

Making the Single Market work: Launching a 2022 masterplan for Europe

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ACKNOWLEDGEMENTS / DISCLAIMER

Launched in 2015, the ongoing European Policy Centre's (EPC) Single Market Roundtable series has provided a unique platform for an exchange of ideas and in assessing the Juncker Commission's work on the Single Market. Over the last years, the Roundtable has facilitated discussions among representatives from EU institutions, permanent representations, trade unions and business organisations. It aims to provide a more holistic view of the state of play of Single Market policies and formulate policy recommendations for action at EU level.

The Roundtable series is under the chairmanship of Malcolm Harbour, former Chair of the European Parliament Committee on the Internal Market and Consumer Protection and current Senior Adviser to the EPC. It places a particular emphasis on how, in a globalised, competitive and digital world, the EU can make better use of its own market while remaining at the forefront of global competitiveness and innovation. Its discussions are held under the Chatham House Rule. 16 roundtables have been organised over the last five years.

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List of abbreviations

AI	artificial intelligence
CEN	European Committee for Standardization
CENELEC	European Committee for Electrotechnical Standardization
DSM	Digital Single Market
ECA	European Court of Auditors
ECJ	European Court of Justice
EN	European Standard
ESO	European Standardization Organization
EU	European Union
FDI	foreign direct investment
GDP	gross domestic product
GDPR	General Data Protection Regulation
ICT	information and communications technology
IPR	intellectual property right
OJ	<i>The Official Journal of the European Union</i>
PP	public procurement
PSC	Point of Single Contact
SDG	single digital gateway
SME	small- and medium-sized enterprise
SMIT	single market information tool
UK	United Kingdom

Executive summary

The European Single Market guarantees the free movement of goods, services, people and capital, removing internal borders and regulatory obstacles to trade within the European Union (EU). Over the last 25 years, it has evolved into the largest single market and the world's most integrated transnational market. However, despite its successes, the Single Market is increasingly affected by a global rise in protectionism and distorted competition. While Europe has opened up much of its market to the rest of the world, European companies rarely enjoy equal access to markets in third countries. A priority for the next EU institutional cycle must be to make **more strategic use of the European Single Market** in securing reciprocal market access for EU businesses and citizens worldwide.

Although the Single Market remains one of Europe's greatest attraction power globally, within the EU, it does not exert the same attraction it once did. On the one

hand, EU institutions are facing **difficulties in agreeing on Single Market reforms** suggested by the European Commission. On the other hand, the well-functioning of the Single Market is challenged by member states who are **unable or unwilling to implement or apply EU rules correctly**. Former President of the European Commission Jacques Delors' statement – "you cannot fall in love with the single market" – has probably always been true. However, more concerning is the fact that "today the single market not only is not loved. Many Europeans see it – citizens as well as political leaders – with suspicion, fear and sometimes open hostility", as already pointed out by the former Italian Prime Minister, Mario Monti, in 2010.

Arguably, this lack of love is natural and can even be reassuring. The Single Market is the machinery by which Europe's policies can be successful, and no one (barring a few exceptions) loves the machinery. On a more rational

Table 1: Recommendations for a 2022 Single Market Action Plan

Compliance, enforcement and the single market for goods	<ul style="list-style-type: none"> ➤ Reinforce the principle of mutual recognition by default ➤ Define market surveillance as a pillar of EU competitiveness ➤ Increase decentralised enforcement ➤ Smart SME regulation ➤ Build on the Single Digital Gateway ➤ Invest in SOLVIT centres
The single market for services	<ul style="list-style-type: none"> ➤ Define <i>services</i> as a priority for the next Commission ➤ Enforce the Services Directive more actively ➤ Move beyond the Services Directive ➤ Improve member states' implementation ➤ Invest in Points of Single Contact ➤ Create a single one-stop shop in member states ➤ Update the Single Market Scoreboard
The digital single market	<ul style="list-style-type: none"> ➤ Boost the free flow of data ➤ Work towards a <i>digitised</i> single market ➤ Review the General Data Protection Regulation ➤ Provide targeted support for key technologies ➤ Invest in digital skills ➤ Strengthen trust through cybersecurity
Strategic public procurement	<ul style="list-style-type: none"> ➤ Strengthen the enforcement of public procurement (PP) rules ➤ Encourage national PP strategies ➤ Define timetables for the digitisation of PP ➤ Set goals and ambitions for innovative, green and social PP ➤ Use PP to combat counterfeit and uphold intellectual property rights ➤ Develop sector-specific guidelines ➤ Encourage the de-bundling of contracts for SMEs
European standards for innovation	<ul style="list-style-type: none"> ➤ Avoid an over-regulatory approach to European standardisation ➤ Reduce paperwork and administrative requirements, focus on innovation ➤ Support SMEs in the standardisation process ➤ Reduce the backlog of non-cited standards ➤ Reinvigorate public-private partnerships on standards ➤ Improve the inclusion of the research community ➤ Ensure better enforcement of standards ➤ Increase cooperation with international organisations

