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Press Release

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Public procurement package to be adopted against the needs of utilities

Representatives of European public services and the railway sector are voicing their concern over the European Commission's proposal on procurement for organisations operating in the water, energy, transport and postal services (replacing Directive 2004/17/EC - the so-called 'Utilities Directive').

The European Centre of Employers and Enterprises providing Public Services (CEEP) and the Community of European Railway and Infrastructure Companies (CER) are warning that crucial issues are not being properly tackled and must be dealt with in the current dialogue discussions. Both associations believe that the General Approach reached by the Council in December 2012 does not adequately respond to the specific needs of the industries which are covered by the 'Utilities Directive'. Whilst the European Parliament has properly taken into consideration the Utilities sector's need, neither the European Commission proposal nor the Council General Approach do so. This will not bring clarity and new rules to cut red tape.

The current Commission's proposal implies - as an example - that at any time a station is modified and or a new station is put into service, a new public procurement proceeding - an open tendering - will be needed to contract the additional services needed (e.g. for cleaning of public space in stations or waste collection). Depending on the duration of the tendering process, there will be no services (i.e. cleaning or waste collection) provided until the finalisation of the procedure. Such a process can last a few months in the best case and a year in the worst case resulting in dissatisfied customers.

CER and CEEP are convinced that there is a need to take into account the fact that public undertakings providing public services to society deserve a flexible legal framework to operate effectively and to purchase necessary goods and services.

However, as the public procurement 'Utilities Directive' stands now, it is hard to believe it will bring simplification and flexibility of the current procedural regime, as intended by the Commission and desired by all stakeholders.

On the contrary, it appears obvious that there is a lack of understanding of the business constraints that the undertakings operating in utilities need to cope with. The introduction of strict conditions which limit the possibility of amending an ongoing publicly procured contract could cause serious repercussions in terms of liability for projects, and hinder the provision of public services.

CEEP and CER believe that the flexibility needed in utilities can be kept without contradicting the Commission's intention of increasing transparency and enhancing competitive bidding. But failure to



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be sufficiently flexible will be counter-productive in terms of better access to the market for SMEs in particular.

CEEP and CER are now calling on the EU institutions to re-evaluate their position in the light of the information put forward by stakeholders since the start of the triologue meetings.

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The Community of European Railway and Infrastructure Companies (CER) brings together 80 European railway undertakings and infrastructure companies. CER represents the interests of its members towards the European institutions as well as other policy makers and transport actors. CER's main focus is promoting the strengthening of rail as essential to the creation of a sustainable transport system which is efficient, effective and environmentally sound. For more information, see www.cer.be

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CEEP gathers enterprises and organisations from across Europe, both public and private, at national, regional and local level, which are public employers or providers of services of general interest. CEEP members contribute to more than 26% of EU GDP and employ about 30% of the EU workforce; CEEP is one of the three general cross-industry European Social Partners