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EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a Directive of the European Parliament and of the Council

on electronic invoicing in public procurement

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TABLE OF CONTENTS

Introduction 3

1. Procedural issues and consultation of interested parties 3

2. Policy context, problem definition and Subsidiarity 3

3. Objectives of the initiative 4

4. Policy options 5

5. Assessment of Impacts 6

6. Comparison of options 8

7. Monitoring and evaluation 9

INTRODUCTION

The current impact assessment looks at the effects of a possible EU initiative which would enhance e-invoicing interoperability in public procurement across the European Union, in order to eliminate the fragmentation of the Internal Market.

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

Action on promoting the uptake of e-invoicing in public procurement is seen by the Commission as a priority for the near future. This is reflected in the inclusion of a key action on e-invoicing in public procurement in the Single Market Act II.

This Impact Assessment builds on the analysis of external research, consultations with stakeholders, and an on-line survey which gathered over 700 replies.

2. POLICY CONTEXT, PROBLEM DEFINITION AND SUBSIDIARITY

This initiative only concerns public procurement covered by Directives 2004/17/EC, 2004/18/EC and 2009/81/EC.

2.1. Problem definition

The existence of multiple non-interoperable e-invoicing standards across the EU is the main problem driver with regards to the exchange of invoices in public procurement. The above problem driver is placed in a broader context, where despite efforts to stimulate the use of e-invoicing and the broad acknowledgment of its many benefits, the public sector across the EU has been quite unresponsive. The Member States which made the decision to facilitate or mandate the use of e-invoicing, frequently came up with their own technical solutions, based on a separate national standard - this only aggravates the interoperability problem, as even more new standards appear on the market.

2.1.1. Problem (P1) – excessive complexity and legal uncertainty for firms

The existence of many different e-invoicing requirements and standards across the EU results in an excessive level of complexity and legal uncertainty for firms when issuing invoices to another Member State. The complex situation on the EU e-invoicing market is seen by suppliers as burdensome and presents a risk of non-acceptance of e-invoices in other Member States.

2.1.2. Problem (P2) – higher costs for firms

Since the multiple e-invoicing requirements, standards, solutions, and networks/platforms which exist across the EU are not interoperable, and as no common standard is available on the market, firms which want to carry out cross-border procurement activities are often required to support a new standard each time they access a new market. This increases the costs, irrespective of whether the invoices are submitted directly or through service providers. These higher operating costs for firms also have a negative effect on buyers, as higher prices need to be charged for their products or services.

2.1.3. Consequences

The excessive complexity/legal uncertainty and higher operating costs for enterprises can constitute market access barriers in cross-border public procurement. Where it does take place in the EU, e-invoicing is for the most part limited to separate – often national – networks, creating 'islands of e-invoicing' in the Internal Market. These problems might also deter firms from bidding in public procurement in other Member States, meaning that enterprises would pass up on potential business opportunities due to specific e-invoicing requirements which they cannot support or which they judge too expensive. Finally, the domination of national e-invoicing regimes means lower cross border bidding, fewer participating companies, and therefore lower competition, which in turn translates into an inefficient functioning of the Internal Market.

2.2. Baseline scenario

In undertaking no new EU action, the adoption of e-invoicing in public procurement in the EU would continue at a slow and steady pace, with more and more national standards appearing on the market. There is no guarantee that Member States will opt for interoperable solutions – recent experience suggests the contrary. As such, e-invoicing in public procurement in the EU risks becoming increasingly complex and costly, as buyers, suppliers, and service providers would have to cater for a growing number of national requirements and standards. Market access barriers would not only continue to exist but could even increase.

2.3. Legal basis and subsidiarity

The EU's right to take action to ensure the functioning of Internal Market stems from Article 114 of the Treaty on the Functioning of the European Union (TFEU).

The EU action in the area of e-invoicing in public procurement is justified on grounds of subsidiarity. Actions undertaken by Members States have aggravated the interoperability problem, as more e-invoicing standards have emerged on the market (generating further interoperability costs and complexity).

Given the cross-border interest of public procurement transactions covered by the Directives and the on-going national initiatives introducing e-invoicing in this sector, an EU action on e-invoicing in public procurement would be the most appropriate method to improve interoperability and prevent further fragmentation of the Internal Market. This cannot be done by Member States on their own as such actions would not guarantee interoperability for economic operators nor eliminate market access barriers.

