

Commission for Economic and Social Policy (ECOS) –  
Committee of the Regions

# E-invoicing in Public Procurement

Analysis of contributions submitted in the framework of an Early Warning System consultation

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EUROPEAN UNION



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# Executive Summary

The new proposed Directive on e-invoicing in public procurement falls within a policy area of shared competences. The CoR, given its Treaty responsibilities with regard to the subsidiarity principle towards all local and regional authorities (LRAs), is preparing an opinion on this initiative in order to give voice to potential issues as envisaged by LRAs.

This initiative is one of the five key priorities identified by the CoR for subsidiarity monitoring in 2013. In this context a special consultation of the Subsidiarity Monitoring Network (SMN) was launched on the REGPEX website<sup>1</sup> during the Early Warning System period<sup>2</sup>. Four main contributions were collected: three from REGPEX partners – *Abruzzo Regional Assembly*, *Basque Government* and *Emilia Romagna Legislative Assembly* – and one from another SMN partner – *Austrian State Governors' Conference*. Further, two individual experts, members of CoR's Subsidiarity Expert Group – *Johannes Maier (REGLEG)* and *Serafin Pazos-Vidal (COSLA)* – have contributed their views.

In addition, the 'positive opinions'<sup>3</sup> expressed by two national parliaments – *German Bundesrat* and *Portuguese National Assembly* – in the framework of the Early Warning System procedure have also been used for the analysis.

Overall, none of the contributions raise any alarms on the subsidiarity principle. All contributors concur on the right and necessity of the EU to act and acknowledge the added value of shifting to e-invoicing. Only one individual expert (*Maier*) raises an interesting point about the need for action, on the grounds of limited impact based on the small size of cross-border procurement market. The same concern is raised by the other individual expert (*Pazos-Vidal*), though as a proportionality issue.

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<sup>1</sup> REGPEX was launched in February 2012 and is in fact a sub-network of the SMN, open to parliaments and governments of regions endowed with legislative powers. It was set up to support these regions in playing their part in the subsidiarity monitoring of EU legislation, particularly in the context of the post-Lisbon early warning system and their possible consultation by national parliaments.

<sup>2</sup> 1 July – 26 September 2013

<sup>3</sup> Please note that no national parliament issued a reasoned opinion – i.e. opinion stating that the legislative proposal does not comply with the principle of subsidiarity. The term 'positive opinion' implies that the national parliament in question raised no explicit subsidiarity issue, but that a position was submitted within the framework of the political dialogue.

As regards proportionality, there are a few more issues to be addressed. Even if the four SMN contributors concede that a directive is the appropriate form of action, the two individual experts strongly disagree and state that the same objective could easily have been achieved by a more voluntary form of action or by coordinating the different national schemes. Specifically referring to ‘better law-making’, all contributors agree that the proposed directive is vague in certain areas and inevitably highlight the disproportionate costs/ burdens associated with implementing the new directive, especially for micro enterprises and small contracting authorities and entities (CAEs). Since the new standard is not yet developed, most contributors feel uncomfortable with the uncertainty and recommend keeping the new standard as simple as possible. Finally, even if only one contributor raises this issue, it is clear that the LRA perspective is not properly taken into account in the scope of the proposal.

# 1. Introduction

This file note aims to provide useful insights to the CoR in relation to the new legislative proposal issued by the Commission on electronic invoicing in public procurement<sup>4</sup>. The note illustrates the rationale behind the new proposal along with the justification provided by the EU, presents the main findings of the viewpoints of the LRAs, and provides an overview of potential issues regarding the subsidiarity and proportionality (S&P) principles.

On 20.12.2011, as a replacement to the existent public procurement Directives 2004/18/EC<sup>5</sup> and 2004/17/EC<sup>6</sup>, the European Commission issued three new legislative proposals in order to modernise and simplify the various strands: public procurement in general<sup>7</sup>; procurement by entities operating in the water, energy, transport and postal services sectors<sup>8</sup>; and procurement through the award of concession contracts<sup>9</sup>. Even then, the intentions of the EC to switch to electronic procurement were very clear as the proposal mandated electronic transmission, availability and submission of relevant procurement documents. This move though welcomed by the CoR in its opinion<sup>10</sup> was challenged for its short two year implementation period, especially taking into account the burden for small LRAs and enterprises.

