



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES  
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE  
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES  
UNIONE EUROPEA DELL' ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

**UEAPME answer to the call for evidence on the review of Directive 2003/6/EC on insider dealing and market manipulation (Market Abuse Directive)**

The European Commission launched a consultation on the review of the Directive 2003/6/EC on insider dealing and market manipulation (Market Abuse Directive - MAD) within the Action Programme for Reducing Administrative Burdens in the European Union on the 20<sup>th</sup> April 2009. Furthermore as mentioned by the European Commission this issue is also linked to the Commission Communication Driving European recovery.

UEAPME welcomes any initiative that reduces administrative burden for SMEs and that could make legislation more efficient.

In general we are convinced that especially in the area of the Market Abuse Directive modifications with respect to the current economical and financial circumstances are needed.

Thus UEAPME would like to outline some general points with regard to the consultation.

1) The extension of the scope (article 1 (3) and 9 of MAD)

The scope of the current Directive applies according to article 1 (3) and 9 only to financial instruments admitted to trading on a regulated market, which means a market as defined by article 1 (13) of Directive 93/22/EEC. UEAPME supports the extension of the scope concerning "non-regulated markets". An extension to cover multilateral trading facilities (MTFs) must not lead to the creation (or to the increase) of administrative burden for small and medium-sized enterprises.

2) The specific case of commodity derivatives markets (article 1 (1) of MAD)

According to UEAPME's opinion the introduction of a market abuse framework for physical markets would address small number of very large companies (e.g. gas- and electricity companies). Therefore UEAPME does not see a real necessity for the introduction for framework like this.

3) Insider lists (article 6 (3) of MAD and article 5 of the Directive 2004/72/EC)

The rules on insider lists are one of the core elements of the current Directive. Therefore UEAPME considers that the obligation to draw up lists of insiders is more than proportionate and needed.

4) Transaction reporting by managers and closely associated persons and subsequent disclosure (article 6(4) of MAD and article 6 of Directive 2004/72/EC)

According to UEAPME's experiences it would be necessary to get more transparency in this area and to reassess the measures. This could provide more legal certainty which is more than needed.

5) Reporting of suspicious transaction (article 6 (9) of MAD and article 7 of Directive 2004/72/EC)

Concerning this point UEAPME's position is that the rules on suspicious transactions reporting do not require modification.

6) The competent authorities' right of access to telephone and existing data traffic records (article 12 of MAD)

UEAPME does not see a necessity for amending the rules on article 12 of the Directive 2003/6/EC. We do not think that amendments about an unlimited power of the competent authorities to require telephone and data traffic records in the course of their proceeding against market abuse by confidentiality restraints or other limitation on entities possessing such records that may stem from the e-privacy Directive would remove any uncertainties on the right of the competent authorities to require the dates mentioned.

7) Accepted market practices (article 1(2)(a) and 1(5) of MAD)

The rules on accepted market practices should be amended in the Market Abuse Directive. UEAPME is convinced that there is a room for greater convergence among competent authorities in this area.

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