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The Danish Chamber of Commerce's consultation on the Commission proposal for a regulation on combating late payment in commercial transactions.

The Danish Chamber of Commerce welcomes the opportunity offered by the European Commission to provide comments on the Commission proposal for a regulation on combating late payment in commercial transactions (the "*Proposal*") published on 12 September 2023.

These comments complement our previous input of 17 March 2023.

The Danish Chamber of Commerce fully supports the Commission's desire to create a culture of timely payment and believe that the Proposal contains several very good measures, that will reduce the occurrence of late payment, which is a challenge for many companies. The Danish Chamber of Commerce is however highly critical of the proposal to introduce a mandatory maximum payment period of 30 days.

Neither the challenges of late payments or the "unfair behavior" sometimes displayed by individual companies can justify such intrusive regulation in the contractual freedom and fundamental right of all European companies.

The Danish Chamber of Commerce is surprised to find, that the Proposals does not consider the position and needs of the SME buyer and the negative impact a maximum 30-day permanent term will have on SME buyers. In many cases, longer payment terms offered by large suppliers to smaller buyers, is a way of financing the startup and / or survival of SME buyers, especially in sectors with slow moving consumer goods or goods beings produced seasonal.

SMEs may not have the liquidity needed to expand, develop new technologies or products, and may (not yet) have the financial capacity to be able to get external financing on terms they can honor. In such cases, supplier financing via longer payment terms is the cheapest financing entrepreneurs and SMEs can get. A funding option which, with the Commission's proposal, will become impossible and which the proposal completely fails to consider.

Additionally, companies purchasing for inventory across all sectors risk facing significant liquidity challenge. It is only fair that liquidity risk is shared across the value chain, and it is wrong to think that only the purchasing party is the stronger party. This can create additional pressure to choose suppliers outside Europe or locate production outside Europe.

Furthermore, moving the EU in a more sustainable direction will require investments in the billions, and while investments in green transition will pay off over time, they will not be repaid in 30 days.

Introducing a maximum payment term not only significantly limit European companies' contractual freedom, but also risks exacerbating a crisis, as companies with financial difficulties for any reason, such as Covid-19, high energy prices, inflation and/or rising interest rates, will not be able to negotiate longer payment terms with their (willing) suppliers. As a result, more companies, especially SMEs, may go bankrupt or need financial assistance from the state (where possible).

If the EU introduces legislation maximum payment terms, this could be an incentive for both European and non-European companies to conclude contracts with non-European companies. A market can therefore be created in which it is more attractive to conclude contracts with non-European companies than with European companies.

Furthermore, there is no documented need for maximum payment periods in B2B transactions. Lowest-denominator regulation will only result in increased administrative and financial burdens for the many European companies that comply with the rules. The solution is not more regulation, but the application and exploitation of existing rules.

Healthy and strong competition in the internal market is crucial for European companies' ability to compete internationally and a prerequisite for growth and job creation in Denmark and the EU. Further regulating the ability of European companies to freely agree on the terms best suited to their sector, business model and needs is a step in the wrong direction towards protectionism, national barriers, and reduced trade.

The Danish Chamber of Commerce considers it unacceptable, that European companies are painted as the culprits in the issue of late payment. If regulatory maximum payment terms would solve the issue of late payment, there would be no problem with late payment in B2G transactions. However, the data provided by the European Payment Reports in recent years, clearly shows that there is a problem in B2G transactions.

Rather than pointing the finger at EU companies, the Commission and relevant member states, should take the lead and ensure that existing statutory maximum payment terms in B2G transactions, are complied with. Ensuring effective enforcement in B2G transactions would help set a precedent for a healthy payment culture in European countries.

Combating late payment and increasing the resilience of SMEs and supply chains is an extremely important agenda that the Danish Chamber of Commerce fully supports. Consequently, the Danish Chamber of Commerce is very concerned with the speed with which this proposal is being processed and calls on the Commission, together with the Council and Parliament, to use the opportunity to carry out the necessary investigations and ensure a proper and thorough process around this very important piece of legislation.

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The Danish Chamber of Commerce is of course available if there are any questions about the answers given in the consultation.

Best regards,

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The Danish Chamber of Commerce