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## **Position on the European Commission's CSR communication "A renewed EU strategy 2011-2014 for Corporate Social Responsibility" (COM(2011) 681)**

**13 December 2011**

### **Introduction**

On 25 October 2011 the European Commission adopted the CSR communication "A renewed EU strategy 2011-2014 for Corporate Social Responsibility". CSR has been an important concern of the four central German business organisations – Bundesvereinigung der Deutschen Arbeitgeberverbände (BDA), Bundesverband der Deutschen Industrie (BDI), Deutscher Industrie- und Handelskammertag (DIHK) and Zentralverband des Deutschen Handwerks (ZDH) – for many years. They support companies through up-to-date information on developments and trends in CSR, through guidelines and platforms for exchange of experience, through the CSR internet portal CSR Germany as well as through individual advice. The organisations have contributed constructively to the further development of CSR in the various processes and dialogue platforms at national, European and international level. Against this background, the organisations issue this joint position on the communication.

### **On the content**

In its communication the European Commission proposes a number of measures designed to support companies in their commitment to society. BDA, BDI, DIHK and ZDH endorse in particular the plan to draw up guidance for small and medium-sized enterprises with regard to corporate responsibility for human rights, to provide further financial support for education and training projects on CSR under the lifelong learning and youth in action programmes, and the announcement of a European award scheme for CSR partnerships between enterprises and other stakeholders from 2012 onwards. This is the right way to promote the highly diverse societal, social and environmental commitment of companies concretely and directly. The more companies perform a model function on a voluntary basis, the more companies will follow their example, either to compensate for disadvantages in competition or for internal reasons linked to values.

**Yet the European Commission spoils this practical approach in the communication due to a large number of announcements which would run counter to the voluntary nature of CSR, jeopardise the diversity of CSR and lead to new bureaucratic rules.**

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In the first line, the task of companies and the basis for their commitment is long-term maintenance of their own cost-effectiveness in global competition. The four central business organisations support the idea that companies should accept their economic, social and ecological responsibility as part of their core business, and act accordingly. But performing tasks geared to the general good is a voluntary and additional activity which goes beyond compliance with legislation. Companies can supplement action by the state, but they cannot replace it.

The four business organisations are particularly critical of the following initiatives:

➤ Proposal for a legislative measure on the transparency of social and environmental information

The European Commission announces a legislative proposal on the transparency of social and environmental information. An impact assessment is already under way.

The central German business organisations reject the European Commission's proposal that companies should be obliged to report on their corporate responsibility. With this proposal, the Commission interferes massively in companies' freedom to shape their activities. Companies commit voluntarily in a very wide range of areas – and as a consequence the “whether” and “how” of information on this commitment should continue to be voluntary. Furthermore, the bureaucratic burden – in particular for small and medium-sized enterprises – would be considerable and is out of all proportion to the benefit. Achieving more transparency is also a continuous process. Alongside companies themselves, a whole series of stakeholders are involved – academics, information service providers, NGOs. In the framework of the European CSR Alliance, the theme has been discussed intensively since 2007 and possibilities for enhancing transparency have been identified. This dynamic development must not be impeded and made more difficult by static requirements. It is essential to avoid regulation which causes companies to concentrate on complying with legal provisions instead of on dialogue with stakeholders.

Policy-makers should support the dynamic development in the area of transparency in CSR by backing and initiating dialogue processes, exchange of best practice as well as research and more in-depth analyses on the theme of transparency and reporting.

➤ Code of conduct for self- and co-regulation projects

The Commission proposes that a code of conduct for self- and co-regulation projects should be drawn up with companies and stakeholders (e.g. sectoral codes). In the Commission's view,

successful self- and co-regulation processes are characterised in particular by straightforward obligations, by clear performance indicators, by monitoring, by objective processes, by accountability mechanisms and by efficient complaint mechanisms.

The announced preparation of a catalogue of basic requirements for sector-specific CSR codes of conduct under the heading of “self- and co-regulation processes” runs counter to the character of a voluntary self-commitment by companies. In addition, the existence of sector-specific codes of conduct is an expression of the diversity of CSR: Depending on the challenges faced by the sector and the needs of the relevant stakeholders, the codes will set different priorities. Moreover, there are clear differences in the orientation, objectives and character between company-level codes of conduct, sectoral codes and voluntary self-commitments (e.g. on environmental protection). But lumping all these different instruments together will neither make them more effective nor benefit society.

It is also irritating that the European Commission anticipates the announced multi-stakeholder platforms with a list of far-reaching basic requirements for a code. In this regard, the European Commission’s wish to be involved in the preparation of sectoral codes is out of place. This reveals a “state-knows-best” approach which contradicts the idea of voluntary action as an underlying principle of CSR. Moreover, it is in contradiction with the idea of self-regulation processes whose very purpose is to develop tailor-made concepts under companies’ own responsibility – without the involvement of authorities. This poses the threat of making CSR a bureaucratic exercise, contrary to the European Commission’s efforts to reduce red tape.

➤ Implementation of CSR in public procurement awards

In the framework of its review of the EU public procurement directives, the European Commission intends to integrate social and ecological considerations more strongly in the tendering process. The goals of environmental protection and socially responsible conduct are essentially laudable. Nevertheless, the primary purpose of putting public contracts out to tender is to cover needs as cost-effectively as possible. Secondary purposes should not overshadow this and should not be pursued via the vehicle of public procurement awards. Rather, they should be pursued in the context of their respective policy fields. In any event, it is important to ensure that any additional general policy criteria in public procurement should be directly related to the object of the contract.