The new EU proposal on e-invoicing, with a transposition deadline of 48 months following its entry into force, is two-fold. Firstly, it provides for the drawing up of a new European standard for harmonising the information contained in an e-invoice. Secondly, it obligates all contracting authorities (including LRAs) to accept e-invoices which comply with this new standard.

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<sup>4</sup> COM(2013) 449 final.

<sup>5</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, OJ L 134, 30.4.2004.

<sup>6</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, OJ L 134, 30.4.2004.

<sup>7</sup> COM(2011) 896 final.

<sup>8</sup> COM(2011) 895 final.

<sup>9</sup> COM(2011) 897 final.

<sup>10</sup> CdR 99/2012.

## 2. Justification for EU action

This section provides the EC's perspective in assessing the situation and proposing the new legislation. The initiative under scrutiny falls within a policy area of **shared competences** between the EU and the Member States.

The **legal basis** for the current directive is Article 114 of the Treaty on the Functioning of the European Union (TFEU) which lays down provisions for actions intended to improve the functioning of the internal market. By providing for a European standard that shall be accepted by all contracting authorities and entities, the proposal is supposed to eliminate market access barriers in cross-border public procurement.

### 2.1 EC's position on subsidiarity and proportionality issues

In the impact assessment<sup>11</sup> accompanying the proposal, the Commission highlights the existence of multiple non-interoperable e-invoicing standards across the EU as the main problem driver with regard to the exchange of invoices in public procurement. This issue has been broken down into two major problems which justify the new directive: a) excessive complexity and legal uncertainty for firms; and b) higher costs for firms. The underlying argument remains essentially the same: since the multiple standards across the various Member States are not interoperable, suppliers face complexity and legal uncertainty and may sometimes need to support a new standard each time they bid for a cross-border contract, thus increasing the cost of procedures. The consequences are the creation of market access barriers and consequently, disruption in the proper functioning of the internal market.

In terms of **subsidiarity**, the Commission notes the various standards beginning to emerge in the few countries that already use e-invoicing and claim that the problem shall only be aggravated if coordinated action is not taken at the EU level (necessity test). If e-invoicing is left to the Member States' discretion, several conflicting national standards may

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<sup>11</sup> SWD(2013) 222.

arise. Further, because of the transnational nature of the problem, clear benefits shall accrue at the European level (EU added value).

In terms of **proportionality**, based on the evaluation of five different options – varying from taking no action at the EU level to a full harmonisation where only the single EU standard shall be accepted – the EC has chosen the option of obligatory acceptance of the new EU standard which shall be developed by the European Committee for Standardisation (CEN). The chosen mode of action is a directive which the EC considers necessary to successfully eliminate any barriers to cross-border procurement.

## **2.2 Stakeholders’ views and other subsidiarity and proportionality concerns**

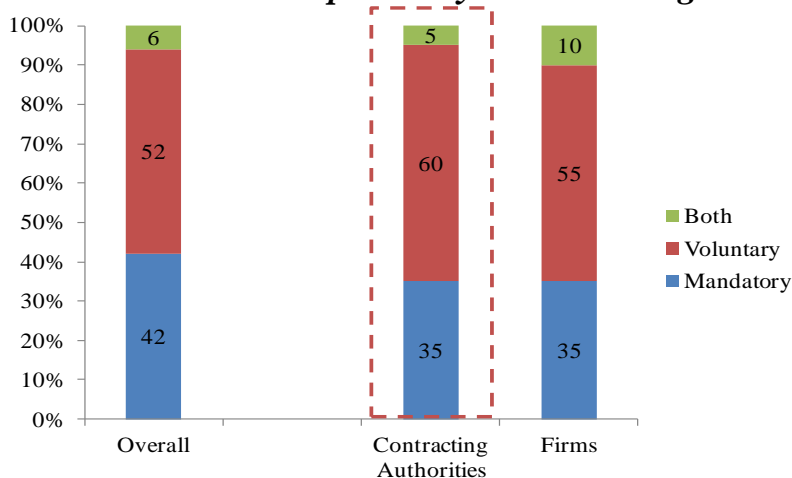
Even if the justification provided by the EC seems to be valid *prima facie*, some matters of concern stand out in the impact assessment. At this stage, these issues are merely identified. A more detailed analysis is presented in the following sections on subsidiarity and proportionality.