level, however, no European policy will be successful as long as it does not place the well-functioning of its machinery – the EU’s own market – at its core. Of course, when faced with fierce international competition, member states’ temptation to disregard Single Market rules may be strong; but disregarding these rules can only lead to further market fragmentation and put member states in a weaker position to respond to global competition.

Disregarding these rules can only lead to further market fragmentation and put member states in a weaker position to respond to global competition.

This Discussion Paper therefore argues that in the first days and months of its investiture, it will be crucial for the next Commission to put the reform of the Single Market at the

very top of its priority list. A modern and well-functioning single market will be paramount if the EU is to deliver on the goals and aims it will surely set itself for the rest of its mandate, from sustainability to competitiveness and innovation. In doing so, the EU should define a new masterplan with concrete objectives to be achieved by 2022 – a **‘2022 Single Market Action Plan for Europe’**. This is to be realised exactly three decades after the 1992 Single European Act, which saw the founding of the Single Market.

The 2022 Single Market Action Plan for Europe should be shaped as a list of reforms, new regulations, legislative reviews and guidelines that are necessary to **put Europe back on track in the course of the first years of the next EU institutional cycle**. In other words, an indivisible list of measures that will need to be agreed upon as a package-deal by the Council of the European Union, European Parliament and European Commission. The first section of this Paper identifies major priorities for the future of the Single Market, including appointing a **‘Commission Vice-President for EU Industry and Single Market’**. The second part underlines what the central priorities of a 2022 Single Market Action Plan should be (see Table 1).

Introduction

A STORY WORTH REPEATING

Every now and then, some stories are worth repeating. One in particular goes that during his first tour of European capitals in 1984, the incoming President of the European Commission, Jacques Delors, suggested four options for relaunching the European project: institutional reforms, a monetary union, a defence cooperation, or the completion of the Single Market. While Delors’ own preference seems to have lied with the first two, a strong consensus emerged among governments in favour of the last option. Backed by the member states, the Commission quickly went to work. In just a few months, Delors, together with Lord Arthur Cockfield, Commissioner for Internal Market and Services, managed to draft an ambitious White Paper listing 310 directives and regulations to be adopted for a ‘frontier-free Europe’.¹ Welcomed by the European Council, this White Paper led to the Single European Act² and the establishment of the European Single Market in 1993.

While the clever leadership provided by Delors and Cockfield was certainly crucial for the creation of the Single Market, very little would have been possible without the endorsement of European Union (EU) member states. Following several years of ‘eurosclerosis’ and relative stagnation in the integration process, the Single Market marked a revival of the European project. **25 years later, the EU finds itself at a crossroads once again.** Internal and external factors are adding pressures on the EU to adapt and regain competitiveness, which the Union must respond to with

a strong answer, with the Single Market at its core. Yet similarly to the Delors anecdote, not much will happen as long as EU member states do not commit to making the Single Market work.

Internal and external factors are adding pressures on the EU to adapt and regain competitiveness, which the Union must respond to with a strong answer, with the Single Market at its core.

