knowledge and skills to realise their entrepreneurial ambitions. Again, the European Skills Review should cover this.

Providing a good level of both basic and enterprise-related education is a Government priority. Currently, NCGE plays a lead role in helping to support the sharing of good practice in enterprise education internationally and supports the International Entrepreneurship Educators Conference.

2.9 How adequate are the existing measures for recognising qualifications at EU level?

Measures for recognising qualifications at EU level have been greatly enhanced by the development of the European Qualifications Framework. To ensure that this framework remains adequate for recognising qualifications in both education and training, it must now be implemented effectively. Where necessary, Member States should be encouraged to develop national qualifications frameworks in line with the European framework.

2.10 Do you see the need for cross-border mobility programmes for entrepreneurs and apprentices?

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

The Government will support the European Erasmus Programme for Young Entrepreneurs in its aims to encourage new start-ups to see their market from a European perspective by providing them with first hand experience of the business culture in member states other than their own.

Beyond the EU, the NCGE collaborates with the US Kauffman Foundation in many areas, including the Kauffman Fellowships programme which places budding UK undergraduate and postgraduate entrepreneurs in US firms and entrepreneurial universities as part of their development of business ideas. Some of these Fellows have developed strong links with the US.

2.11 Would the development of a programme to foster the e-skills of entrepreneurs at EU level be useful?

Improving the range and quality of skills within the EU is central to boosting our competitiveness. We therefore need to remain firmly focused on equipping people with the skills they need to adapt quickly to changing economic conditions, with a focus on e-business skills. The UK welcomes the Commission's Communication on e-skills and believes the EU can play a valuable role in this area, in particular in peer learning that allows Member States to set the direction of EU-level action and draw upon expertise from across Europe.

Any proposed EU initiative to foster skills development and spread best practice particularly amongst entrepreneurs and SMEs is welcome but should not hinder existing national initiatives.

In the UK whilst the number of students taking IT degree courses has gone down, more universities are exploring Entrepreneurship as a subject. There is room for a more structured approach to encouraging innovative thinking while giving young people the confidence and collateral to turn their ideas into a profit making enterprise.

Gender remains a significant and worsening issue, in 2007 fewer than 1 in 5 (18%) of the UK's IT workforce were female (down from 20% three years ago) while, across all occupations, women account for 47% of the UK's workforce. Initiatives such as e-skills UK and Computer Clubs for Girls aim to help address the gender imbalance and recruitment problems faced by the UK IT sector.

2.12 Would you suggest any other obstacles or additional issues to address?

Although there is limited EU competence in the field of increasing skills and developing training programmes, it can add value through facilitating peer learning and exchange of best practice. These activities and initiatives should therefore be encouraged and developed.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

3. Facilitating SMEs' access to markets

Supporting SMEs to go beyond their local markets and better use the Single Market

3.1 What are the areas where standards are not yet widely applicable and where SMEs would benefit from them?

SMEs experience several problems in the area of standards. For example, standards being used to exclude SMEs from markets and their lack of influence in the standard-setting process. We believe the Commission should initiate a study to look at where the standards process discourages SMEs from trading across borders and make recommendations.

We believe it would benefit SMEs if the New Approach to technical harmonisation, which uses standards to support the legislation, was extended into new areas such as environment, climate change, ICT and automotive.

It would also help if there was a common framework for accreditation across Europe. This would provide greater consistency in the accreditation process, for all businesses including SMEs, across Europe.

3.2 Do you see a need to increase the participation of SMEs and their representative organisations in standardisation and improve the dissemination of standards?

We believe SMEs should have better representation on regulation and policy issues likely to impact on SMEs at national and international levels.

Individual businesses are rarely directly represented on standards technical committees. SME representation is usually through sector-specific representational bodies, i.e. Trade Associations (TAs), to help ensure as widely an agreed consensus view as possible is achieved.

Representation of SMEs is a challenge for TAs, as no individual SME can have the resource to participate. In cases where there are large numbers of SMEs in a sector and product development cycles are slower, national representation may, however, be more effective in ensuring reasonably SME representative participation.

The challenge, especially for SMEs, of identifying relevant standards is increased in sectors where there are a number of standards-making organisations. National authorities and standards bodies have a role in ensuring that SME views are not lost as a result. Standards development is an expensive process and tends to be the preserve of larger players. It is often difficult to secure SME participation in the actual standards making process;

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

on average a standard can take 2 years to develop which is an incredible strain on a small business in terms of resources and availability.

