Opinion of the Committee of the Regions on 'Directive on e-invoicing and on end-to-end e-procurement'

(2014/C 114/13)

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General comments on the directive

1. notes that the intention of the Commission's proposal for a directive on electronic invoicing in public procurement is (1) for a new European e-invoicing standard to be drawn up by the European Committee for Standardisation (CEN), and (2) for Member States to have to ensure that contracting authorities and contracting entities may not refuse to accept electronic invoices complying with the standard. Under the Commission's proposal, these rules will come into effect 48 months after the directive enters into force, while the Committee of the Regions proposes that they should take effect 30 months after the publication of the reference to the European standard pursuant to Article 3(2) of the directive;

2. sees the proposal as a step towards paperless public administration. The acknowledged benefits of e-invoicing have led several EU Member States to require the submission of e-invoices in public procurement in all or part of the public sector. However, these initiatives are often based on national standards that are not interoperable;

3. notes that in recent years a number of stakeholders have called for action at European level to stimulate e-invoicing, or even suggested that it should be made compulsory; for example, in a resolution of 20 April 2012, the European Parliament referred to market fragmentation due to national rules on e-invoicing and to the need for interoperable solutions based on common legal requirements and technical standards;

4. has previously ([1]) expressed support for electronic exchange of information and use of electronic means in connection with various procurement procedures, although enough time needs to be allowed for preparation given that circumstances vary, particularly for small businesses;

5. considers it appropriate for the invoicing process — as the final stage in the procurement process — also to use electronic means, in order to improve efficiency and reduce administrative costs;

6. sees the proposal for a directive as a way of improving the conditions for interoperability and the operation of the internal market. It will make things easier for public contracting authorities and entities and their suppliers, and keeps costs down. At the same time, there is currently little cross-border trade, and from that point of view there is a risk that the directive could have a disproportionately high economic impact;

7. points out that the Commission's proposal for a directive authorises the relevant European standardisation organisation to draw up the semantic data model for electronic invoicing. The proposal under consideration thus delegates substantial discretion over the content of this European standard to a body that is not the legislator. It will not be possible to fully assess the implementation of the standard to be drawn up, the possible need for adjustment and associated costs until the specific details are available. At the current time it is therefore impossible to judge whether the proposal complies with the principle of proportionality;

([1]) The Committee of the Regions has previously issued an opinion on the proposal for a Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors (COM(2011) 895 final) and the proposal for a Directive of the European Parliament and of the Council on public procurement (COM(2011) 896 final)

8. welcomes the option for contracting authorities and entities to continue to accept invoices in other standard formats, as well as paper invoices, unless otherwise provided in national legislation, even after a common EU standard has been developed. This provides flexibility both for contracting authorities and entities and for suppliers that currently follow other standards. Requiring contracting authorities and entities that have already introduced e invoicing based on particular standards to shift to a new common standard would entail costs both for them and for their suppliers. In line with the proposed directive, the Committee of the Regions therefore feels that existing formats should be allowed to coexist during the gradual transition towards increased use of a common European standard. The development of a common semantic data model will also facilitate conversion between different technical formats. With regard to any invoice content that may be required in addition to the core content due to national legal requirements, the needs of specific sectors, etc., it should continue to be possible to submit invoices containing such information in the format currently in use, which often takes account of these needs;

9. would nonetheless note that it is important to ensure that the work of contracting authorities and entities and of their suppliers is not hindered or made more difficult by the proposed European standard. It would be very expensive if contracting authorities and entities were required to have the capacity to accept e-invoices in all technical formats that complies with the semantic data model;

10. therefore suggests that the proposal for a directive should be clarified with regard to the requirements for contracting authorities and entities. Amongst other things, they should only be required to accept a limited number of technical formats, not all the different national and proprietary formats in existence. Instead, contracting authorities should be required to accept electronic invoices using the European standard for the semantic data model and technical formats based on international standards by standardisation bodies recognised under EU law (such as CEN, ISO, UN/CEFACT and OASIS). The directive could then be seen as a harmonisation of international standards, ensuring that the core content of invoices meets European requirements under common legislation etc.;

11. believes that basing the semantic data model on models currently available from international standardisation bodies and also restricting the permitted technical formats will help to increase interoperability and at the same time reduce costs. It creates consistency for commercial operators that develop good solutions based on standards;

