



Council of the European Union  
General Secretariat

**Brussels, 06 March 2019**

**WK 3226/2019 INIT**

**LIMITE**

**COMPET  
MI**

**WORKING PAPER**

*This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.*

**WORKING DOCUMENT**

---

From:	BusinessEurope
To:	Working Party on Competitiveness and Growth (Internal Market)
Subject:	Priorities for the Single Market beyond 2019

---



## Priorities for the Single Market beyond 2019

*With this strategy paper, BUSINESSEUROPE sets out its general priorities for the future of the Single Market policy after the 2019 European elections. It highlights the importance of maintaining trust in and responsibility for the Single Market through reinforced focus on its end users – businesses and citizens – so that political and social support for market integration is regained. It is crucial that there is understanding why the Single Market is the strongest tool to reap benefits of globalisation and deal with the primary challenges people of Europe face, such as climate change, migration, global trade and technological rivalry tensions, and Brexit along with a generally unstable global geo-political landscape. No EU Member State is capable of addressing it all alone. Freedoms of movement of capital, goods, services, people and data in the Single Market can give huge economic power to the EU, its members individually and as a whole, in this regard. That economic power generated from more effective distribution of resources and fair competition would enable faster economic and social convergence that is so needed in the EU. A cross-cutting “reflex” to safeguard and deepen the Single Market in different policy areas on a daily basis must be established as top political priority, so that the EU remains the best place for investment and achieves an effective and fair Single Market which brings tangible benefits to all.*

*BUSINESSEUROPE intends to react to the Commission’s report on the state of play of the Single Market to the December European Council of 2018 and the debate by Heads of State and Government by way of updating or supplementing this strategy paper.*

### Key messages

- **Further opening and integration of the markets of goods and services, including logistics and network services, is needed in order to unleash the full economic potential of the EU and establish a solid basis for global competition in the long run.**
- **Digitalisation is crucial for European competitiveness, so the framework conducive to the roll-out of digital technologies and fair rules on access to data, free flow of data, and liability should be achieved through a holistic policy approach.**
- **Infrastructure investment conducive regulatory and financial framework must be ensured so that physical and digital infrastructures are significantly improved and interoperable.**
- **Single Market legislation should consistently reflect the market integration ambition through reduction of barriers and be future-proof: it should allow for innovation, flexibility for business to respond to fast-changing environment, enable new business models and be technology-neutral.**



- **Better regulation principles and their practical implementation should remain a key priority so that the Single Market is the best place to do business and work.**
- **The Single Market governance infrastructure should be vastly reinforced at EU and national level in order to strengthen timely, transparent and efficient implementation and enforcement of the Single Market rules.**

## General approach to the future agenda.

- **The Single Market should be brought back to the top of the political agenda** as an overarching instrument and “reflex” in the EU policy making. Reconciliation of social or consumer or privacy protection interests with the freedoms of the Single Market should not result in less choice, higher costs and slower convergence for Europeans. Europe needs a fair level-playing field with the unquestioned freedoms of movement of people, capital, goods, services and data.
- It is crucial to ensure **innovation-friendly and future-proof Single Market legislation** combined with an **efficient user-friendly digitised administration**. Policies and regulation should be open to new business models, technology-neutral and not unnecessarily hampered by contradicting decisions or lack of coordination in other policy areas. They should take into account global competition pressures, available infrastructure, existing legal framework, technological and production cycles as well as the technological advances to date. The Single Market rules should be flexible enough to allow for innovation and so ensure that the EU becomes a leading ecosystem for the development of innovative products and services and remains the best place for investment.
- **The EU must take a holistic policy approach and the Single Market should not be artificially divided into “digital” and “offline”**. The policy choices based on this kind of separation have in the past led to either partial solutions or unintended consequences in the legislative process and for the application in daily business, ignoring the fact that a digital dimension becomes a natural “ingredient” of goods and services.
- **Further opening and integration of the markets** in the EU need to be based on optimally harmonized rules so that citizens and businesses can easily see they would be treated equally across the EU and can benefit from greater competition across EU countries. Where full harmonisation is not necessary, the mutual recognition principle should be respected and solutions for its practical enforcement found, including in the area of services. This approach should also work to ensure smooth pan-European trade flows with our closest European trading partners.
- The Commission should **reinforce a fact-based dialogue on the Single Market** with business organisations and the society at large, using its better regulation agenda and outreach tools like the Single Market Forum. **Simplification of rules, reduction of regulatory and administrative burden and consistent application of both ex-ante and ex-post assessments of policy choices** should remain centre-stage in order to ensure that the EU Single Market is the best place to do business and work.
- This **approach should be reflected in the institutional setup and procedures** of the Commission first of all, as well as the Council and the Parliament. The Single Market should not be a business of one directorate-general or one committee. It should be a central policy principle of all the services of the EU institutions as a “Single Market proofing net”, functioning in a clear and non-bureaucratic way.