3. OBJECTIVES OF THE INITIATIVE

3.1. General objectives

The primary objective of this initiative would be to improve the functioning of the Internal Market by introducing mechanisms that would diminish market access barriers in cross-border public procurement, generated by insufficient interoperability of e-invoicing standards.

3.2. Specific objectives

The specific objectives contributing to the achievement of the general objective would be the following:

(1) Reduce complexity and improve clarity and legal certainty for economic operators, by enabling them to send invoices in standards with which they are familiar and which will be widely accepted;

(2) Lower operating costs for economic operators participating in cross-border public procurement, such as cost of supporting multiple e-invoicing standards and systems.

3.3. Operational objectives

The following operational objective has been identified:

- Create conditions for the emergence of (a) technical solution(s) for e-invoicing in public procurement which would ensure cross-border interoperability – in other words, create conditions in which communication and mapping between e-invoicing systems will be less resource intensive, allowing buyers and sellers to exchange invoices in public procurement at the lowest cost and with minimal complexity.

4. POLICY OPTIONS

	A new European standard is proposed to the market	Member States must accept invoices compliant with the new European standard	Only the new European standard is allowed
Option (1): No new EU action	*NO*	*NO*	*NO*
Option (2): Free-choice approach	**YES**	*NO*	*NO*
Option (3): Selective conversion to e-invoicing	**YES**	NO/YES (YES - only if a Member State or a contracting authority mandates the use of e-invoicing)	*NO*
Option (4): Obligatory acceptance	**YES**	**YES**	*NO*
Option (5): Full harmonisation	**YES**	**YES**	**YES**

5. ASSESSMENT OF IMPACTS

The removal of market access barriers in e-invoicing would generate mainly economic impacts, both in terms of costs and benefits, with the latter being more significant. The primary impacts would be supplemented by additional 'secondary' impacts, as improved interoperability would most probably translate into increased uptake of e-invoicing. These would be economic, social, and environmental in nature.

5.1. Primary impacts

The scale of these impacts would depend on the Option chosen - the more users align to a single solution, the fewer market access barriers would remain.

The establishment of a common standard would solve the interoperability problem for all firms dealing with contracting authorities which adhere to the new rules. The availability of one interoperable and commonly acceptable European standard would attenuate the complexity of doing business abroad and provide more legal certainty for enterprises. It would also reduce the costs resulting from the need to support many different e-invoicing standards. Further potential savings for firms may come from some adaptations of the pricing schemes and market structures for e-invoicing transmission.

Any measure requiring the use of a new European e-invoicing standard would generate some implementation costs for firms, contacting authorities and Member States. However, these costs would be outweighed by the expected benefits, i.e. operational savings from e-invoicing, lower prices in public procurement due to enhanced competition.

5.2. Secondary impacts

The adoption of the new European e-invoicing standard may generate secondary impacts through the increased uptake of e-invoicing in public procurement. This increase in the use of e-invoicing would be the source of certain economic, social, and environmental impacts.

5.2.1. Economic, environmental, and social impacts

The economic impacts of increased uptake of e-invoicing would be linked to savings to the economy generated by the expected savings in the public procurement cycle (i.e. reduction of operating costs for buyers and sellers, increased transparency, faster payment processing times).The social impacts are expected to be neutral. The environmental impacts are expected to be positive – they would above all translate into a reduced use of paper and lower CO2 emissions.

5.2.2. Reduction of administrative burden

The availability of invoice data electronically would simplify auditing and tax collection by the Member States' tax authorities, as well as the preparation of any reports which need to be provided by the company. This would in turn reduce the administrative burden on enterprises. Due to the fact that such administrative requirements weigh more heavily on smaller enterprises, this reduction would be particularly beneficial to SMEs.

5.3. Impacts of the different options

5.3.1. Option (1) – No new EU action

This option is described under the baseline scenario.

5.3.2. Option (2) – Free-choice approach

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. Market access barriers would remain. The cost burden on enterprises would not decrease, as they would be forced to maintain numerous e-invoicing standards at the same time. Should they choose not to do so, potential business opportunities would be foregone.

The objective of this initiative would not be achieved, as interoperability would remain problematic. Secondary impacts would be observed only to the extent to which a switchover to e-invoicing occurs, but due to the voluntary nature of this Option, the scale of this process is difficult to predict.