A SUCCESS STORY (SO FAR)

Over the last decades, the plight of the European Single Market has been one of great success. Despite it rarely making headlines, **it has become one of the EU’s greatest achievements**: its economic benefits amounts to 8.5% of the EU’s GDP³ and 56 million European jobs depend on the trade within it.⁴ Its four freedoms constitute much more than a free trade area, and in combination with the European Union Customs Union, there are no customs duties between EU countries. The EU market is therefore unique – it represents the world’s largest single market and most integrated transnational market. The United Kingdom’s (UK) current process of leaving the EU and

especially the Single Market is easier said than done. This should remind us of the fact that the EU market remains the backbone of European integration.

The EU market is unique – it represents the world’s largest single market and most integrated transnational market.

The Single Market provides EU businesses, small- and medium-sized enterprises (SMEs) and start-ups access to a large ‘home market’, helping them to attract investments, sell abroad and scale up. It enables the creation of European value chains and the participation of European companies in global value chains. EU citizens also enjoy the possibility of living and working in other member states. In fact, the number of EU citizens living or working in other member states has more than doubled in the last decade, from 8 million to 17 million.⁵

Despite these novel accomplishments, more can be achieved. A 2019 study by the European Parliamentary Research Service shows that a fully functioning single market would deliver annual economic gains of nearly €1 trillion.⁶ In order for this to materialise, however, the study highlights the need to adopt a more holistic view of the Single Market, to ensure that other fields of EU policy adhere to Single Market rules as well.

The Single Market is facing difficulties from member states who are unable or unwilling to implement or apply EU rules correctly.

Unfortunately, the Single Market is facing difficulties from member states who are unable or unwilling to implement or apply EU rules correctly. Fields such as public procurement (PP) and services have proven to be particularly challenging. Some member states and companies also distort the Single Market by erecting new barriers to trade, in which case national bodies are not always effective in enforcing Single Market rules.

Despite the openness offered by the Single Market, European economies are increasingly facing both internal and external challenges. Distorted competition and a worldwide rise in protectionism apply new global pressures on European industry and businesses. Outside the EU, third countries do not shy away from adopting protective measures as part of their national industrial policies. Moreover, the size of the

European economy is diminishing compared to the rest of the world: while the EU’s economy was ranked first in 2007 with a GDP of €13 trillion (€10.6 trillion for the US, €2.6 trillion for China), by 2017 the EU dropped to second with a GDP of €15.3 trillion, behind the US’ €17.2 trillion and China’s growth boom of €10.8 trillion.⁷

When faced with fierce competition, the temptation to disregard Single Market rules may be strong. However, no European initiative aiming to restore competitiveness will be successful as long as it does not put the well-functioning of the EU’s own market at its core. **Disregarding Single Market rules can only lead to further market fragmentation and weaken member states’ responsiveness to global competition.**

Still, the Single Market should not be viewed as a straitjacket for its member states. **If shaped properly, it can be a powerful tool for reaping the benefits of disruptive technologies, the circular economy, foreign direct investment (FDI) and international trade.** In an unstable world, the Single Market remains Europe’s greatest attraction power and its strongest source of economic growth and competitiveness.

The Single Market should not be viewed as a straitjacket for its member states.

Despite the many calls, deepening and completing the Single Market should not be a goal in itself. Firstly, the Single Market as an evolving entity will never be fully *complete*. Secondly, the Single Market remains a strategic tool to achieve core EU goals and values. It should support the Union in reaching its international commitments, such as the United Nations’ Sustainable Development Goals and Paris Agreement, as well as help tackle the many challenges Europe is currently facing, from climate change and migration to trade disputes, competitiveness and employment.

ASSESSING THE JUNCKER COMMISSION

When taking office in 2014, the Juncker Commission defined “a deeper and fairer internal market” as one of its top ten political priorities.⁸ In 2015, it presented a Single Market Strategy towards achieving this objective, with a particular focus on the sharing economy, SMEs, consumers, services and enforcement.⁹ A separate priority of the Juncker Commission also pledged to work towards a Digital Single Market (DSM) with a wide range of initiatives on e-commerce, parcel delivery, geo-blocking, online platforms and free flow of data. The DSM is constituted as a separate project team within the Commission and has, to a certain extent, been detached from other Single Market initiatives.