There is a need, therefore, to find effective ways of bringing SMEs more into both the consortia/fora and European Standards Office processes. As part of this we believe an assessment should be made of the impact of funding given under the Competitiveness and Innovation Programme to help SMEs access standard setting processes.

3.3 Do you see a need for improving the situation of SMEs in the area of direct and indirect taxation; if yes, which measures would be the most significant? In particular should VAT rules be further reviewed?

In an increasingly globalised world, countries need the flexibility to respond to shocks and stimulate investment and in ways tailored to their specific circumstances. As a result, the UK believes a one size fits all harmonised approach is less appropriate to meeting the challenges of globalisation. For that reason the UK remains deeply sceptical about any proposal for a Common Consolidated Tax Base. However, we would be open to exploring proposals relating to VAT such as increasing the VAT threshold, effective implementation of the simplification scheme for non-established persons and reduced VAT rates for labour intensive services and eco-friendly products.

3.4 Which additional measures would you suggest to help SMEs to better use the potential of the Single Market including the EEA and Candidate Countries?

The Single Market provides access to over 490 million potential customers; a well-functioning Single Market is, therefore, vital for Europe's SMEs. In a number of areas, however, there are still barriers to SMEs taking full advantage of the opportunities provided by the Single Market. The EU Observatory found that only 8% of SMEs report turnover from exports. We hope the Small Business Act and the ongoing work of the Single Market Review will address the concerns and needs of the SME community.

Two key areas are procurement (see Questions 3.5 and 3.6) and standards (see Questions 3.1 and 3.2).

We support the prioritisation of action where it will have the maximum economic benefit for businesses and citizens and the emphasis on removing significant barriers in the single market, using a flexible and diverse set of policy instruments and with a focus on non-regulatory instruments. In taking this work forward it will be vital to ensure the specific needs of SMEs are reflected. Similarly, we believe that barriers to SME participation in the Single Market should be covered in the proposed market monitoring and sectoral enquiry activities.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

The UK would support a European Private Company Statute if it brings real benefits and removes burdens on business. Any new statute must be inexpensive, easy to set up and offer flexibility which enables companies to set up subsidiaries or branches quickly and easily. We feel current proposals covering company law, insolvency and tax, are too wide-reaching. The UK would have difficulty supporting a vehicle which included these complex matters and would want to keep national laws in these areas. Whilst the EPCS could help some small businesses looking to operate in more than one member state, more important is the rapid and consistent implementation of the Services Directive, as 70% of GDP and employment in most member states is generated by the service sector.

Facilitating SME access to public procurement

3.5 Do you see a need to improve SME access to public procurement?

Public procurement represents an estimated one-sixth of total GDP in the EU and potentially offers significant opportunities for SMEs. Whilst statistics show comparatively good levels of SME access in Europe, they still find it hard to compete for public contracts (particularly micros and small businesses) and there are low levels of cross border awards. We, therefore, support measures which help SMEs in the field of public procurement provided they are not discriminatory or run counter to value-for-money principles. We would oppose any proposal to introduce privileged treatment or quotas for SMEs.

The difficulties that SMEs have regarding public procurement mainly concern obtaining information about procurement opportunities and getting to grips with the process. We therefore must raise awareness, improve information, simplify processes and increase expertise.

The 2008 budget announced the creation of an advisory committee to provide advice on the necessary action to reduce the barriers to SMEs competing for public sector contracts, and on the practicality of setting a goal for SMEs to win 30% of all the public sector business in the next five years.

3.6 Would increased transparency of EU procurement opportunities below the thresholds make a difference (eg through a voluntary database disseminating procurement opportunities, central databases in the Member States or a broader use of electronic platforms?)

The UK strongly supports increasing the visibility of public procurement opportunities.

We launched a national portal (www.supply2.gov.uk) for low value contracts in March 2006, specifically to give companies easy access to lower-value

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

contract opportunities (typically worth under £100,000) offered by the public sector. In addition, all subcontracting tender opportunities relating to the London 2012 Olympic Games are available on a dedicated website (www.competefor.com). We have been encouraging contracting authorities to develop "selling to" websites, including guidance on how to do business with the authority and current prime contractors.

We would support the use of electronic platforms to provide information about procurement opportunities, which are below the threshold of the EU public procurement directives and so are of particular interest to SMEs. It would also be helpful for SMEs to have information about sub-contracts let by prime contractors.