The impact assessment is based on the views of various stakeholders and especially relevant are the opinions collected through an online survey in the form of over 700 replies<sup>12</sup> to a public consultation carried out between October 2012 and January 2013. Clearly, the vast majority of all groups of stakeholders supported action by the EU to increase uptake and enhance interoperability in e-invoicing. However, interestingly, the majority view favours the use of voluntary instruments, instead of mandatory ones, to accomplish these objectives (see Figure 1 below). Of these, 60% of contracting authorities (also including several LRAs) desired a voluntary instrument as against the 35% preferring mandatory instruments. Furthermore, even in the category of firms (the primary justification for the current directive), the majority (55%) would like to see the objective accomplished through the use of voluntary instruments. Despite these opinions expressed by the stakeholders, the EC still has opted for a directive with the obligatory acceptance of the new EU standard by all Member States’ (MS) administrations.

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<sup>12</sup> The following groups of stakeholders were represented: policy makers, contracting authorities, firms (large companies / SMEs), IT service providers, business/industry associations (industry consultants), other associations (e.g. associations of regional or local government), private individuals / citizens.

**Figure 1: What instruments (mandatory / voluntary) should the EU use to enhance interoperability in e-invoicing?<sup>13</sup>**



*Source: t33 elaboration on DG Internal Market data*

It must be noted that the first version of the impact assessment prepared by the EC was rejected by the Impact Assessment Board (IAB) in a meeting on 22 March 2013. One of the stated reasons was ‘subsidiarity’ with the IAB opining that the small size of cross-border procurement implies limited impact of the initiative and hence raises questions on the need for EU to act. Although the final version of the impact assessment is carefully worded to focus on the legal aspects of eliminating market access barriers, the real problem of the size of the cross-border procurement remains. It must be noted that direct cross border procurement accounted for only 1.6% of public contracts in terms of number of contracts awarded and 3.5% in terms of contract value between 2006 and 2009<sup>14</sup>. This small percentage of cross-border transactions is for above threshold contracts, which represents just 20% of the total procurement market. Indirect cross-border procurement (not included in the percentages specified above) is not entirely relevant as the presence of the affiliates in the country removes any uncertainty. Furthermore, the current rate of adoption of e-invoicing across Europe – 4 to 15%<sup>15</sup> of total invoices exchanged – is also very low.

<sup>13</sup> In the figure, the bar for overall includes not only just ‘contracting authorities’ and ‘firms’ but also ‘Member States’ and ‘service providers’. The breakdown for contracting authorities and firms is especially relevant in the context of LRAs and hence shown separately.

<sup>14</sup> ‘Cross Border Procurement above EU Thresholds’, Ramboll Management, DG Internal Market and Services, March 2011.

<sup>15</sup> For instance, "E-invoicing 2010 – Current status of e-invoicing in Europe", EBA/Innopay, page 25, refers to the e-invoicing adoption rate of 4-15% (2008); "E-invoicing/E-billing, International Market



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Overview & Forecast", Bruno Koch, Billentis, February 2012 refers to the B2B/ B2G/G2B electronic share of 6-14% (2008 to 2011).

### 3. Subsidiarity Issues

The principle of subsidiarity is designed to ensure that decisions are taken as closely as possible to the citizen by the most appropriate level where the intended objective(s) can be most effectively achieved. The subsidiarity analysis presented in this section (and the proportionality analysis in the following) has been structured in line with the S&P grid<sup>16</sup> developed by the CoR and customised by the consultants for the specific purpose of analysing the S&P issues associated with new EU actions (refer to Box 1 and Box 2 below). Besides drawing on the contributions collected as part of the SMN exercise, the consultants also use the views of LRAs expressed in the impact assessment, the national viewpoints as expressed by the national parliaments and their relevance to LRAs, and consultants' own expertise in evaluating the various issues in order to broaden and deepen the analysis.

