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**Speech by Commissioner McCreevy at
the European Parliament's Legal
Affairs Committee**

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

EP Legal Affairs Committee (JURI Ctee)

Brussels, 3 October 2007

Chairman, Honourable Members,

I am pleased to have the opportunity today to address you on the Commission's intentions in the area of company law. A dynamic and flexible company law framework is essential for the EU's objectives in the Growth and Jobs initiative. It is also essential to our efforts in the area of Better Regulation, where our priority is to cut red tape for business and get rid of outdated requirements which stifle entrepreneurs.

In 2006 the Commission launched a wide-ranging public consultation on the EU's priorities for company law. This consultation was placed firmly in the context of improving the competitive environment for EU companies, especially SMEs. It generated a wide response. There has subsequently been extensive debate. I have listened carefully to all voices in this debate. I have listened here in the European Parliament. I have listened in the numerous Conferences held on the subject and to all those representing the various interested parties who have visited me to make their case. The economic evidence has been weighed, the legal arguments have been thoroughly aired. The time has come to make decisions and set out clearly the Commission's intentions. This is what I intend to do today.

The Commission has put strengthening shareholders' rights at the heart of its work on company law. We have done so to enable companies to raise capital at the lowest possible cost and because shareholders have an important role to play in efficiently run companies. Last year the European Parliament adopted our proposal on improving access to information for cross-border shareholders in record time. But the issue which has been most fiercely debated is that of "shareholder democracy".

This is, of course, a highly sensitive issue. It touches on cultural traditions in Member States and goes to the core of the debate about how companies should be owned and controlled. It affects the balance between public and private ownership and how the market for corporate control works. Because of its importance, it was my conviction that the matter should be thoroughly debated before any decisions were taken.

I therefore brought the subject out into the open shortly after I took office. My deliberately provocative statements met with an interesting response. There has been an active and open discussion of the pros and cons of one share, one vote over the past two years. Some of the debate generated more heat than light. But in May this year the long-awaited study we commissioned was published. It was the first systematic study into the presence of control-enhancing mechanisms across EU listed companies. Its conclusions have been extensively discussed on several occasions over the past few months. The general conclusion is that it is a balanced piece of work which indeed sheds some useful light on this complex subject.

The study found that there is no economic evidence of a causal link between deviations from the so-called "proportionality principle" and the economic performance of companies.

I have weighed the findings of the study and all the other arguments which have been advanced. My conclusion is that there is no need for action at EU level on this issue.

Even in the light of the economic evidence, there have still been some calls from experts and investors for more transparency on the need for and use of the so-called "control enhancing mechanisms". I have no doubt that enhanced transparency and better dialogue between companies and their shareholders would be useful for the market. Shareholders should use their existing voting rights to push for this. But a further layer of EU action is not the right way to go. Existing EU legislation – the Takeover Bids directive, the 2006 amendments of the Accounting directives, the Transparency directive and the recently adopted Shareholders' Rights directive already contain ample provisions on transparency. Therefore, I do not intend to propose any action on one-share, one vote.

The issue of mobility of companies in the EU has also been a focus of our debates. I am very well aware from our previous discussions of the importance of the European Private Company to the Members of this Committee. You have, in particular, emphasised that it may bring benefits to small and medium companies. You consider that it might well increase the likelihood that private companies will operate across-border. I recognise that the regulatory framework needs to be adapted to allow SMEs to make the most of increasingly integrated European markets. They do not have armies of lawyers and they face bigger challenges in penetrating new markets.

Having listened to the arguments, I can see that a European Private Company could reduce compliance costs. It might well enhance the mobility and competitiveness of European SMEs. I have therefore instructed my services to give high priority to work on this issue. Therefore, I have decided to proceed with a legislative proposal for a European Private Company. This proposal should be ready by mid-2008 at the latest.

The Commission had also suggested that a further means of improving mobility might be a directive stipulating the conditions for transfer of registered office in the EU (the so-called "14th Company Law" directive).

As I informed the European Parliament, in reply to the oral question tabled by Mr Gargani, the results of the economic analysis of the possible added value of a directive were inconclusive. Companies already have legal means to effectuate cross-border transfer. Several companies have already transferred their registered office, using the possibilities offered by the European Company Statute. Soon the Cross-border Merger directive, which will enter into force in December, will give all limited liability companies, including SMEs, the option to transfer registered office. They could do so by setting up a subsidiary in the Member State to which they want to move and then merging the existing company into this subsidiary. To my mind it is only if this framework is found wanting, that further legislative action in the shape of a 14th Company Law directive would be justified. Therefore, I have decided not to proceed with the 14th Company Law Directive.

At the outset, I mentioned cutting red tape for business and simplifying the regulatory environment. The Commission set out its suggestions on how this might be done in July. I hope that over the next few months we can work towards a consensus on an overall approach which identifies priorities and a clear timetable for further work. I know that not everyone agrees with the Commission's idea of repealing some of the Company Law directives. But we must, for the sake of EU business, embark and deliver on a genuine simplification exercise. We need to get rid of outdated requirements and give business a legislative framework which is fit for the 21st century. The timetable is ambitious and there is a good deal of work ahead before the end of the mandate of this Parliament. Your support will be crucial if we are to deliver.

For the sake of completeness, I should also mention the European Foundation Statute for which there is, I know, support from within the European Parliament. Work on this is at an early stage and all options remain open. The Commission will shortly engage a contractor to work on a feasibility study, the results of which are expected in mid-2008. I will, of course, keep you informed as work proceeds.

To summarise:

- On the issue of one-share, one vote, there will be no action
- Yes for a European Private Company
- No to a 14th Company Law Directive
- and Yes to ongoing work on the question of a European Foundation Statute

Chairman, Honourable Members, to conclude.

In the area of company law, the Commission is making Better Regulation principles work. We have consulted widely, given time to reply, and listened. We have gathered the economic evidence and weighed the pros and cons. It is crucial that the European regulatory framework in this area responds to market needs. Where there is no proven need for EU intervention, I will not make proposals or add further layers of EU requirements. We will act where we may be able to create more opportunities for companies, more space for them to move and grow. We will work to reduce the existing burden for companies, especially SMEs. We will update the EU regulatory framework, to make it simpler, flexible and more dynamic. Your support and active engagement are essential if we are to deliver what EU business needs.

Thank you.