The UK also supports efforts aimed at simplifying the public procurement process. We have developed a simplified Pre-Qualification Questionnaire for sub-EU threshold procurement, which reduces the time SMEs have to spend providing information when bidding for government contracts.

3.7 Would you suggest any other obstacles or additional issues to address?

Training

The UK has also found that training to help SMEs better understand the procurement process is a key factor in improving their ability to win public and private sector contracts. (<http://www.learn-direct-business.co.uk/winning-public-sector-contracts/>)

Green procurement

EU measures in the forthcoming Communication on Green Public Procurement should take into account costs to SME suppliers of meeting criteria developed in labelling forums.

Encouraging SMEs to tap opportunities outside the Single Market

3.8 In general, how can SMEs be helped to go global? Which countries/areas should be given priority?

UK Trade and Investment (UKTI) has responsibility in the UK for helping UK SMEs internationalise. Based on our evidence, we believe UKTI and wider UK Government policies sufficiently address any market failure preventing SMEs from going global.

3.9 Is there a need to establish European Business Centres in some fast-growing countries?

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

There could be merit in establishing European Business Centres, but this should be on the basis of a 'needs study' to ascertain whether there is a gap in the current market and sufficient user demand. In this it would be vital to assess what services are currently provided by the private and public sector and to consult member states, especially those that have well-established offices in third countries. We note that the Commission is about to undertake a feasibility study for an office in Beijing.

3.10 Do you see the need for new programmes supporting SMEs entering these markets, following the example of Gateway to Japan and the Executive Training Programme?

In light of our response to 3.8 and 3.9 and without further evidence, we would question the added value or need for these proposals. We would need to see more evidence on the barriers, benefits and cost effectiveness.

4. Supporting SME access to finance and innovation

Improving SMEs' access to finance at EU and national level

4.1 How could public policies and instruments to facilitate SMEs' access to finance be improved (e.g. awareness, procedures, cost, or better adequacy of products)?

The scale of venture capital investments in Europe is generally viewed as lagging behind the US. In absolute terms the level of venture capital investment in the US is twice that in the EU. It is also argued that the lower scale of venture capital funding in Europe results in investment being spread too thinly and thus diluting potential effects. More specifically the percentage of GDP invested in technology sectors is half that in the US. The different legal requirements in Member States are a key inhibitor to cross-border investments; we, therefore, support measures to remove barriers to EU-wide venture capital investment.

UK would encourage the Commission to continue to look at maximising the impact of EU grants. We believe that in some instances, loans may achieve more efficient outcomes than grants, given the potential trade-off between the cost of capital and the efficiency and the effectiveness with which it is used. The UK's own assessment of existing EC budget programmes suggests that there is a case for increased use of EIB loans and/or blended instruments in certain areas that currently receive EC budget funding.

We believe work is needed to improve the effectiveness of the current EIB framework. We would want to ensure there is sufficient evidence of effectiveness of current EIB work streams (for example, coming out of the

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

Bank's current review of its effectiveness around delivery for SMEs) before agreeing to new proposals such as the creation of an EIB administered fund that would help finance loans granted by micro-credit institutions. We would welcome a positive debate on how the Commission and Member States see the EIB better contributing to SME growth across Europe.

The EU funds a number of spending programmes and we believe that, as part of the Review of the EC Budget, these areas of expenditure should be assessed against the principles of EU value-added, proportionality and sound financial management.

When considering future interventions it will be important to:

- (a) have evidence of a market need for the instruments. Robust monitoring and evaluation of their impact to help member states understand how the instruments could/should be deployed within national markets. In particular, how do they consolidate within arguments of deadweight, additionality (to nationally funded instruments) and crowding out (private sector mechanisms); and
- (b) show how various Commission funded instruments join up as a coherent package of access to finance interventions.

4.2 What are the main problems SMEs face in accessing various EU support programmes such as the 7th Framework Programme for Research and Development, the Competitiveness and Innovation Framework Programme (CIP) or the Structural Funds (including the JEREMIE initiative)?

The main problems in the R&D Framework Programme are:

- Volume of bureaucracy and complexity of processes.
- Long timescales for funding decisions and payments.
- SMEs find it more difficult to find their 25% contribution than non-SMEs their 50%.
- Oversubscription.

It is too early to assess the level of SME participation in FP7, though early signs look encouraging. We welcome the fact that the Commission has taken a number of steps to improve matters in FP7, including a higher rate for eligible costs, two specific SME funding schemes, SME-oriented Article 169 initiatives and networking of National Contact Points.