The methodology and the key criteria used to structure the subsidiarity analysis of the new proposal are presented in the following box.

#### *Box 1: Subsidiarity analysis – Should the EU act?*

The subsidiarity principle can be summarised as: ‘the EU should act only if its action is deemed to be **necessary** and to provide a **clear benefit**’. Hence, there are two steps in the subsidiarity analysis: first to ascertain if action is necessary at EU level, and then if it is necessary, what clear benefits it provides.

In order to evaluate the **necessity of the action**, the following factors need to be accounted for:

- **Trans-national aspects**  
The issue being addressed has trans-national aspects that cannot be satisfactorily regulated by MS and/or LRAs acting alone.
- **(and/or) Conflict of Member States' interests**  
Action taken by MS alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage other Member States' interests.

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<sup>16</sup> Refer to the Grid available in the Subsidiarity Monitoring Network section of the CoR's website [http://portal.cor.europa.eu/subsidiarity/SiteCollectionDocuments/GridFinalB\\_EN.doc](http://portal.cor.europa.eu/subsidiarity/SiteCollectionDocuments/GridFinalB_EN.doc)

- **(and/or) Insufficiency of existing EU measures**

Existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s).

Once it is established that action at EU level is necessary, the next check is whether such action will generate *clear benefits*, by reasons of its **scale and/or effectiveness** compared to similar action at national, regional or local levels. Some examples of such clear benefits are economies of scale, legal certainty, and homogeneity across MS, etc.

*Source: t33 elaboration on CoR's S&P grid*

### **3.1 Necessity of EU action**

In terms of subsidiarity, at an overall level, all concerned stakeholders (including LRAs) welcome the proposed reform. Almost all contributors agree that action at EU level is necessary because of the trans-national aspects of the issue being addressed. The only minor objection raised is by one individual expert, *Johannes Maier*, who does not dispute the right of EU to act, but questions if the varying national standards do actually create obstacles to cross-border procurement. The argument is that a free development of the information and communication technology (ICT) market would ensure that the best standard is gradually accepted by all CAEs. In his opinion, a combination of innovative developments of the ICT market and strict implementation of the competition rules at the European level can mitigate the mentioned problems without new European legislation specifically for e-invoicing. Further, both the individual experts – *Johannes Maier* and *Serafin Pazos-Vidal* – mention the small size of the cross-border procurement market and question whether legislation for e-invoicing is necessary at this stage, while other more important issues remain unaddressed (what Maier calls a ‘Mickey Mouse problem’).

In theory, the arguments of the EC, highlighting the different national standards and seeking to prevent undue barriers, are valid and thus necessitate the proposal. In practice, however, one crucial question needs to be considered: do different e-invoicing standards really create barriers to cross-border procurement? In the aforementioned landmark study on cross-border procurement (refer to footnote 14), businesses were asked to rank the various criteria which hindered their participation to cross-border procurement procedures. Of the 11 possible criteria, different IT

standards in various MS ('Different kinds of technical specifications that are demanded compared to experiences in your own Member State') was ranked 10<sup>th</sup> most important. Moreover, this criterion does not specifically relate to IT standards only in the post-award stages (i.e. e-invoicing) but also includes other more important problems like IT issues faced while submitting tenders and other IT standards in executing the specific work required. Evidently, there are other more pressing issues which hinder cross-border procurement. Thus, even if the EC claims that standardising e-invoicing will eliminate barriers and result in more cross-border transactions, the consultants opine that this claim is dubious at best.

