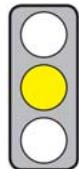


MAIN ISSUES

Objective of the Consultation: The legal framework for European standardisation is to be broadened to cover all service standards and "alternative standardisation documents". Efficiency and transparency in both the development of standards and access to standards is to be facilitated.

Parties Affected: Companies applying standards, European and national standardisation bodies.



Pros: The objectives can be fully supported.

Cons: (1) The suggested options for implementing the objectives are vague and only partly target-oriented and in some aspects highly critical.

(2) The Commission and national governments should not be enabled to influence the development of standards.

CONTENT

Title

[Roadmap](#) for the "Standardisation Package" of the "Impact Assessment Board" of the European Commission of 26 March 2010 and public [Consultation](#) on the Revision of the Standardisation Package of 7 April 2010

Brief Summary

The regulation options considered by the Commission are stipulated in the [Roadmap](#) of the Impact Assessment Board of the Commission (p. 7 – 10). The Consultation document contains issues without explicitly referring to the Roadmap.

► Context

- The Commission is launching a revision of the European standardisation system. The legal framework for European standardisation is to be made more efficient and transparent to the benefit of all affected parties.
- The Commission is planning a "standardisation package" which includes the following amendments:
 - the Directive on the procedure for the provision of information in the field of technical standards ("Information Directive", 98/34/EC),
 - the Decision on the financing of European standardisation (No. 1673/2006/EC) and
 - the Decision on the standardisation in the field of information technology and telecommunications (No. 87/95/EEC).
- European standards defining "technical specifications" – product features such as quality levels, interoperability and security – are developed and introduced by the European standards bodies CEN (European Committee for Standardisation), CENELEC (European Committee for electro-technical Standardisation) and ETSI (European Telecommunication Standardisation Institute). They represent the consensus of national standards bodies and must be implemented into national standards. The harmonisation serves to remove trade barriers caused by diverging national technical specifications.
- With the Consultation, the Commission wishes to find out the position of public institutions, industrial associations, small and medium-sized enterprises (SME) and consumer and environmental associations.

► First objective: The broadening of EU standardisation requirements to cover all service standards and "alternative standardisation documents"

- Pursuant to the Information Directive, national standards bodies must notify the Commission and the remaining national and European standards bodies of national standardisation plans. The Commission may bring national standardisation processes to a halt and request the European standards bodies to develop European standards.
- Currently, the Information Directive applies to industrial, agricultural and fishery products as well as to services of the information society. The following areas are not covered:
 - miscellaneous services and
 - "alternative standardisation documents", meaning specifications which have been developed outside the harmonised standardisation process by national standards bodies or through "forums or consortiums". By "forums and consortiums" is meant an association, mainly global, of companies and bodies collaborating to coordinate the development or implementation of technological developments.

