Brussels, 4 March 2013

To: Commissioner Antonio TAJANI
European Commission
Vice-President &
Commissioner for Industry & Entrepreneurship

Subject: Legislative proposal on non-financial reporting

Dear Commissioner Tajani,

We are writing you to ask for your support for an ambitious and robust legislation on the disclosure of non-financial information by European companies. DG MARKT has been developing a legislative proposal to amend the Accounting Directives. The text should be submitted to the College of Commissioners for approval this month.

Our four platform organizations would like to reiterate their support to the Commission's plans to address corporate transparency and the legislative initiative that has been taken by DG MARKT. It represents a unique opportunity for the Commission to contribute to the Single Market Act's objectives to promote “sustainable, smart and inclusive growth” and to keep its commitments to implement the new CSR strategy, the United Nations' Guiding Principles on Business and Human Rights and the Sustainable Production and Consumption Action Plan.

Our organizations represent a diverse range of stakeholders from all EU Member States, who play a key role in the Europe2020, CSR, Long Term Investment, Consumer and Decent Work agendas.

The Commission’s Communication on CSR\(^1\) states that, in order to fully meet their social responsibility, enterprises “should have in place a process to integrate social, environmental, ethical and human rights concerns into their business operations and core strategy in close collaboration with their stakeholders”. We strongly believe that a more harmonized and consistent mandatory framework for disclosing social, environmental and human rights information is needed in order to improve corporate social responsibility, make companies more sustainable and oriented to long term value creation and ensure a level playing field for businesses operating across Europe. At a company level, it would be an essential tool for the companies’ management to adequately identify and address the non-financial risks and impacts of their operations and improve the way these are managed. Evidence shows that companies with good CSR performance enjoy lower cost of capital and better long term corporate financial performance. This improved transparency would be a key element of European

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\(^1\) A renewed EU strategy 2011-14 for Corporate Social Responsibility - COM(2011) 681 final
\(^2\) CSR is defined as “the responsibility of enterprises for their impacts on society”.

companies’ long term competitiveness in the global market. At EU level, increased transparency is key to restoring more stable and sustainable financial markets, as well as shareholder and stakeholder trust in business, which together are the foundation of a sound economic recovery.

We would like to draw your attention to the fact that non-financial information, both historical and forward-looking, is essential for investors to make valid mid and long term decisions. It is also a key element for shareholders to guide their decisions, as well as for workers and their representatives, consumers and affected communities to assert their rights and fulfil their roles, by enabling them to understand and assess the scope and impacts of companies operations on society and to monitor their progress. It is also a vital component in the process of creating shared value.

This legislation has a strong potential to deliver the above-mentioned outcomes but it could also be a missed opportunity if it imposes more burden on companies while not providing relevant information to companies’ management and shareholders, investors, NGOs and affected communities, trade unions and consumers. We believe this is the risk if the following elements are not adequately reflected in the proposal:

- While respecting the need for a balanced and proportionate approach, the reporting framework should be designed to generate relevant, accurate and comparable information which reflects the true position of the company and its activities along with facilitating future informed decision making.

  o Companies should disclose relevant and specific non-financial risks and impacts rather than providing general information on policies or adherence to principles that does not necessarily provide useful information on actual businesses’ social, environmental and human rights performance. These include the risks and impacts companies are exposed to as well as those that company’s operations – including through their supply chains – generate on society. Such disclosure requirement would ensure the legislation is in line with the new definition of CSR adopted last year by the Commission². For instance, the legislation could use the definition of risks and impacts contained in the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights or refer to them.

  o The legislation shouldn’t allow excessive discretion on companies’ side to decide whether they should report on social, environmental and human rights aspects. The “comply or explain” approach, where companies can decide not to report on their non-financial risks and impacts by simply explaining why they don’t, has proved insufficient to increase the quantity and quality of the non-financial reporting and it undermines the very rationale of the legislation.

  o To ensure robustness, measurability of progress and comparability, a set of core Key Performance Indicators common to all companies – or at least at sector-level – should be developed³.

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² CSR is defined as “the responsibility of enterprises for their impacts on society”.
³ For instance, in relation to environmental aspects the non-financial indicators shall address at least: land use, water use, greenhouse gas emissions and use of materials.
- Reporting should be mandatory and the non-financial information should be subject to the same regime as financial information to ensure adequate Board accountability and ownership and to ensure that shareholders can challenge it.

- The legislation should require Member States to ensure that adequate and effective mechanisms exist to enforce full, accurate and credible disclosure of non-financial information. Such mechanisms should include external verification or audit, but also the possibility for external stakeholders to challenge the information provided.

- Reporting requirements in this legislation should apply to all large companies consistently with the EU definition of Large Enterprise.

With this legislation, the European Commission has the opportunity to bring reporting into the 21st century. We hope the position you will defend in the College of Commissioners will live up to the expectations of investors, workers, consumers and rights holders.

Yours sincerely,

Patrick Itschert  
Deputy General Secretary, European Trade Union Confederation

François Passant  
Executive Director, European Sustainable Investment Forum

Jérome Chaplier  
Coordinator, European Coalition for Corporate Justice

Monique Goyens,  
Director General, BEUC - European Consumers’ Organisation

Cc: Diego Canga Fano, Head of Cabinet