### **3.2 Clear benefits of proposed action**

There is no doubt regarding the clear benefits of the new proposal. The only concern is whether the action is really necessary – in theory, it is; but in practice, it may not be as necessary as the EC makes it seem. However, once the more troubling question of 'necessity' is verified, clear benefits in the form of homogeneity across MS, legal certainty and removal of any potential trade barriers justify the action. Theoretical savings of around 1.5 to 2.3 billion EUR are estimated by the EC if all procurement, both above and below thresholds, was carried out using e-invoices. However, the consultants would like to point out that these are expected savings from a complete shift to e-invoicing (which is not the scope of the proposal) and not savings from a common standard of e-invoicing across the EU (which is what the proposal aims to achieve). The real expected benefits are drastically limited by the size of the cross-border procurement market and by the rate of adoption of e-invoicing in the EU – and unfortunately both figures currently are not very large (refer to section 2.2).

## 4. Proportionality issues

The principle of proportionality is a safeguard against the unlimited use of legislative and administrative powers and considered to be something of a rule of common sense, according to which an administrative authority may only act to the extent that is needed to achieve its objectives. Much like the subsidiarity analysis, the proportionality analysis presented here draws upon the SMN contributions, LRA consultations in the impact assessment, positive opinions of national parliaments and the consultants' own assessment.

To carry out an analysis of proportionality issues, the most relevant factors to consider and a logical break-down of the principle is presented (refer to the box below).

### ***Box 2: Proportionality analysis – How should the EU act?***

The proportionality principle implies that ‘the means proposed by the EU must be **appropriate** and **no more than is essential** to achieve the **intended objective(s)**.’

**Appropriateness** of the chosen means (or instrument) can be ascertained by examining the *simplicity* of the proposed action. While observing the requirements of the Treaty and provided this is sufficient to achieve the intended objective(s), directives should be preferred to regulations and framework directives to detailed measures; non-legislative measures, such as non-binding recommendations, to legislative acts; preference should be given to encouraging cooperation between MS, coordinating national action or complementing and supporting such action by guidelines, setting up information exchange mechanisms, etc.

The test for ‘*no more than essential*’ shall be carried out by examining if the proposed action leaves as much **room** as possible **for national, i.e. central, regional and local decisions** in order to achieve the intended objective(s). The EU should legislate only to the extent necessary.

Another associated principle relates to ‘**better law-making**’, which allows for an assessment of and commentary on the provisions of any new legislation. This principle, besides guaranteeing that *local and regional aspects* are duly accounted for in the impact assessment,

primarily ensures that the *financial and/ or administrative burdens* entailed by the action are commensurate to the intended objectives.

*Source: t33 elaboration on CoR's S&P grid*

## **4.1 Suitability/ appropriateness of chosen action**

The EC has chosen to use a directive to ensure mandatory uptake of e-invoicing and the new European standard by all CAEs. Again, the four main SMN contributors have not explicitly stated that the draft Directive violates the proportionality principle. However, the two individual experts, *Johannes Maier* and *Serafin Pazos-Vidal*, both emphatically assert that the chosen form of action is not the most appropriate. Further, the *German Bundesrat*, in its positive opinion, welcomes the fact that the proposal provides the possibility and not the obligation for suppliers (including small and medium enterprises) to issue e-invoices<sup>17</sup>. If however, it was made compulsory for SMEs to issue only e-invoices, several micro enterprises may have been hindered from participating in public procurement. Interpreting this opinion in the context of LRAs, the consultants infer that since the proposal obligates them to compulsorily accept e-invoices and provides no option, small LRAs will face the same issues as small enterprises may have faced, thus highlighting potential proportionality issues. Finally, it is worthwhile to recall at this stage that most contracting authorities opted for a voluntary instrument by the EC instead of a mandatory one in the aforementioned public consultation (refer to Figure 1 under section 2.2).

A more reasonable option, in *Maier's* opinion, could have been to implement the free choice approach (option 2 in the impact assessment), whereby a new European e-invoicing standard would be developed and recommended for use in public procurement, but the acceptance of e-invoices in the European standard would remain at the discretion of each Member State and/or contracting authority. The so-called market barriers could have been countered by the already existing instruments at the disposal of the EC (infringement procedures, for instance). For *Pazos-Vidal*, the same objectives could have been achieved through

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<sup>17</sup> It must be noted that the new proposal does not mandate e-invoicing for suppliers. It only mandates the acceptance of the new standard by the CAEs. Therefore, the suppliers (incl. SMEs) still have the option of issuing conventional paper invoices. However, if they choose to issue an e-invoice in the European standard, this will compulsorily have to be accepted by the CAEs.

approximation of different national standards, instead of a binding EU legislation, which is indeed excessively detailed in Pazos-Vidal's opinion.