- In the Roadmap the Commission describes the following options:
 - Option 1: No action.
 - Option 2: The Information Directive is broadened to cover all national service standards and/or “alternative standardisation documents”.
In addition, the European standardisation bodies are obliged to respond within two months to the Commission’s request to develop European standards.
- **Second objective: Improve the efficiency and transparency of both European standardisation and access to standards**
 - **Efficiency:** The average duration of 1-3 years for the development of European standards is “too long” for the development of new technologies and innovations. Therefore “some sectors have been reluctant to ask the standards bodies to develop standards, even if such standards would have contributed to extend their market or rationalise their processes” (p. 3 Consultation Document). The Commission wishes to speed up the development process of standards.
 - **Transparency:** In developing European standards, national “interested parties” are integrated through national “mirror committees” (“principle of national delegation”). There they represent amongst other things manufacturers, consumers, trade, science and assessment institutes. In a public opposition procedure the respective mirror committee may give a statement on the drafted European standards. In this way the Commission wishes to ensure a balanced participation of the interested parties.
 - **Access to standards:** In order to use standards, companies must purchase them from national standards bodies. The Commission believes that the related purchasing costs might keep in particular SMEs from using them, since the price of standards are considered too high (p. 6 Consultation Document). The German institute for European and international standardisation (*Deutsches Institut für Normung, DIN e.V.*) covers 60% of its costs through its own profits, whereby a large part is generated through the sale of standards.
- In its Roadmap the Commission describes the following options:
 - Option 1: no action.
 - Option 2: “Improving the efficiency of the European Standards Bodies”.
 - The principles of the WTO Agreement on technical barriers to trade (“TBT Agreement”) – such as transparency, impartiality and consensus – are integrated into the requirements for European Standards Bodies of the Information Directive.
 - Member States must ensure a balanced participation of interested parties in national mirror committees.
 - A simplified procedure for the acknowledgement of “alternative standardisation documents” is to be introduced, which may be applied if the WTO/TBT principles are complied with.
 - Option 3: “Impose obligations on Member States and national standards bodies”
 - The national standards bodies must, in general, provide SMEs, non-governmental organisations, consumer associations and the unions with free access to standardisation.
 - Member States must ensure that the interested parties also represent smaller interest groups in that they are given adequate financial support.
 - Member States must send officially appointed experts to the mirror committees where the European standards bodies develop standards on behalf of the Commission’s request (“mandated standards”).
 - The national standards bodies must facilitate cost-free access to harmonised standards. The resulting profit loss is to be compensated for by the Member States or the Commission.
 - Member States must decouple the standardisation and certification activities of national standards bodies. (The certification serves to confirm that a product complies with the required standards.)
 - Option 4: “Enforce a centralised monitoring system at European level”
 - The “Technical Committees” formed to develop European standards should no longer be managed by national standards bodies but by “Central Secretariats”. The Commission’s co-financing of European standard development is subject to this condition.
 - In addition to the European standards bodies CEN, CENELEC and ETSI, other bodies such as forums and associations are to be acknowledged in order to integrate them officially into the development of technical specifications. The only requirement is that these bodies adhere to the WTO/TBT principles. Alternatively, the option to refer to “alternative standardisation documents” in European legal acts is to be introduced.
 - The Commission is to finance the participation of experts in international standard development and to support the translation to other official languages of the EU.
 - The Commission is to co-finance the mirror committees in the Member States.
 - Option 5: “Initiating European standards via call for tenders”
 - The Commission may initiate the development of European standards through the European standards bodies or other bodies adhering to the WTO/TBT principles via call for tenders.
 - A new agency is to manage the cooperation between the standards bodies and the Commission.

Statement on Subsidiarity by the Commission

National standards can impede trade within the EU and are therefore to be harmonised. Approximately 90% of the standards applicable in the EU are meanwhile of European or international origin. The acknowledgement of “alternative standardisation documents” is also to be harmonised for all Member States .

Policy Context

In 2008, the Commission announced its intention to revise the procedure for developing standards to make them faster and more innovation-oriented [Communication COM(2008) 133, p. 12]. Access to SME standards and the representation of their interests is to be promoted (p. 10 of the Communication; cp. also “Small Business Act” [COM(2008) 394, p. 13 et sqq.; cp. [CEP Policy Brief](#)]). In February 2010, the expert panel (EXPRESS) called for by the Commission published a [Study](#) on the future of European standardisation. On 25 September 2008, the Competitiveness Council also called for the promotion of the participation of SME in developing standards (Number 9 of the Conclusions). In particular, the Council emphasises the major role of the national delegation principle and with that the national standards bodies (Number 10 of the Conclusions).

Currently, the European Parliament is preparing an initiative report on the future of European Standards (INI/2010/205; rapporteur: Edvard Kožušník (ECR; CZ)). An expert hearing is scheduled for 23 June 2010. The Parliamentary vote on the report is planned for September 2010.

Options for Influencing the Political Process

Leading Directorate General: DG Enterprise and Industry

Consultation Procedure: The CEP has submitted the following assessment as a contribution to the consultation to the Commission on 21 May 2010.

Results of the Consultation

The consultation results can be viewed [here](#).

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

European standards contribute considerably to accomplishing the single market and therefore to intensifying competition between enterprises. To what extent they actually serve this purpose depends on the social acceptance of a standard. However, this is where a target conflict arises: on the one hand, acceptance is increased if as many affected interest groups as possible are involved in the standardisation process; on the other hand, standards must be developed as quickly as possible so that they can already be used by the parties affected at the beginning of a product life cycle. Last but not least, the acceptance of a standard also depends on the costs its use generates. This holds particularly true for the costs of implementation. In the options proposed by the Commission, these influencing factors are weighted to different degrees.