## I. Regulatory and administrative barriers: setting improved policies to reduce regulatory and administrative barriers

### Specific points for the future agenda on services, data and goods.

- **The Single Market for services should be a key priority for the next Commission**, as the agenda on this policy area has not progressed much recently with the Commission focusing on administrative rather than regulatory barriers.
- However, there is not enough recent data – of a legal, as well as macro, micro-economic and sectoral nature - to assess the regulatory barriers that remain, their economic significance, and to come up with credible evidence-based proposals. There is a need for **comprehensive data and assessment updates for the services sector** on the basis of market analyses. Such assessment is essential to establish links between services policy, applicable law, consumer legislation, public procurement, company law, social policies and digitisation. Therefore, the Commission should conduct such evidence renewal taking a broad perspective not confined to a specific piece of legislation (such as the Services Directive) or policy area in order to address barriers for service providers across the board.
- Seamless functioning of manufacturing value added chains calls for **effective and barrier-free business services and logistics, including significant improvements in physical and digital infrastructures and their interoperability**. Further integration of network industries in general remains very important.
- The manufacturing sector needs to be seen inseparably from services, as the one using them throughout the value chain or providing services itself. Delocalisation of services from Europe is also taking place and creating new high vulnerabilities to the EU manufacturing sector. However, the European manufacturing sector has the relationships and expertise to reverse this trend with improved data availability, free cross-border movement of data and public investment in artificial intelligence R&D.
- **Ensuring the free flow of data and a smooth roll-out of technologies can only effectively take place based on a wide deployment of 5G**. Harmonised and consistent policies should be a priority in the Single Market. It is necessary to ensure a competitive spectrum policy and to build on the framework established by the Free Flow of Data Regulation and remove all obstacles to data movement, ensuring that no additional restrictions are created at national or EU level.
- Liability, data access and other issues related to the evolution of the Artificial Intelligence, automation, and other emerging technologies need to be carefully addressed by first comprehensively checking how the present regulatory framework meets the needs of citizens and businesses. **Regulation is only needed where there is a market failure**. Any other approach risks undermining innovation for no reason or benefit.
- **The New Legislative Framework (NLF) for product legislation should be strengthened**. The process of designing the rules, if they are necessary, needs to always ensure **consistency with the New Legislative Framework (NLF), and compliance schemes should be flexible enough to allow for innovation and change**. The integration of digital solutions into products to enhance the quality of goods and services is very fast. There should always be a preference for self-certification of products by manufacturer without third party involvement to meet the fast-changing environment so that the user is confident in getting up-to-date, safe and cyber-secure products.
- Industry needs to be given its role in standardisation back and the presumption of conformity coming with the application of harmonized standards must be restored. Standardisation is an industry-driven process and its success rests on the market relevance. Over the last years, business community has been observing the change of the way in which the New Approach policy for products functions. The industry is forced to follow development of harmonised standards mainly in response to legislative or political requirements, which is



de facto an “extension of legislation”. As a result, it has become less attractive for companies to engage in the drafting and usage of harmonised standards as they lose market relevance, which in turn reduces regulatory homogeneity in the Single Market. Instead, **a balance should be restored between the role harmonised standards essentially play to meet market needs in developing state-of-the-art technical solutions and their role for better compliance with harmonised EU regulations.**

- The Single Market should be an effective tool for a genuine European labour market based on free movement of people. It should **enable sharing skills and talents as well as reduction of the skills mismatch**, and make Europe attractive for learning and working.
- The increasing use of **‘strategic’ public procurement in order to accommodate inclusive social, innovation and environmental public policy goals should not add unjustified barriers** to participate in tenders, for example by adding unwarranted complexity with unrelated societal goals. There must always be a direct link with the subject-matter of the contract in order not to dilute the main objective of the public purchase. Simplification and proper implementation of public tendering procedures is a key element to the Single Market as public procurement is a large part of GDP, accounting for 14%. In view of the steady decline of the number of bidders per tender and in order to encourage cross-border procurement, emphasis should be placed on making public tenders more transparent and attractive for private bidders. Professionalisation of public buyers is key in relation to “strategic” public procurement. Misuse of in-house exemptions must be prevented, and simplification with more legal certainty are particularly important in this regard.
- **Administrative simplification and digitalisation** are in general necessary for cross-border business in Europe and facilitation of compliance. There is a need for solutions that help businesses prove their eligibility to operate throughout the EU, e.g. provide proof of their legal and financial credibility and a guarantee of market access. Digitalisation and mutual recognition of procedures and documents should make compliance with regulations and market access cheaper and simpler. Digitalisation should also facilitate compliance for companies by means of efficient and user-friendly digitalised administrations, and through improved communication between national administrations in the EU which digital allows for.