## **4.2 Room for national decision**

It is evident that the new proposal leaves little room for national or local / regional decision making. In fact, on account of the obligatory nature of the proposal for CAEs, *Johannes Maier* highlights that the chosen instrument of a directive shall, in reality, 'have the effect of a regulation'.

Furthermore, the EC has set the deadline for the transposition of the directive without fully considering the complexity of such implementation for countries such as Germany with a vast number of CAEs, as pointed out by the *Bundesrat*. The *Abruzzo Regional Assembly*, the *Austrian State Governors' Conference* and the *German Bundesrat* have all adopted resolutions implying that the 48 month deadline is unnecessarily restrictive. The resolutions call for, at the very least, a revision of the clause to make sure the 48 month period begins after the new standard is set and approved by all and not after the directive is adopted. The consultants deduct that such detailed, obligatory measures leave very little flexibility for decentralised decision making and for national or local/ regional bodies to act based on the local context and specificities.

## **4.3 Better law-making**

### **4.3.a LRA perspectives**

The very first aspect of better law-making is properly taking into consideration the *perspective of LRAs*. Even if only the *Basque Government* perceptively highlights this point, there is no doubt that the impact assessment does not fully account for local and regional views. LRAs are consulted as part of the aforementioned public consultation while preparing the proposal but their views (of using voluntary instead of mandatory instruments) have not been incorporated into the EC proposal. Furthermore, the consultants note that there is practically no mention of the potential impact the proposal shall have on LRAs (or for that matter on CAEs), even if they shall ultimately be responsible for implementing the new standard. The only official document that makes any mention of the problems LRAs may encounter is the 'Implementation

Plan'<sup>18</sup> but these concerns are most certainly not reflected in the impact assessment or in the text of the directive. Under the heading compliance challenges, the implementation plan states, “the most significant challenges that could be envisaged at this stage are the difficulties in the actual introduction of electronic invoicing by the contracting authorities and entities which never used this system before and in particular by those which are smaller in size. However, it should be noted that the services related to electronic invoicing can be outsourced to an external service provider. To facilitate the take up of electronic invoicing, some support actions could be put in place, especially at national level.”

#### **4.3.b Administrative/ financial burdens**

Majority of the contributors – the *Abruzzo Regional Assembly*, the *Basque Government*, the *Austrian State Governors’ Conference* and *Johannes Maier* – have expressed opinions to the effect that the proposal may impose disproportionate burdens on LRAs, especially on the smaller CAEs. The *Abruzzo Regional Assembly* raises another valid point regarding the current economic state due to which some countries and regions are still struggling with the economic crisis, and in such conditions, it is unreasonable to mandate LRAs to allocate resources towards e-invoicing, which may not be the highest priority for the moment. In addition, the administrative/ financial burden to be expected by the LRAs is not mentioned anywhere in the proposal or the impact assessment, except for the above quote text from the implementation plan, which evidences the fact that smaller CAEs may need to outsource e-invoicing services which will create additional costs. *Maier* questions the favourable cost/ benefit situation depicted in the EC proposal and claims that it is probable that no real cost reductions will eventually be achieved by the Directive. The consultants would like to point out that in the long run and as a general rule, implementation of e-invoicing will inevitably generate savings (benefits over costs). This is based on the empirical evidence provided in the impact assessment: overall savings at EU level if all procurement (both above and below threshold) shifts from paper to e-invoices are estimated between 1.5 and 2.3 billion EUR annually; likewise, Sweden estimates savings of 400 million EUR over 7 years and Denmark estimates it at 30 million EUR per year. Still, as mentioned before, these savings represent the benefits of transitioning from paper based invoices to electronic invoices and have nothing to do with a common EU standard for invoices. Further, it must also be stated

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<sup>18</sup> SWD(2013) 225.



that the situation for smaller LRAs which undertake procurement procedures less frequently may be very different and unfortunately, the proposed directive and the impact assessment provide no guidance on the expected costs and benefits for smaller contracting authorities.