A few months after the Juncker Commission took office, the European Policy Centre (EPC) launched its Single Market Roundtable series with a view of facilitating discussions among stakeholders and EU officials. Since then, 16 roundtables have been organised with businesses; civil society, trade and regional organisations; permanent representations and EU institutions. The Roundtable series' multi-constituency approach has provided a more holistic view in assessing the state of play of the Single Market under the Juncker Commission.

This Discussion Paper is the result of the work carried out within the 16 roundtables over the last five years. The first section provides a renewed vision for the Single Market and identifies major priorities for the future. The second part addresses central findings from the EPC Single Market Roundtable series and lists concrete elements and recommendations for a '2022 Single Market Action Plan for Europe', focusing in particular on market enforcement, services, the DSM, PP and standardisation policy.

1. A renewed vision for the Single Market as Europe's powerhouse, *by Malcolm Harbour*

The importance of the Single Market as a foundation for European growth and competitiveness is recognised at the level of declarations, at the very least. European leaders have reinserted the maintenance of the health of the Single Market high in their list of policy priorities. Economic studies continue to show the significant impact the Single Market has on jobs and growth.

The free movement of goods, people, services and capital will be critical in meeting future challenges.

In a digitally-powered economy, the free flow of secure data will be crucial. For Europe to become more innovative and productive, it must enhance the allocative efficiency of its economy¹⁰ and better exploit its inherent strength in knowledge and ideas. This can only be achieved by strongly supporting new start-ups and entrepreneurs and helping companies to scale up.

The European Single Market should be thought of as batteries that deteriorate over time, and require replacement every now and then.

It is expected that policies on climate change, environmental sustainability and a circular economy will feature strongly in the next European policy cycle of 2019-2024. In the sectors that require major measures to be taken (e.g. energy, transport, agriculture), **effective Single Market policies will represent a crucial tool for achieving EU objectives.**

The European Single Market should be thought of as batteries that deteriorate over time, and require replacement every now and then. It is the powerhouse of many aspects of Europe's future that also needs updating and maintenance, which is by no means straightforward. The principal beneficiaries of this powerhouse – Europe's citizens and consumers – rarely

recognise its importance. The professional users of the powerhouse, especially governments of member states, treat its potential deterioration extraordinarily casually. The promoters of the powerhouse, the European Commission, have failed to get citizens and policymakers to recognise its unsatisfactory condition.

It is high time to recharge the Single Market battery, to exploit its full potential and improve its functioning. **To do so, Europe's Single Market logic must shift away from a passive and legalistic approach to a more active and economic one.** More must be done to identify and remove barriers to intra-EU trade, integrate European markets and effectively address distorted competition stemming from third countries. The Single Market must remain the pivot of any future EU policy on competition and industry.

1.1 THE SINGLE MARKET RECHARGED WITH A VICE-PRESIDENT FOR EU INDUSTRY AND SINGLE MARKET

The Juncker Commission has made an important step forward by focusing on major cross-cutting policies across the Commission: appointing Commissioners with specific political projects has been a partial success. There is general agreement that the DSM has benefited from this focus, even if a tail of unfinished business, despite much policy advocacy, still remains.

The incoming Commission must address the issue of recharging the Single Market by appointing a Vice-President for European Industry, Single Market and Competitiveness. This Vice-President would work closely with the EU's High Representative and Directorate-General for Trade to restore EU competitiveness globally by **ensuring reciprocity in market access and countering distorted competition from third countries.**

Moreover, **the portfolios of the DSM and the Single Market should be combined under the responsibility of one Commissioner**, overseeing the advocacy, revitalisation and redevelopment of the Single Market.

This would ensure that the good work already accomplished in the digital space continues, as well as enable cooperation with other Commissioners to ensure that all Single Market tools are operating more effectively.

The incoming Commission must address the issue of recharging the Single Market by appointing a Vice-President for European Industry, Single Market and Competitiveness.

The Vice-President will have to take on a proactive role in mapping and removing visible and invisible barriers to intra-EU trade. She or he will have to deal with issues arising from the inconsistent application and enforcement of EU rules by member states, which is not likely to diminish for the foreseeable future. The Vice-President must maintain pressure on member states to remedy underperformance, while simultaneously working with them through partnerships to develop innovations and reforms. Stepping up engagement with national and regional parliaments – especially where committees with a Single Market remit exist – would be an indispensable part of their role.

