



Fédération Européenne des Activités de la Dépollution et de l'Environnement  
European Federation of Waste Management and Environmental Services  
Europäische Föderation der Entsorgungswirtschaft

November 2010

## Press Release

### following the publication of the European Commission's Single Market Act

FEAD supports the efforts of the European Commission to reinforce the Single Market, in particular by improving conditions to allow businesses to easily engage in cross border trading of goods and services, to innovate, and to compete on global markets. We fully agree that a growth-friendly business environment without excessive administrative burdens, as well as access to finance and modern infrastructures, are crucial in this context. We would like to use this opportunity to highlight our position on a few of the measures suggested by the European Commission.

FEAD welcomes the intention of the EC to clarify both the scope of public-public cooperation and the concept of in-house. We believe that there is an increased risk of misinterpretation by public authorities in relation to tender-free public-public cooperation to the detriment of fair competition. Private companies, as well as public entities, should be entitled to compete fairly for public tenders. We consider that the Teckal (C-107/98) and subsequent ECJ judgments generally offer a sound basis for defining the "in-house" concept. In addition to this, our members are of the opinion that the Commission Communication on public-public co-operation which is currently being prepared will help clarify the scope for tender-free public-public co-operation.

FEAD deems the creation of a single EU cross-sectoral directive on service concessions as extremely difficult given the different historical background, market structures, types of activities and sector specificities in the Member States. Moreover, one of the primary characteristics of concessions, namely their flexibility, could be put at risk. The duration of concessions, for example, should not be restricted and should take into account the importance of investments accomplished. It is also of the utmost importance that concessions are not misused for the purposes of tender-free public-public cooperation. In our view the principles of transparency, equal treatment and non-discrimination, as derived from the TFEU, as well as the jurisprudence of the ECJ on the definition and award of concessions, are sufficiently clear. FEAD, however, calls for the development of clear provisions concerning the publication in the EU Official Journal of the notice related to service concessions.

FEAD would like to draw attention to the fact that in relation with the use of fiscal instruments there is discrimination between private and public waste management companies. In a number of Member States, public sector waste management companies are exempt from paying value added tax (VAT) for their services, whereas private waste management companies - undertaking the same type of services - pay a high VAT rate. As this leads to the creation of market distortions, we strongly advocate for equal treatment of private and public waste management companies and the application of uniform VAT rules. The upcoming European Commission VAT strategy due to be published in 2011 should provide solutions to remedy this inequitable situation.

The measures as stipulated in the Single Market Act should also be used to enhance the cooperation between the public and the private sector by further developing Public-Private Partnerships (PPPs). PPPs deliver best-value for money and help to relieve pressure on public finances.

#### Note to the editor:

*FEAD is the European Federation representing the European waste management industry. FEAD's members are national waste management associations covering 20 Member States. They have an approximate 60% share in the household waste market and handle more than 75% of industrial and commercial waste in Europe. Their combined annual turnover is approximately € 54 billion.*

*FEAD represents about 3000 companies with activities in all forms of waste management. These companies employ over 295000 people who operate around 1800 recycling and sorting centres, 1100 composting sites, 260 waste-to-energy plants and 1100 controlled landfills. They play an important role in the determination of the best environmental option for waste management problems.*

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