The Commission has also made efforts to speed up decision making in FP7 and we would urge them to take similar steps to improve payments to project coordinators. We would be cautious about arbitrarily raising the SME participation target from 15% without thorough statistical analysis. We could

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

support the proposed Exploratory Award pilot if this involved topping up national/regional support.

The Competitiveness and Innovation Programme has been operating for just over 12 months so it is difficult to assess the SME experience. However, our sense is that it does not yet have a recognised identity, due to the fact that it is made up of separately branded programmes (e.g. Intelligent Energy Europe) and the financial instruments are delivered through intermediaries via the European Investment Fund. Consequently, we believe there must be thorough evaluation of the programme to assess its visibility, accessibility and effectiveness, before deciding whether to change and/or extend.

The main problems that SMEs face in accessing Structural Funds are a lack of capacity, resources and expertise for the application process. The support programmes tend to be complex in nature and this imposes significant burdens on SMEs, both in terms of the application process and also for any management, financial control and audit requirements. The grant-loan JEREMIE initiative, which was introduced in 2007, is still at a very early stage of deployment, making it hard to assess its impact so far. We would like to see more detail on the financial regulation proposed through JEREMIE and their potential budgetary implications. We welcome the aspiration to maximise the effectiveness of Structural and Cohesion Funds by exploring an increased use of innovative financial instruments.

4.3 What are the main obstacles for SMEs in accessing micro-credit (less than 25000 euros)?

UK believes that for many SMEs there is already sufficient supply and accessibility of external finance including micro credit. The fact that some SMEs are unable to obtain finance is not, in itself, an indication of a market failure requiring government action. Interventions should focus on those areas where evidence points to a market failure and a need to provide suitable finance for reasons unconnected with the viability of a business proposal. For example, to address:

- barriers due to lenders' uncertainty in assessing SME credit risk (and resulting reliance on collateral and track record provided by the borrower);
- potential perceptions of unfair treatment of ethnic minorities and less prosperous communities, due to inequalities in access to bank finance (for example, UK African Caribbean and Bangladeshi-owned businesses have a higher propensity to report problems in accessing bank finance than white-owned businesses).

In the spirit of the Lisbon Agenda, the UK would like to see these instruments targeted more towards high growth, early stage high-tech sectors (e. g. clean industries). We would also welcome better clarity and promotion of access

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

channels to products; and practical approaches to the development and application of Mezzanine funds.

4.4 Would you suggest any other obstacles or additional issues to address?

Investment readiness

The Commission should work with member states to consider demand side issues and in particular investment readiness. For example, how SMEs can better market their propositions to business angels and other potential investors.

We believe the role of Business Angels could be given more prominence, within an overall framework on Investment Readiness to address demand side blockages in SME access to finance. For example, to:

- help SMEs better to promote their propositions to business angels and understand the expectations of these sorts of investors; and
- enable business angels to find and maximise opportunities for investment

Encouraging a knowledge-based economy

4.5 Is there a need to help SMEs deal with IPR protection, to improve awareness and provide support services for SMEs to protect their innovation?

We agree that there is a need to help SMEs deal with IPR protection, but we take the firm view that measures should focus on reducing costs, raising awareness and sharing good practice; we would not support direct subsidy. Moreover, it is important to balance the rights of an SME to its own IP with the health of the broader innovation system; any action to support SMEs must not come at the expense of wider economic growth by making it prohibitively expensive or risky for other firms to do business with them.

There are no specific legal mechanisms that favour SMEs in terms of enforcing their IP rights and it should be borne in mind that justice systems need to treat parties on equal terms. However, the costs of enforcing IP rights, particularly patent rights, can put SMEs at a clear disadvantage to larger firms with more financial resource. This was recognised in the Gowers report, which made recommendations to improve the awareness of IPR and its enforcement; delivery of these activities is particularly aimed at SMEs.

The UK-IPO has developed initiatives aimed at reducing the costs associated with patent protection. For example, the Patent Office launched its low cost mediation service in April 2006. UK Patent law was amended so that the UK-IPO could provide a statutory low cost service which allows third parties to

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

obtain reasoned opinions on the validity of granted patents and also on infringement liability.

UK-IPO activities also aim to enable SMEs to conduct IP transactions effectively, for example, a business-to-business licensing project.

Several studies have been conducted in the area of IP/patent litigation insurance. These show that patent/IP insurance is a specialised market with relatively few players. Premiums are high and the effectiveness is difficult to quantify. There has been considerable discussion in Europe on the idea of a Patent Defence Union, a mechanism by which SMEs can group together to pool resources. The Commission commissioned a study which concluded that a PDU wasn't feasible¹.