12. would also stress that it is very important for the Commission to consider promoting e-invoicing as part of the Agreement on Government Procurement (GPA). This would ensure that the rules apply to the majority of WTO members, including all EU Member States. It is another reason why the standard provided for by the Commission should be based on international standards, as it would be not just a European standard, but rather an international standard that respects and includes European requirements and needs, based on common legislation etc.;

13. would also note that it is important to take account of standardisation efforts that have already been started, in particular the CEN's work to establish requirements for the information included in business messages in public procurement and the process for exchanging such messages between parties. A number of Member States are already involved in this work ([2]), the results of which are also intended to be used in projects launched by the Commission such as e-SENS ([3]) and OpenPEPPOL ([4]);

14. considers it important, when developing the current standard or continuing with the work already initiated, to ensure that the standard is simple to use and is tested before it is recommended. It would also be useful to provide some kind of certification to show that invoices that are said to be based on the standard do in fact comply with it. Experience from Member States where certain standards are required shows that guidelines of some kind are needed to avoid each individual contracting authority or entity having to justify why they cannot accept a given e-invoice. Such a procedure could probably be developed within the aforementioned recognised international standardisation organisations;

([2]) (see www.cenbii.eu)
([3]) (see www.esens.eu)
([4]) (see www.peppol.eu)

15. would also point out that it is very important for local and regional representatives to be involved in the work to develop the standard; and other public administrations and institutions that keep up from that state budget;

16. notes that, in view of the ongoing negotiations on the proposal for a new data protection regulation, it is important to ensure that the provisions in that regulation support the use of proper e-invoicing;

17. stresses that, under the e-invoicing rules in Directive 2006/112/EC on the common system of value added tax, e-invoicing is subject to acceptance by the recipient. As already highlighted in the proposal for a directive, this must be taken into account when framing the current provisions;

18. notes that the majority of contracting authorities and entities do not currently have the facilities to accept and process electronic invoices, and therefore sees it as essential to allow for proper preparation before the directive enters into force. It should, moreover, not enter into force until the other e-procurement procedures included in the public procurement package do so. The Committee of the Regions considers that an appropriate date for entry into force would be some time, for instance 30 months, after the Commission' publication of the reference to the standard. This will ensure that there is time for the standard to be applied in software and that the contracting authorities and entities have time to acquire systems supporting the standard. The Member States should provide training and support to contracting authorities to ensure that the provisions in the proposed directive can be implemented after the stated deadline;

19. points out that the introduction of e-invoicing will mean that many contracting authorities and entities need to acquire appropriate IT solutions and generally improve skills in processing e-invoices. The necessary action in the various Member States should therefore include help in acquiring IT systems for accepting e-invoices, for example in the form of a central framework agreement that authorities can use for procurement, or assistance in drawing up requirements for their own procurement of e-invoicing processes;

20. feels that, in addition to measures to support training etc. for contracting authorities and entities, there is also a need for action to improve the competences of businesses, especially small and medium-sized enterprises;

21. given that the aim of the proposal for a directive to solve the problem of interoperability in cross-border trade cannot be satisfactorily achieved by Member States acting alone and given that the draft directive is the appropriate instrument, considers that the proposal is in compliance with the principles of subsidiarity and proportionality;

22. stresses that the CoR has made e-invoicing in public procurement one of the five priorities in its 2013 subsidiarity work programme and has in this context conducted a subsidiarity-related consultation of the partners of the Subsidiarity Monitoring Network and its Subsidiarity Expert Group;

23. calls on the European Commission itself to lead by example and ensure that electronic invoices are accepted in the case of public procurement processes relating to EU funding programmes;

General comments on the communication

24. given that the majority of contracting authorities and entities do not currently use e-invoicing, welcomes the Commission's proposals for key actions in section 5.3, which state *inter alia* that Member States should set up national strategies and detailed action plans for the implementation of e-procurement;

25. stresses that businesses — particularly small and medium-sized enterprises — also need to improve their competences in e-invoicing, and similarly that infrastructure will probably need to be developed in many Member States. The Committee therefore sees the Commission's suggestion that Member States should consider the possibility of using Structural Funds to finance training (particularly for SMEs), to strengthen administrative capacity and to build infrastructure, as a way of resolving these issues;

26. sees infrastructure issues as a key element in the implementation of e-invoicing, and therefore feels that the Commission's proposal in section 5.2 (4) to fund and support the development of end-to-end e-procurement (including e-invoicing) infrastructure via the proposed Connecting Europe Facility (CEF) will help to support the smooth operation of infrastructure for these procedures. In the Committee's assessment, additional infrastructure measures may be needed, as circumstances vary considerably between the Member States;

27. also endorses the Commission's intention to finance projects that promote the development of interoperable solutions (e-SENS);

28. welcomes the Commission's proposal to continue the work of the European Multi-Stakeholder Forum on e-invoicing, but at the same time urges the Commission to ensure that local and regional authorities are represented in it.

