

To: SAASTAMOINEN Salla (JUST); [REDACTED] PERIGNON
Isabelle (CAB-REYNDERS); BUSA Lucrezia (CAB-REYNDERS); [REDACTED]

Cc: [REDACTED]

Subject: Report: Exchange of views of Head of Cabinet Ms Tuts with BusinessEurope's Advisory and Support Group (ASGroup), 19 November 2020

Sent on behalf of [REDACTED]

Report: Exchange of views of Head of Cabinet Ms Tuts with BusinessEurope's Advisory and Support Group (ASGroup) on 19 November 2020 (video conference)

Participants:

- Geneviève Tuts (Head of Cabinet of Commissioner Reynders), Lucrezia Busa (CAB Reynders) and [REDACTED]
- [REDACTED]

Following the overview given by Ms Tuts, [REDACTED] briefly explained the position of BusinessEurope on the 3 topics on the agenda:

- [REDACTED] OUT OF SCOPE [REDACTED]
- On the **new consumer agenda**, [REDACTED] agreed that consumers should be able to make informed choices but called for reasonable expectations towards the companies and for caution as business secrets should not be breached.
- On **sustainable corporate governance** [REDACTED] recalled their position that the rules on due diligence in the sustainable corporate governance initiative need to be realistic of what companies can do: EU companies cannot be liable for all harm done abroad, so requirements should be limited to the means and not cover the results. [REDACTED] emphasised the importance of

a truly level playing field, and recalled that a balanced approach is crucial for EU competitiveness. [REDACTED] subsequently added that with harmonisation along FR law we will have a competitiveness problem.

In the subsequent discussions, participants inquired mainly about the sustainable corporate governance initiative:

- Ms Tuts clarified the idea is to have one instrument covering all issues but confirmed that the exact format of the proposal is not clear at this stage.
- In reply to participants recalling the criticism that the EY study received about being biased towards short-termism, and inquiring to what extent COM would rely on this study, Ms Tuts said we were aware of the critics. She added that the study of EY had involved a lot of companies, but also that this study was only to start the reflection and was “not the end of the story”: now the most important for us is our public consultation where we will listen to stakeholders. She stressed that our intention is to take our responsibility and submit an ambitious proposal but it will be up to the co-legislators to decide in the end.
- With regard to a question on whether we would include a safe harbour clause for existing sectoral due diligence rules as it is proposed in the leaked draft German due diligence (supply chain) law, Ms Tuts explained she did not have detailed information on this (but DG JUST experts may) but pointed out that our intention is to avoid fragmentation.
- Regarding subsidiaries abroad and foreign companies, Ms Tuts confirmed we were exploring how companies established abroad but active in the EU can be covered because of competitiveness reasons.
- With regard to the question included in the public consultation on dividends and share buybacks it was pointed out that the regulation of distribution of dividends could fall in the territory of DG FISMA. Ms Tuts clarified that she did not have detailed information but confirmed that such an issue would be explored with DG FISMA.