A particular risk is that any direct subsidies to SMEs will largely be diverted to benefit patent agents and the legal profession and will drive up transaction costs. They may also encourage over-litigation. We therefore believe that improving awareness and general good practice will have a much greater impact than any direct support for IP enforcement.

4.6 What are the most significant problems SMEs face in the use of patents?

The most significant problems SMEs face are those of cost. Obtaining robust patents can be expensive, particularly because of the costs of professional advice and translation. Defending a patent infringement is very costly. However, many SMEs successfully take a strategic decision to defend their innovation without patents, using speed to market and secrecy or other forms of IPR such as copyright.

European patent system

The cost of patenting in Europe is high, and steps need to be taken to reform the European patent system to improve SME access. The UK supports the present EU initiative to create a single European patent jurisdiction (European patent court) to reduce the costs associated with Europe-wide patent enforcement. Doing so would help redress the balance between large companies, who can afford to litigate before the courts of multiple Member States, and SMEs, who often cannot. But the UK only supports solutions with clear benefits for business, and we would not support the removal of existing low-cost enforcement options, such as national patent tribunals.

In our view the optimal solution for a European patent jurisdiction would be one tailor-made for civil disputes on patents. It should not be based on the

¹ http://ec.europa.eu/internal_market/indprop/docs/patent/studies/consultation/summary_report_en.pdf

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

Community court structure, which was not designed for this purpose, and should be open to all 34 member states of the European Patent Organisation.

As a long-term goal, the UK supports a Community patent, which would supplement the benefits of a single patent jurisdiction by centralising and reducing application and renewal costs. But significant issues on translation costs, fees and delivery are still to be resolved. These must be overcome in the context of significant performance and financial problems at the European Patent Office, issues which will only be resolved in the long term. For these reasons the UK supports focussing now on the European patent jurisdiction, which can deliver substantial benefits for owners of existing patents in the near future, then focussing on the Community patent as the next step. We feel this staged approach has the greatest chance of success given the many complex and contentious issues involved.

European patent fees

While it may seem attractive to charge differential fees for SMEs, it is unclear whether this would deliver the benefits that are intended, especially as the bulk of the costs of patenting are legal and administrative costs, not patent fees. The European Patent Office is currently addressing significant financial and delivery problems and any modification of its fee structure should not impact on these efforts. Furthermore, if measures are considered to be state aid or discriminatory, they could face legal challenge from the EU.

4.7 Would you suggest any other obstacles or additional issues to address to further enhance the innovation capacity of SMEs?

The UK takes the firm view that IP protection should not be seen as the primary issue affecting SMEs' innovation capacity. In particular, we would highlight that patents are not applicable to most innovation; that patenting comes late in the overall process of innovation; and that patents will not, in themselves, encourage third-party investment. The context of the broader enterprise culture to maximise the revenue generating capacity of innovation is key to encouraging innovative SMEs.

Procurement

We believe that procurement could be a key driver of innovation. The main reasons given for government not actively pursuing innovative procurement are inadequate warning, risk aversion and client capability shortfalls. The UK Government is addressing this issue, for example through:

- The Procurement Capability Review programme to help Departments drive up procurement capability.
- Use of Forward Commitment Procurement as a method of procuring innovative solutions by defining outcome-based specifications.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

- Reforming the Small Business Research Initiative (SBRI) to encourage more innovative procurement behaviour within the Departments and promote greater engagement with high-tech SMEs.

We also support existing activities taking place involving various Member States, such as the OMC-Public Technology Procurement project on public technology procurement procedures and their implementation.

We would encourage the Commission to proceed with work on using pre-commercial procurement as a mechanism for encouraging innovative solutions. We also support the establishment of an Expert Group on management of risks in procurement of R&D to address the culture of risk avoidance by procurers.

4.8. Would you suggest any other obstacles or additional issues to address?

It is important that future developments are informed by an understanding of user-led and open innovation models, in which IPR consists of common rights to use the IP rather than there being a single “owner” of the IPR. This is a central theme of the UK's science and innovation strategy set out in its White Paper, Innovation Nation.²

5. Turning the environmental challenge into opportunities for SMEs

5.1 How could SMEs best benefit from policy measures on a sustainable industrial policy such as voluntary standards for particularly environmentally friendly products?