II. **RECOMMENDATIONS FOR AMENDMENTS**

Amendment 1

COM(2013) 449 final

Recital 7

Text proposed by the Commission	CoR amendment
The European standard for the semantic data model of the core electronic invoice should build on existing specifications, including in particular those developed by European or international organisations such as CEN (CWA 16356 and CWA 16562), ISO (Financial Invoice based on the ISO 20022 methodology), and UN/CEFACT (CII v. 2.0). It should not require electronic signatures. Such European standard should define semantic data elements referring to, in particular, complementary seller and buyer data, process identifiers, invoice attributes, invoice item details, delivery information, payment details and terms. It should also be compatible with the existing standards for payments in order to allow for automatic processing of payments.	The European standard for the semantic data model of the core electronic invoice should build on existing specifications, including in particular those developed by European or international organisations such as CEN ~~(CWA 16356 and CWA 16562)~~, ISO ~~(Financial Invoice based on the ISO 20022 methodology)~~, ~~and~~ UN/CEFACT ~~(CII v. 2.0)~~ and OASIS. It should not require electronic signatures. Such European standard should define semantic data elements referring to, in particular, complementary seller and buyer data, process identifiers, invoice attributes, invoice item details, delivery information, payment details and terms. It should also be compatible with the existing standards for payments in order to allow for automatic processing of payments.

Reason

The Commission's text refers to certain specifications. Invoicing standards change from time to time, and not all of the cited standards have been implemented. There is also no reference to some international standards that are currently in use in a number of Member States. It would therefore be more appropriate to refer to specifications for invoicing standards developed by European or international organisations such as CEN, ISO, UN/CEFACT and OASIS, the last of which is not mentioned in the Commission's text but is recognised as an organisation that produces de facto standards currently used in the public sector in several Member States.

Amendment 2

Article 4

Text proposed by the Commission	CoR amendment
Electronic invoices complying with the European standard	***Electronic invoices complying with the European standard***
Member States shall ensure that contracting authorities and contracting entities do not refuse to receive electronic invoices which comply with the European standard whose reference has been published pursuant to Article 3(2).	Member States shall ensure that contracting authorities and contracting entities do not refuse to receive electronic invoices which comply with the European standard whose reference has been published pursuant to Article 3(2) and which are based on technical formats developed by international standardisation organisations recognised under EU law.

Reason

It would be very expensive if contracting authorities and entities were required to accept electronic invoices in all technical formats that complied with the semantic data model. One way of restricting the number of formats is to require e-invoices to comply with the European standard for the semantic data model of the core electronic invoice and to be based on technical formats (syntax) developed by standardisation organisations recognised by the EU (such as CEN, UN/CEFACT, ISO and OASIS).

Amendment 3

Article 6

Text proposed by the Commission	CoR amendment
Transposition	***Transposition***
Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 48 months following the entry into force at the latest. They shall forthwith communicate to the Commission the text of those provisions.	Member States shall work actively to ensure that contracting authorities and contracting entities are able to receive electronic invoices which comply with the European standard whose reference has been published pursuant to Article 3(2) and which comply with technical formats based on European and international standards. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive ~~by 48~~ by 30 months following the Commission's publication of the reference to the European standard pursuant to Article 3(2) ~~entry into force at the latest~~. They shall forthwith communicate to the Commission the text of those provisions.
When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Reason

It makes more sense to base the deadline on a certain time after the Commission's publication of reference to the standard. This would leave time to put IT systems in place and to test the standard, and allow contracting authorities and entities to find systems based on the standard. An appropriate deadline would be 30 months from the date when the Commission's reference to the standard is published in accordance with Article 3(2). Furthermore, it is important that Member States give contracting authorities and entities the necessary support to improve their competences in e-invoicing, and possibly also in acquiring IT processes for accepting and processing e-invoices. Action in this regard could also include training for businesses, particularly small and medium-sized enterprises. The proposed text also creates a better basis for enabling e-invoices complying with the defined standard to be accepted within the proposed deadline.

Brussels, 28 November 2013

The President
of the Committee of the Regions

Ramón Luis VALCÁRCEL SISO