The Commission’s first objective to broaden the scope of the Information Directive to all services is appropriate, as this could help avoid the development of technical trade impediments to the single market. The same applies to the acknowledgement of “alternative standardisation documents”. As such documents have not passed the harmonised standardisation process, it is important to ensure that when developing them the interests of all affected parties is taken into account. “Alternative standardisation documents” should therefore be acknowledged at European level only if – as proposed by the Commission – they have been developed in compliance with the WTO/TBT principles.

The second objective to improve the efficiency and transparency of European standardisation is also to be generally welcomed.

It is therefore all the more regrettable that the options proposed by the Commission are extremely vague, partly overlap and cannot be properly allocated to the three mentioned problem areas: efficiency, transparency and access. Moreover, the Commission does not make it clear whether or not the individual options are meant to be implemented alternatively or cumulatively. **Worse still is the fact that the proposed options are only partly target-oriented and in some parts highly critical.** In detail:

Unobjectionable are the proposed measures on “improving the efficiency of European Standards bodies” (Option 2): The application of the WTO/TBT principles and the balanced participation of interested parties aim to increase the acceptance of a standard. The inclusion of “alternative standardisation documents” facilitates a faster reaction to new technological developments. This is of special importance where the “alternative standardisation documents” have become de-facto standards on the market.

The “introduction of mandatory organisational and enforcement procedures for Member States and national standards bodies” (option 3) is ambiguous. The acceptance of standards is fostered by free access for non-governmental organisations and consumer associations to standards development and by the decoupling of standardisation and certification activities in order to distinguish between the development of standards and their application. However, this is problematic if – as provided for under option 3 – **national governments obtain the power to influence human resources and financial decisions regarding**

standardisation, which has hitherto been managed by the private sector. There **is a principle risk that standards are misused for industrial policy interests**.

The measures for “enforcing a centralised monitoring system at European level” (option 4) also need to be differentiated. **The centralisation of the management of the technical committees at secretariat level and the co-financing of national mirror committees incorporate the risk that the Commission could gain too much influence over the standardisation process.**

Appropriate, however, is the proposal of option 4 to extend the list of acknowledged European standards bodies to other bodies, provided they adhere to the WTO/TBT principles.

Thus market competitiveness for standards development could be increased and, at the same time, the process of standard development be accelerated.

The latter also applies to the proposal to call for public tenders in the case of standard development (option 5). However, it must first be ensured that the Commission does not obtain any influence over the content of the standards to be developed when calling for public tender.

Impact on Efficiency and Individual Freedom of Choice

In particular, the proposal that European legal acts should be enabled to refer to “alternative standardisation documents” increases the competitiveness in standards development. This in turn leads to cheaper and better standards and consequently to an increased acceptance and competitiveness on product markets. Efficiency decreases, however, where the Commission or national governments gain political influence on standard development. Consumer choice increases if standards gain broad acceptance, since then the options to switch grow. This strengthens the competitiveness on the product markets.

Impact on Growth and Employment

The consequences for efficiency and employment depend on which options are implemented. In general, one could say that standards with a broad acceptance lead to growth and employment, since they heighten competitiveness between enterprises.

Legal Assessment

Legislative Competence

The legislative competence is laid down in Art. 114 TFEU (ex-Art. 95 TEU, Single Market) and Art. 173 (3) TFEU (Art. 157 (3) TEC, promoting industrial competitiveness).

Subsidiarity

In order to prevent the existence of barriers to the European exchange of goods and services created by standards and other technical specifications developed outside regular standardisation procedures, an EU-wide harmonised regulation of the European standardisation system is required.

Compatibility with EU Law

Unproblematic.

Compatibility with German Law

Unproblematic.

Possible Future EU Action

Following the impact assessment upon the consultation – probably in mid 2010 – the Commission will submit a “Standardisation Package” on the reform of the European standardisation system.

Conclusion

It is to be welcomed that the Commission wishes to broaden the scope of the “Information Directive” to also cover service standards. Further, it is positive that “alternative standards documents” are to be acknowledged at European level, provided they have been developed in compliance with the WTO/TBT principles. However, the options proposed for the implementation of the objectives are vague and only partly target-oriented and in some parts even critical. It is particularly problematic that the Commission and national governments are to gain the ability to influence financial and human resources decisions which hitherto have been exclusively subject to the standardisation work of national institutes in the private economy sector. There is a risk that standards might be misused for industrial policy purposes.