Furthermore, it should be remembered that both environmental and social aspects can already be taken into consideration to an

extraordinarily wide extent under existing EU public procurement legislation. Even greater discretion to incorporate these aspects – especially where there is no link to the object of the contract – would be counterproductive. Under no circumstances should more far-reaching consideration of additional aspects go so far that the quality and price of the product supplied comes to play a mere secondary role. The argument sometimes heard that more far-reaching additional aspects can be incorporated without additional administrative costs looks unrealistic. No new requirements may be added to public procurement legislation which burden administrations and companies with increased effort.

➤ Commitment to comply with international guidelines

The European Commission calls on all large European companies to commit to implementing the OECD guidelines for multinational enterprises, the global compact or ISO 26000 by 2014. It announces that it will verify whether companies with more than 1,000 employees have met their commitment to comply with internationally recognised CSR principles and guidelines.

Inviting companies to commit to implement these standards runs counter to the idea underlying the initiatives and texts to which the European Commission refers. In addition, these are very different instruments. Lumping them together serves no purpose: the OECD guidelines set out the expectations that OECD governments place on the conduct of multinational enterprises when they make foreign investments. The Global Compact is a network that targets first and foremost learning from each other. Lastly, ISO 26000 provides guidance aimed at a wide range of organisations. But none of these instruments may be suitable for SMEs in particular, hence the preference for a sectoral code, GRI, SA8000 and EMAS, etc.

What is more, with its proposal to verify whether companies with more than 1,000 employees have complied with their commitments, the European Commission runs the risk of building up considerable new bureaucratic obstacles without explaining the added value or giving concrete pointers for practical implementation. The legal basis on which this would be done is unclear.

➤ Sector-related CSR multi-stakeholder platforms

The European Commission announces the establishment of sector-related CSR multi-stakeholder platforms in which enterprises would “make public commitments on the CSR issues relevant to each sector and jointly monitor progress”.

The establishment of sector-related CSR multi-stakeholder platforms will not serve the purpose of promoting CSR. Instead of promoting a

sector-specific exchange of experience, which was still the approach taken by the European Commission in its 2006 communication, the aims now are merely obligations and monitoring. However, the pressure this would generate and the possible straitjacket effect would do little to advance the cause of CSR. Explanations and paper-based reports seem to count more than practical support for corporate responsibility as it is experienced. The same spirit is also shown by the invitation to European business leaders to promote an open and verifiable obligation by mid-2012 that many more companies in the EU will commit to responsible conduct and put in place clear targets for the years 2015 and 2020 to this end. With this invitation, the European Commission disregards not only the broad existing commitment of business organisations, which – alone among stakeholder groups in the European multi-stakeholder forum – have also regularly documented their actions, but also the European CSR alliance it helped to found and which is also built above all on the commitment of business organisations.

Over the last ten years the European Commission has promoted the issue of CSR very successfully with a practice-related approach based on exchange of experience and voluntary involvement. It is therefore difficult to understand why the European Commission is abandoning this route and thereby undermining its own success. This can be seen particularly clearly in the European Commission's new definition of CSR:

- The European Commission ignores the consensus among all relevant stakeholders on the definition of CSR when it proposes a new CSR definition without consultation and without dialogue process. The existing European CSR definition, which is based both on the element of voluntary involvement and on the fact that CSR activities complement statutory requirements, is the result of long and intensive discussions, inter alia in the European and German multi-stakeholder forum on CSR. If this CSR definition based on voluntary involvement agreed in multi-stakeholder platforms is set aside without consultation and dialogue processes and a new, supposedly “modern”, definition and way of looking at CSR is proposed, a question mark is placed over the trust that is necessary to motivate and stimulate voluntary actions. The work of multi-stakeholder platforms is devalued and it is assumed that the multi-stakeholder forum's understanding of CSR based on voluntary involvement is no longer modern, in other words out of date. This also weakens the interest and willingness of stakeholders and businesses to participate in future multi-stakeholder platforms.

Moreover, the CSR definition proposed by the European Commission is not clear: where do “impacts on society” begin, where do they cease? Which player has which role in implementing social and environmental standards? What are the “adverse

impacts” that CSR should be “identifying, preventing and mitigating”? The new CSR definition demonstrates a fundamental mistrust vis-à-vis companies and suggests that they have negative impacts on society in and of themselves. On the contrary, the voluntary, proactive CSR commitment of companies which seeks to counteract societal problems whose cause lies outside their sphere of responsibility is not covered by the new CSR definition. For instance, many companies offer educational opportunities to disadvantaged children – and not because of an adverse impact of the company on society but as a reaction to the needs of these children. Would that in future no longer be recognised as CSR? It is essential to prevent CSR being devalued in the future and regarded merely as an instrument for highlighting the supposed poor conduct of companies.

## **Conclusion**

The European Commission fails to live up to its claim that it is presenting a strategy for promoting CSR. On the contrary, it jeopardises the great success of its own CSR policy over the last ten years with the action plan outlined in the communication. The focus of the Commission’s communication is no longer on practical awareness-raising, support and exchange of experience but on bureaucratic requirements and obligations. A fundamental paradigm change is taking place, away from the basic principle of voluntary involvement towards state-ordained regulation of corporate involvement.

The principle of voluntary involvement in corporate social responsibility that obtains today is the outcome of practice in companies and of long deliberations and discussions in the EU and also in Germany. The principle of voluntary involvement is enshrined in the shared CSR understanding agreed jointly by the national CSR forum put in place by the federal German government and is also the basis for the national action plan adopted by the federal German cabinet. The four central German business organisations – BDA, BDI, DIHK and ZDH – urge the European Commission to continue to respect the broad consensus in political circles and society on the voluntary character of corporate social responsibility and to pursue the tried and tested course of the last ten years in a committed and constructive manner.

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