The UK supports the view that Voluntary Agreements are more flexible than regulations. They give SMEs the chance to compete with larger companies if they wish to participate, whilst retaining a significant degree of flexibility over whether they chose to or not (and allow them to opt out at a later stage).

A successful example is the “Lighting Phase Out”, regarding LED technologies. There are now a number of small companies being set up in UK to manufacture LED bulbs and lighting systems. While this is also in context of Energy Using Products, in the longer term it shows that Voluntary Agreements can open up the market place to SMEs.

² <http://www.dius.gov.uk/docs/home/ScienceInnovation.pdf>

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

5.2 Would Community support for energy audits in SMEs be useful?

There is already a commitment under the Energy Services Directorate for Member States to ensure the availability energy audit to all final consumers, including SMEs. In the UK, the Carbon Trust on-line tool for SMEs and Energy Performance Certificates (when made available) provides a qualifying audit.

Given the number of SMEs in Europe and the difficulty of engaging them, funding support is not necessarily the best way of helping SMEs become more energy efficient.

The UK intends to roll-out smart metering, alongside encouraging energy suppliers and ESCO companies to promote energy services and energy efficiency based on improved usage and demographic data, whilst reviewing the potential for regulatory options in the future.

5.3 Do you see the need for facilitated access to the European Environmental Management and Audit system (EMAS)?

There are tools that already exist that are specifically targeted at SMEs and provide assistance to help them register for EMAS such as the European Commission's EMAS Easy programme, the British Standard BS 8555 and the Acorn and BSI inspection schemes which make it easier for SMEs to implement EMAS by developing a stepwise approach. The UK also supports wider use of existing national best practice schemes aimed at sharing knowledge and expertise.

5.4 Would you suggest any other obstacles or additional issues to address?

The UK agrees that SMEs need greater market incentives to develop the technological solutions to the environmental issues which Europe faces. However, we encourage the Commission to ensure existing programmes are working effectively and efficiently rather than proposing new initiatives for additional direct funding.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

6. Enhancing the implementation of EU SME policy principles

6.1 What is the right way to agree on principles of SME policy across the EU and to ensure their implementation at EU and Member States level? Is there still an untapped potential within the European Charter for Small Enterprises process?

We believe the Enterprise Policy Group (EPG) should be the main EU discussion forum for SME policy issues, with decisions taken in the Competitiveness Council. To help the Group fulfil this function, and bring about greater coherence in EU SME policy deliberations more generally, we believe there should be more clarity on the supporting contributions and value added by discussions in other groups such as the Economic Policy Committee and the High Level Group on Competitiveness and Growth.

The European Charter for Small Enterprises is a useful mechanism for helping policy makers and deliverers learn from each other. The Charter has gone through a full cycle, so it would be timely to consider possible changes to its remit. For example:

- Refresh the Charter objectives;
- Revisit previously identified good practice to assess longer-term impact;
- Introduce discussion of future policy challenges;
- Link more closely with the annual multilateral surveillance of National Reform Programmes.

6.2 Would a systematic application of the subsidiarity and proportionality principles at EU level help to further strengthen the application of the 'think small first' principle?

See reply to question 1.2

6.3 Would you suggest any other obstacles or additional issues to address?

Evidence

This response makes several references to the need for evidence-based decision making. In order for this to happen, there needs to be sufficient data gathering and supporting statistical analysis. We recommend, therefore, that the EU SME Observatory is reinvigorated to ensure the Commission and member states have the necessary information to support policy discussions and decisions.

EU SMALL BUSINESS ACT

UK RESPONSE TO EUROPEAN COMMISSION'S CONSULTATION

SME support

The business support market in the UK is highly complex and this can make it difficult for SMEs and potential businesses to either find or know how to make use of the support available. In response to this, the Government is simplifying the support market in England. By using a single customer facing brand ("Business Link") the aim is to create a single access channel through which all publicly funded help and support can be accessed. The Devolved Administrations in Scotland, Wales and Northern Ireland manage their business support through their own access channels ("Highlands & Islands Enterprise" and "Business Gateway" in Scotland; "Llygad Busnes/Business Eye" in Wales; "Invest NI" in Northern Ireland).

We believe the Commission and member states should similarly look at simplifying their support markets as we need to avoid a proliferation of services and brands. We support existing services such as the Points of Single Contact and the Enterprise Europe Network and it would be helpful if the Commission could contractually require suppliers to work with member states' existing business support networks. This would not only reduce the cost of delivering support, but also ensures that the money allocated to tackle specific market failures is not spent duplicating existing structures.