1.2 MAKING THE RULES MORE INNOVATION-FRIENDLY

There are regular criticisms that Single Market rules are considered to be obstructive to the introduction of next-generation technologies. The issue of making Single Market regulation more innovation-friendly lies with the Commission and its initial consultation processes. Under the Juncker Commission, First Vice-President Frans Timmermans initiated improvements in the legislative development process through the better regulation agenda, which must be rolled over into the next Commission. It will be important to ensure that when new EU rules are proposed – the initiation impact assessment – a technology roadmap is drawn out to provide the context in which any legislation will operate.

The Vice-President and Commissioner for the Single Market must work closely with the Commissioner responsible for the Horizon Europe programme. The European Innovation Council should formulate its agenda issues around the existing Single Market legislative framework and instruments that can be used to boost innovation, like PP.

1.3 DEFINING TARGETS AND BENCHMARKING

Clear goals and quantified targets would increase the effectiveness of the Single Market and participation rates

of enterprises, particularly SMEs. Several of these goals and targets are illustrated in the second part of this paper. **The benchmarking of member states' performances in maximising market openness, promotion and enforcement should be stepped up.** Single market performance does not have prominence in the economic monitoring tools currently deployed for the European Semester. Transposition deficits – the longstanding metric – are weak indicators with little public traction. Highly visible and less technical indicators need to be developed.

1.4 PRIORITISING SERVICES

Given that services account for 70% of EU GDP and are also increasingly determining industrial competitiveness, making this services market operate effectively should be a special priority in the next Commission. Again, the Commission's political leadership and advocacy will be crucial. The Juncker Commission put forward a series of measures to overcome service market barriers, including a requirement for member states to notify the Commission and other member states if they wished to introduce new restrictions on cross-border service providers. Some countries are resisting this measure. **It is surely unacceptable for countries to declare support for the Single Market and yet feel free to introduce measures unilaterally that will undermine its effectiveness.**

Making this services market operate effectively should be a special priority in the next Commission.

1.5 BOOSTING STRATEGIC PUBLIC PROCUREMENT

PP's large, untapped potential for stimulating growth and tackling other policy priorities should be recognised. There ought to be a special focus on the deployment of PP as a tool for encouraging public investment in innovative solutions. There are many issues (e.g. climate change, digitisation, transport) where **procurements can be structured to include performance goals alongside the traditional cost-based procurement methods.** A Single Market Commissioner should be ensuring that all the relevant project teams in the Commission are using PP goals to drive the enactment of their objectives.

The 2014 PP directive included several new procedures to encourage public customers to work with innovative suppliers, in order to develop new solutions for optimising the delivery of public services. In practice, the use of these tools by member states has been disappointing. A recent benchmarking study done for the Commission gave only one country, Finland, the highest possible rating, with over half of all the member states judged to be unsatisfactory.¹¹

1.6 EMPOWERING CITIZENS

The future Single Market powerhouse requires a strong and credible reputation with Europe's citizens and their national politicians. **Alongside its economic advantages, the Single Market must deliver – and be seen to deliver – real benefits to its citizens.** A raft of existing measures that secure better, safer and greener products already exists. Consumer rights related to purchasing or using products and services have been continually enhanced. Consumers do value these benefits, but generally fail to recognise that the EU is the provider – national governments tend to claim all the credit for themselves.

While conclusions from the European Council often underline the importance of a thriving Single Market, member state politicians rarely acknowledge or promote its benefits. Building popular support demands sustained advocacy at all political levels. Together with the European Commission, the European Parliament should prioritise stepping up its outreach to national and regional parliaments. Strong partnerships should be established between the Parliament's legislative committees and their national equivalents. It should reach out to trade partners outside of the EU.¹²

In order to achieve shifts in public opinion, support from the Commission is required, too. **It would be a bold**

move if the new Commission were to also nominate a 'Commissioner for Consumers'. Having these Commissioners work in tandem would show that Europe is serious about delivering benefits for everyone, which is desperately needed to counteract the rising Euroscepticism and populism.

