



# FEAD Statement on the Public Procurement report in the European Parliament

22 January 2013

On 18 December 2012 the Committee on the Internal Market and Consumer Protection (IMCO) of the European Parliament (EP) voted on amendments to the proposal of the European Commission for a new Directive on public procurement. On Thursday 24 January the same Committee will vote on amendments to the Directive on concession contracts and on public procurement for utilities.

FEAD would like to stress that the initial reason for the revision of the public procurement Directives and the new Directive on concessions was to simplify and streamline the rules applying when public authorities award public contracts, as well as to facilitate the participation of SMEs in public tenders. In our view, it is at best doubtful that the current EP report on public procurement achieves these goals. Especially when it comes to the scope of the Directive and the allowed exclusions from it, defined in article 11 (as well as those in articles 11 and 15 of the Directive on concession contracts), the compromise amendment that was voted in IMCO is complex, unclear and causes legal uncertainty. Moreover, it goes beyond and contrary to the established and latest jurisprudence of the Court of Justice of the European Union.

Narrowing the internal market by introducing too many and too wide exclusions will make the Directive discriminatory towards private operators, and will, as a consequence, lead to less use of public tendering, thereby hampering innovation, SMEs' access to the market and efficient public spending. Such a legal text will be too difficult to enforce and could only result in disputes and lengthy proceedings in front of national courts and the Court of Justice of the European Union.

We call on the Members of the European Parliament to take the views of the business community into account with their vote on the Directive on concessions on 24 January, as well as during the trilogue negotiations that will follow. The public procurement package will only apply if public authorities choose to outsource; in such a case it should provide legal certainty, ensure transparency and promote innovation and fair competition between economic operators.

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FEAD is the European Federation representing the European waste management industry. FEAD's members are national waste management associations covering 19 Member States and Norway. 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 € 75 billion.

FEAD represents about 3000 companies with activities in all forms of waste management. These companies employ over 320000 people who operate around 2400 recycling and sorting centres, 1100 composting sites, 260 waste-to-energy plants and 900 controlled landfills. They play an important role in the determination of the best environmental option for waste management problems.

**APOH**, Slovakia  
**ARS**, Romania  
**ASEGRE**, Spain  
**BDE**, Germany

**CAOH**, Czech Republic  
**ESA**, UK  
**EWMA**, Estonia  
**FEBEM-FEGE**, Belgium

**FISE**, Italy  
**FLEA**, Luxembourg  
**FNADE**, France  
**IWMA**, Ireland

**LASUA**, Latvia  
**NORSK INDUSTRI**, Norway  
**PASEPPE**, Greece  
**PIGO**, Poland

**SRI**, Sweden  
**VA**, Netherlands  
**VÖEB**, Austria  
**YYL**, Finland