

EUROPEAN PARLIAMENT

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Committee on Legal Affairs

2008/2139(INI)

5.11.2008

OPINION

of the Committee on Legal Affairs

for the Committee on the Internal Market and Consumer Protection

on pre-commercial procurement: driving innovation to ensure sustainable high-quality public services in Europe
(2008/2139(INI))

Rapporteur: Aloyzas Sakalas

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SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Considers that the concept of pre-commercial procurement is important, but fears that it will be unsuccessful in drawing in small and medium-sized enterprises unless it is clearly understood how pre-commercial procurement is to work, particularly in a cross-border context; points out that the key principle of pre-commercial procurement – namely that the public authority does not keep all benefits resulting from the R&D but that each company retains the ownership rights in respect of the new ideas it generates – ensures legal certainty and the protection of ideas for participating businesses;
2. Identifies the need for a European pilot project in the context of pre-commercial procurement, in order to show by example an implementation approach that ensures maximum legal certainty and protection for businesses, in particular for small and medium-sized enterprises, which, by definition, are the weaker parties compared with contracting authorities and the large undertakings generally involved in public procurement;
3. Calls on the competent Commission Directorates-General to cooperate with each other in producing a comprehensive, easy-to-understand but legally watertight handbook in all the official languages with practical case illustrations showing how these legal principles can be applied correctly in practice, particularly for the use of small and medium-sized enterprises and contracting authorities;
4. Urges the Commission to provide in the handbook, in particular, practical examples of risk-benefit sharing according to market conditions; considers, in addition, that intellectual property rights must be vested in the companies participating in the pre-commercial procurement, inasmuch as the US and Japan work on the basis of this model, which encourages numerous companies to become involved in pre-commercial procurement procedures.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	4.11.2008
Result of final vote	+: 25 -: 0 0: 0
Members present for the final vote	Carlo Casini, Titus Corlăţean, Bert Doorn, Monica Frassoni, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Neena Gill, Othmar Karas, Klaus-Heiner Lehne, Katalin Lévai, Antonio López-Istúriz White, Antonio Masip Hidalgo, Hans-Peter Mayer, Manuel Medina Ortega, Aloyzas Sakalas, Francesco Enrico Speroni, Diana Wallis, Jaroslav Zvěřina, Tadeusz Zwiefka
Substitute(s) present for the final vote	Sharon Bowles, Eva Lichtenberger, Rareş-Lucian Niculescu, Georgios Papastamkos, József Szájer, Jacques Toubon, Renate Weber