

09.06.04

Committee of European Securities Regulators
Mr. Fabrice Demarigny
11-13 Avenue de Friedland
75008 Paris

France

**Guidance for implementation of co-ordination of enforcement
of financial information**

Dear Mr. Demarigny

The Association of German Chambers of Industry and Commerce, the Federation of German Industries and the Deutsche Aktieninstitut appreciate the opportunity to comment on the guidance.

In paragraph 6 and 7 the guidance concerns the standard setting process carried out by CESR. It should be clarified that there is no intention to set new standards. Furthermore, some clarification is needed in paragraph 15. The meaning of "opinion" should be defined. It must be clear that this can only be an opinion of the EU National Enforcer of a certain "official character" but not, for instance, unofficial information given on the telephone upon request of an issuer.

In the case that contradictory decisions are taken it is not clear how the European Enforcer Coordination Sessions (EECS) is able to respond to save a harmonised enforcement. The guidance should underline in paragraph 17 and 18 that the national enforcer who intends to take a contradictory decision will inform and discuss the issue before taking the decision.

When exchanging the ex-ante information the enforcers should ensure the anonymity of the companies and the confidentiality of information.

It could be useful if the database with the ex-post decisions were not only for the enforcers use but also for companies concerned. This part of the database should contain only anonymous and non confidential information. Companies could respect the decisions of the enforcement. Therefore the deliberation of the cases has to be rapid to offer the enforcement decisions to companies as soon as possible.

Deutscher Industrie-
und Handelskammertag

im Haus der
Deutschen Wirtschaft
Breite Straße 29
10178 Berlin

Following information should not be open to the public:

- the name of the issuer and any group of which it is part of
- the market where the securities are listed
- the indicative market capitalisation of issuer and sector details
- the auditors opinion

Furthermore the report on the activities of the EECS should be published.

If companies are listed in different countries and several enforcers start to control the financial statements a one-stop-shop-principle is necessary. The enforcer of the country of the registered office should be in charge of the enforcement. Otherwise different decisions of different enforcers could confuse the companies and jeopardize the coordinated enforcement. All enforcement institutions should have access to the database irrespective of the different enforcement system.

Yours sincerely,

Annika Böhm
Association of German Chambers of
Industry and Commerce

Solvay Mayr
Federation of German
Industries