



“The voice of crafts and SMEs in Europe”

“Preventive restructuring and second chance for entrepreneurs: what’s in it for SMEs?”

Brussels, 2nd March 2017 – We must create a positive corporate culture in order to reduce the fear of failure and give companies a second chance, were the main conclusions of a recent joint UEAPME, ACCA, and BusinessEurope conference held under the auspices of the Maltese Presidency.

Assisting companies – especially SMES, the backbone of Europe’s economy – in financial distress to prevent insolvency, and providing a second chance to honest bankrupt entrepreneurs are vital to re-boost growth and investments in the EU.

In November 2016, the European Commission published a [proposal on preventive restructuring frameworks and second chance for entrepreneurs](#), which aims to address these two goals. The legislative debate has just started. In order to shed more light on this important initiative and to discuss the way it should be carried forward, ACCA (the Association of Chartered Certified Accountants), BusinessEurope, and UEAPME, under the auspices of the Maltese Presidency of the Council of the European Union, organised a lively multi-stakeholders debate that discussed what’s in the insolvency proposals for SMEs.

The discussions revealed that the European Commission proposal – and its holistic approach – is generally welcomed by stakeholders, who commended the preparatory work being undertaken before its publication. However, the debate also showed that insolvency is a complex area, deeply rooted in national legal traditions, which raises numerous challenges.

John Cullen, ACCA Council member & Partner, Menzies said: *Across the EU as a whole, we currently observe a significant variance in survival rates of struggling businesses, from 5 to 80% of businesses entering formal insolvency processes. This means that the European Commission and the co-legislators could usefully act to improve these rates by harmonising the existing insolvency regimes, using features and best practices from the member states showing the best survival and growth rates.*

The Directive is especially intended to benefit less resourceful SMEs, a welcomed objective. But it also raises challenges and concerns, as insolvency rules affect a plethora of stakeholders (creditors, debtors, shareholders, courts, etc), and are deeply intertwined with many other areas of law. It is vital that all stakeholders join forces to help design a fair and balanced preventive restructuring and second chance framework.

Angelika Niebler, MEP rapporteur of the insolvency file said: *“Around 200,000 companies are facing insolvency every year throughout the EU. This leads to a loss of about 1.7 million jobs per year. With its proposal, the Commission hopes to prevent insolvency by undertaking early restructuring measures. This proposal has a lot of potential to be a very good piece of legislation. It may help businesses to survive financial troubles and encourage young entrepreneurs to create a start-up. It will be a great tool to promote entrepreneurship and fight the stigma of failure.*

We must create a positive corporate culture in order to reduce the fear of failure and give companies a second chance. This is the only way to ensure growth and employment in Europe. As the rapporteur in the European Parliament’s Legal Affairs Committee, I will work intensively on this proposal in the coming months”.

Luc Hendrickx, Director Enterprise Policy and External Relations at UEAPME said *“Prevention should receive the main attention. Honest entrepreneurs should be discharged within one year. Much more should be done to support entrepreneurs facing difficulties or bankruptcy. The testimony of Philip Oosterlinck showed the human face of an SME, with its successes and failures, to the European Institutions here present. These are the people we are lobbying for”.*

The Maltese Presidency of the Council of the EU concluded that: *“the Commission Proposal is seen as an important development by the Maltese Presidency. While still being at an early stage, we already dedicated a good number of working party meetings to achieve progress in the discussion. Early restructuring helps saving jobs, thus achieving lower unemployment rates. Second chance helps trade and investment, which ultimately results in healthier economy.*

But as the saying goes: the devil lies in the details. While a degree of harmonisation is necessary, the instrument also needs to allow enough flexibility in order to not interfere extensively with well working frameworks. We need to make sure to strike the right balance and achieve the best framework for our citizen.”

EDITORS' NOTES:

UEAPME is the employers' organisation representing Crafts and SMEs from the EU and accession countries at European level. UEAPME has 64 member organisations covering about 12 million enterprises with 55 million employees. UEAPME is a European Social Partner. For further information please visit <http://www.ueapme.com/> or follow [@UEAPME](https://twitter.com/UEAPME) on Twitter.

ACCA (the Association of Chartered Certified Accountants) is the global body for professional accountants. It offers business-relevant, first-choice qualifications to people of application, ability and ambition around the world who seek a rewarding career in accountancy, finance and management. ACCA supports its 188,000 members and 480,000 students in 181 countries, helping them to develop successful careers in accounting and business, with the skills required by employers. ACCA works through a network of 95 offices and centres and more than 7,110 Approved Employers worldwide, who provide high standards of employee learning and development. Through its public interest remit, ACCA promotes appropriate regulation of accounting and conducts relevant research to ensure accountancy continues to grow in reputation and influence. Founded in 1904, ACCA has consistently held unique core values: opportunity, diversity, innovation, integrity and accountability. It believes that accountants bring value to economies in all stages of development and seek to develop capacity in the profession and encourage the adoption of global standards. ACCA's core values are aligned to the needs of employers in all sectors and it ensures that through its range of qualifications, it prepares accountants for business. ACCA seeks to open up the profession to people of all backgrounds and remove artificial barriers, innovating its qualifications and delivery to meet the diverse needs of trainee professionals and their employers. More information is here: www.accaglobal.com

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