### **4.3.c Other weaknesses in the proposal**

All contributors have underlined areas where the proposal is vague and / or may be improved. One of the most common issues relates to the uncertainty regarding the new standard to be developed. Since the content of the standard is not yet known, it is difficult to comment on the efficacy and the burdens it may impose on LRAs. The *Abruzzo Regional Assembly*, the *Austrian State Governors' Conference*, *Johannes Maier* and the *German Bundesrat* all express concern regarding the unclear standard. The unanimous view is to keep the standard as simple as possible to ensure minimum burden on all parties and to involve the necessary stakeholders in the development of the standard. The *Bundesrat* especially calls for proper utilisation of existing knowledge base by involving all stakeholders who have had experience with e-invoicing to create the common European standard. Another related problem is the compatibility of the standard to be developed with other existing standards. For CAEs that have already adopted e-invoicing – *Abruzzo Regional Assembly* and *Emilia Romagna Legislative Assembly* – and have well-developed and advanced standards, there may be impractical additional costs of switching to the new standard, especially if the standard is less advanced than the one currently employed. This view is also expressed by the individual expert, *Johannes Maier*. Further, regarding the standard, there are concerns about the compatibility of the standard with other standards and its applicability in all cases. The *Bundesrat* urges the EC to properly compare the new standard with the existing e-invoicing standard in the private sector. Otherwise, SMEs may have to comply with two different standards depending on the sector they wish to deal with (public or private) and any potential cost savings will be reduced in such a case. Lastly, the *Austrian State Governors' Conference* has highlighted the uncertainty regarding the compatibility of the new standard with the directive on the common system of value added tax (Directive 2006/112/EC) and the potential requirement of two different standards: one for VAT purposes and another for general e-invoices; and also regarding the applicability of the Directive to EU funding programmes wherein the EC currently accepts only paper invoices and not e-invoices.

## 5. Conclusions

In conclusion, the role of the Commission should be to ensure a level-playing field for all stakeholders in the single European market. The Commission should aim to push for maximum cooperation at national and regional levels to achieve the desired objectives; and if such cooperation proves insufficient in achieving the objectives, controlled action must be taken at EU level.

Overall, the general consensus is that action at EU level is welcome to harmonise and streamline e-invoicing standards in public procurement across the Member States. However, the necessity of the action remains a bit doubtful based on the size of the cross-border procurement and whether different standards actually create any relevant market barriers.

The chosen form of action – i.e. Directive – with detailed measures to ensure mandatory acceptance within a fixed timeline, and of a currently unknown standard raises more concerns. Unfortunately, LRA concerns are not reflected well in the proposed legislation and the expected burdens are invisible/ downplayed. It may well be that the EC has chosen to intervene in a field of marginal importance, and with such strong measures, while major hurdles to cross-border procurement remain unaddressed.

# Annex: Overview of contributions

**Table 3: Summary of contributions collected through REGPEX and IPEX**

	Subsidiarity	Proportionality	Key concerns		
			Disproportionate costs/ burdens	48 month implementation period	Uncertainties about standard/ applicability
<b>Regional Parliaments or sub-state assemblies</b>					
Abruzzo Regional Assembly	✓	✓	x	x	x
Basque Government	✓	✓	x		
Emilia Romagna Legislative Assembly	✓	✓			x
<b>Association of local and regional authorities</b>					
Austrian State Governors' Conference	✓	✓	x	x	x
<b>Subsidiarity Experts Network</b>					
Johannes Maier (REGLEG)	x	x	x		x
Serafin Pazos-Vidal (COSLA)	✓	x			
<b>National Parliaments through IPEX</b>					
German Bundesrat	✓	✓		x	x
Portuguese National Assembly	✓	✓			
<b>LEGEND</b>	✓	No explicit issue	x	Explicit issue	

Source: t33