Together with the European Commission, the European Parliament should prioritise stepping up its outreach to national and regional parliaments.

Consumer policy in the Commission has been fragmented over the last decade. Since the first Barroso Commission, there has been no single high-profile Commissioner whose role is clearly to help consumers. Having a Commissioner for Consumers, whose role would be to balance the interests of citizens with the development of a Single Market, would send a positive signal to citizens by prominently promoting the human face of the Single Market.

2. A 2022 Single Market masterplan for Europe, by Johan Bjerkem

This section addresses and lists key recommendations for a 2022 Single Market Action Plan for Europe. It focuses on the main findings and issues discussed within the EPC's Single Market Roundtable series, in particular on topics of compliance, enforcement and the Single Market for goods; the Single Market for services; the DSM; strategic PP; and European Standards for innovation. A background underlining the importance of each topic for Europe, and an assessment with a few recommendations for the next institutional cycle are provided for each topic.

2.1 COMPLIANCE, ENFORCEMENT AND THE SINGLE MARKET FOR GOODS

Background: Intra-EU trade still consisting mostly of goods

Even if the EU is mostly a service economy, trade in goods represents the vast majority of intra-EU trade (around 75%). Trade within the Single Market was heavily impacted by the 2008 financial crisis, with a substantial drop in trade in goods between 2008 and 2009, amounting to a loss of €60 billion.¹³ However, since 2011, intra-EU trade has been growing steadily, mainly thanks to an increase in the trade of goods, intra-EU FDI, and convergence and homogeneity among member states.¹⁴

Still, the degree to which member states are integrated into the Single Market varies from country to country. **Countries such as Slovakia, Czechia, Hungary and Belgium have the highest level of integration and openness in their trade in goods, while larger member states are less integrated, with some – especially France and Germany – actually becoming less integrated.**¹⁵ On average, the EU13 (member states that joined the EU after 2004) have a higher level of integration and openness to the Single Market than the EU15 (member states that joined before 2004).

The degree to which member states are integrated into the Single Market varies from country to country.

In recent years, several initiatives have aimed at strengthening the Single Market for goods by improving the use of enforcement, compliance and mutual recognition. For example, the 2008 New Legislative

Framework aimed to improve market surveillance, conformity assessments and European Conformity marking.¹⁶ Meanwhile, the Single Market Acts I and II included measures to remove the main barriers for trading both services and goods.¹⁷

State-of-play: The Goods Package

The Juncker Commission's Single Market Strategy pledged to make better use of the Single Market by improving consumer protection, supporting SMEs and start-ups, and practising smarter enforcement.¹⁸ With this in mind, in 2017 the Commission tabled its Goods Package, which included two regulations: one on the mutual recognition of goods, and the other on compliance and enforcement. By 2019, these two regulations were agreed upon by the Council and Parliament.¹⁹

The principle of mutual recognition should ensure that any product that can be lawfully sold in one EU country can be sold in another, as long as it is safe and respects public interest, for instance in regards to health, environment and security. However, public authorities often introduce additional testing or certifications for foreign products, leading to additional costs and delays, which proves especially difficult for SMEs. Challenging such measures is often too costly and lengthy. The new regulation introduced by the EU on mutual recognition includes a faster problem-solving procedure through SOLVIT²⁰ and the possibility for the Commission to issue recommendations and opinions in case no solution is found.

In addition to strengthening compliance with Single Market rules, the Commission proposed the Single Digital Gateway (SDG) and Single Market Information Tool (SMIT) in 2017. The SDG aims to create an online entry point on the "Your Europe" platform, providing information about administrative procedures and assistance to citizens and businesses on the application of Single Market rules.

The SMIT would allow the Commission to request business-related information from companies in specific instances where there is a serious difficulty in the application of Single Market rules. The Commission would also be able to impose sanctions if the information requested is not delivered. Several companies and member states have criticised the proposal as granting the Commission powers too wide and punitive. Overall, consumer organisations have supported the proposal as long as the information is used to defend consumer rights.