## II. Enforcement/implementation barriers: how the Commission and the Member States can better fulfil their obligations

- Removal of regulatory barriers and efforts to address unfair competition are often hampered by the prejudiced political debate about levels of harmonisation and mutual recognition or country of origin. To neutralize sensitivities, notably in the non-harmonised sector, the Commission could provide **guidance to Member States on equivalence of requirements** and compatibility of national requirements with the Treaty. It could also come up with, for example, a clear common understanding of what “social dumping” really means in order to allow for differentiation between non-compliant rogue players in the market and genuine legitimate competition.
- **The Single Market governance infrastructure should be vastly reinforced** to ensure good monitoring mechanisms and detect bad transposition of the Single Market legislation or bad implementation/application. Transparency, an easily accessible and user-friendly explanation of regulations affecting the Single Market, and effective complaint handling should be the priority objectives in governance terms. Much could be achieved within the



framework we already have if rules were better implemented and enforced through existing but streamlined cooperation tools.

- **A strong safety net to assess and/or prevent over-implementation (gold-plating)** is needed to detect bad transposition or misuse of the Single Market acquis for the objectives different than those of the acquis in question. According to various sources, the flow of new national regulations (also *unrelated* to the direct EU acquis transposition) is increasing for various reasons, be it digitalisation challenges or protectionist tendencies. Growing regulatory complexity is challenging European businesses, especially small and medium-sized enterprises (SMEs), and makes it much more difficult to expand their activities throughout the Single Market. Only measures to increase **transparency of transposition** and strong **preventive or at least detecting measures** with participation of business organisations can address this development. Ex-ante evaluation at EU and national level must become the norm in developing and transposing EU laws as an important channel for insight and feedback. This would lead to better shaping of, and performance of, European rules and regulations that impact the Single Market.
- **Inventory of notification requirements** for Member States under the EU Single Market acquis and their actual impact on regulatory environment in the Single Market should be carried out and access to such notifications made by Member States through one information access point, such as Single Digital Gateway, ensured. **Duty to explain and justify the notified measures** should be reinforced and effectiveness of notification obligations on Member States should be revisited together with stakeholders regularly.
- To finally streamline the information on rules and procedures for doing business in the Single Market, the new Commission could promote **establishment of one national “Single Market access point”** in each Member State. It should build on the various existing points of single contact under the Single Market acquis. Such access points must ensure comprehensive information availability and e-procedures, be it services, public procurement or taxation etc. and regardless of whether a national or foreign business seeks information or procedure completion.
- **Effective and efficient market surveillance of products and substances marketed in the EU, including those sold through digital means**, should be established through a mix of reinforced regulatory measures and a dedicated and well-coordinated enforcement network across the EU Member States. Market surveillance of products sold online from third countries should also be addressed at WTO level and in bilateral trade agreements or other instruments between the EU and those countries. It is a key priority to keep the necessary level-playing field and foster competitiveness of European companies. Capacity of the public sector to adapt to digitalisation of the product markets (digital channels of sales, IoT etc., and market surveillance system in this regard) must be significantly reinforced.
- **A complaint system that addresses all the issues businesses face**, be it harmonized or non-harmonized area and regulation or its interpretation matter, is necessary. A strong Commission’s role, power and ambition on enforcement are needed, as well as systemic follow-up on non-legislative initiatives, such as the SOLVIT Action Plan.
- We need **the Commission resources clearly focused to service and coordinate implementation and enforcement networks**, such as the Internal Market Information System, compliance network of market surveillance authorities or SOLVIT. Bringing about **a common commitment by Member States to allocate sufficient resources at national level** in support of these networks should be a priority. As example, if conformity assessment and market surveillance network is established but weak and uneven, it leaves the Single Market “unattended for daily hygiene” which creates unfair competition and both heterogeneity and trust issues among public administrations, businesses and consumers.

\* \* \*