5.3.3. Option (3) - Selective conversion to e-invoicing

Member States which mandate e-invoicing in public procurement on their own initiative would be required to accept electronic invoices in the new European standard. This would lower the costs and complexity of e-invoicing for enterprises, which would now be able to send electronic invoices in a single standard to any contracting authority which mandates e-invoicing. Interoperability would be facilitated, but might not be ensured in the Member States where the introduction of mandatory e-invoicing is required de facto, but is not legally mandated (de jure). Legal uncertainty for firms may continue.

Member States would be treated unequally: those which already use e-invoicing in public procurement would be have to adapt to the new standard, while those which do not would not be obliged to switch and could even be discouraged from doing so quickly.

The secondary impacts are difficult to predict. It might take a very long time for all Member States do move to e-invoicing in public procurement. The potential benefits of greater cost efficiency and savings from increased competition in public procurement would not materialise or would do so only very slowly.

5.3.4. Option (4) – Obligatory acceptance

A new, common European standard would be developed and made available for use by all market operators. Acceptance by all contracting authorities of e-invoices compliant with this standard would be required in public procurement, without replacing existing technical solutions.

The operational objective would be met rapidly: the requirement to accept e-invoices compliant with the European standard would effectively ensure interoperability and hence remove market access barriers as of the day when the provisions enter into force. It may also provide a ready-made solution and guidance for those Member States which have not yet implemented e-invoicing.

For enterprises, this option would create the certainty that any efforts and expenditures will be amortised within a fairly short period of time. The knowledge that an investment into one single solution will allow the sending of e-invoices to any contracting authority in any Member State should prove to be a convincing factor for to switch over to e-invoicing.

Secondary impacts would be observed only to the extent to which a switchover to e-invoicing occurs. As the availability of a common standard should encourage more market players to make this decision, the scale of this process should be more significant that in the previous Options.

5.3.5. Option (5) – Full harmonisation

Invoices in currently existing standards would no longer be permitted. Although this approach would fully harmonise e-invoicing within the EU, any investments made in the Member States which already have developed national e-invoicing systems would have been wasted. This approach would also be highly disruptive and costly for service providers, as they would have to entirely redesign their systems. Finally, it would meet strong political opposition from Member States which already have e-invoicing systems in place.

6. COMPARISON OF OPTIONS

An analysis of the different options provided the following results:

	Objective - improve/facilitate e-invoicing interoperability in public procurement		
Policy options	**EFFECTIVENESS**	**EFFICIENCY**	**COHERENCE[1]**
Option (1): No new EU action	0	0	0
Option (2): Free-choice approach	(+ / ?)	(≈)	(?)
Option (3): Selective conversion to e-invoicing	(+)	(+)	(- / ?)
Option (4): Obligatory acceptance	(+ +)	(+)	(+ / ?)
Option (5): Full harmonisation	(+ +)	(- -)	(≈)

Magnitude of impact as compared with the baseline scenario (the baseline is indicated as 0): ++ strongly positive; + positive; – – strongly negative; – negative; ≈ marginal/neutral; ? uncertain; n.a. not applicable

Option (4) appears to be the most appropriate choice:

[1] Coherence is evaluated by taking into account also the secondary impacts (i.e. impacts generated by the increased uptake of e-invoicing) and the extent to which the Options are coherent with other EU policies (especially the e-procurement initiative and the objectives of the late payment Directive).

- It would overcome the current fragmentation and ensure the proper functioning of the Internal Market.

- As the transition to e-invoicing would occur on a firm's initiative, it would not generate unnecessary costs. This would also respect the subsidiarity and proportionality principles.

- By inducing a broader transition to e-invoicing, it would capture the full efficiency gains and economic savings offered by e-invoicing.

- By allowing firms and contracting authorities to continue to use existing national invoicing systems, it would reduce the cost and disruption of the transition for both groups.

A deadline of 2017 or 2018 is proposed for the move to mandatory acceptance of e-invoices compliant with the new European standard. This timeframe reflect the wish of stakeholders to move forward quickly and is consistent with the expected date of the launch of mandatory e-procurement contained in the draft revised public procurement directives.

7. MONITORING AND EVALUATION

To avoid any additional (administrative) burden on contracting authorities, firms, or Member States due to the collection of information used for monitoring, the proposed indicators mainly rely on existing data sources (e.g. OJ/TED, Eurostat) or data already collected by stakeholders (e.g. e-invoicing service providers) in their business activities. However, there are some data gaps which will require additional research (targeted studies and surveys), to be carried out by DG MARKT.