Recommendations: Strengthening enforcement and compliance

- Reinforce the principle of mutual recognition by default

In recent years, the re-emergence of barriers to trade within the Single Market represents a serious challenge. New barriers often take the form of national or even regional measures adopted on the grounds of public safety and environmental or health concerns (e.g. technical requirements, requests for additional documentation, testing). Even if disproportionate and discriminatory,

they would not always take place on a large enough scale to be picked up by the Commission for infringement proceedings. They can nevertheless represent important hurdles for companies and may, in some cases, even dissuade them from entering new markets. **The Commission must reinforce the principle of mutual recognition by default in order to tackle the re-emergence of such barriers**, including assessing and challenging measures introduced by member states under the justification of 'public interest'.

In recent years, the re-emergence of barriers to trade within the Single Market represents a serious challenge.

- Define market surveillance as a pillar of EU competitiveness

With the global rise of protectionism and the disruption introduced by digitalisation, some EU companies and member states are on the defensive, looking for ways to better shield themselves from growing, fierce competition. National measures which lead to market fragmentation within the EU will only make it more difficult for Europe to remain competitive against countries such as China and the US. **Improved market surveillance and compliance system should be included as a strategic priority in any policy aiming to reinstall EU competitiveness.** An increased focus will have to be placed on combating distorted competition from third countries, with the possibility of limiting access to parts of the EU market if reciprocity is not respected.

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- More decentralised enforcement

It is the enforcement of EU rules that make the Single Market a reality. Stakeholders often underline that while much of the necessary regulation is already in place, **member states are not equally efficient in enforcing it.** Many call for the heavy reinforcement of Single Market governance and enforcement at EU and national levels, even if the SMIT proposal is perhaps not the best way forward. An interesting proposal has been made by

the Swedish National Board of Trade, suggesting that a **decentralised enforcement system along with the creation of national enforcement bodies in member states** would monitor the application of EU rules and have the right to initiate proceedings before national courts.²¹ More decentralised enforcement of Single Market rules to supplement the role of the Commission would bring the Single Market closer to EU citizens and help remove barriers to trade that go under the Commission's radar. The establishment of an **independent Competition Authority** could also separate EU competition policy from the enforcement of competition rules, which could in turn help depoliticise and foster more transparency around the Commission's infringement procedures.²²

- Adopt smart SME regulation

A major issue raised by businesses includes what is perceived as the **increasing complexity of market rules**. SMEs in particular complain about the complexity of the increasing national technical regulations and overlapping EU rules. While larger firms may have the human resources to ensure that they comply with these rules, it is becoming increasingly difficult for new businesses and SMEs to do the same. Much more should, therefore, be done to legislate from the viewpoint of small businesses, and fully digitalise administrative processes. An option would be to **regulate with SMEs' 'lifecycle' in mind** and minimise the regulatory burden placed during important stages of their scaling-up, like recruitment or relocation.

- Build on the Single Digital Gateway

The SDG is well received, given that it is very useful in helping consumers and businesses easily find and access information and solve disputes online. It is important however to ensure that the SDG does indeed **constitute a one-stop shop**, and not yet another contact point or source of information about EU rules. It must be kept up to date with precise data, and have functional dispute settlement mechanisms and streamlining existing portals such as SOLVIT and Points of Single Contact (PSCs). In the longer term, **additional procedures should also be included in the SDG**, such as that for establishing a company abroad and declaring corporate taxes. The governance system should also appoint the Commission a stronger role in ensuring that the information and services provided by member states are satisfactory.

- Invest in SOLVIT centres

SOLVIT centres have proven effective in solving Single Market issues faced by businesses and citizens and not subject to legal proceedings. The Commission's action plan on SOLVIT can contribute to reinforcing it further.²⁵ Nonetheless, the efficiency of national SOLVIT centres varies across member states. In certain cases, it often takes too much time before an initial reply is sent (e.g. France, Greece) or the case is handled (e.g. Austria, Czechia, Greece). Caseloads are also rising while staff numbers remain static or is even decreasing, leading to some centres being understaffed (e.g. the UK, Germany, France, Hungary). Overall, **member states must invest more in SOLVIT centres and raise awareness on using it for**

business complaints, as it is mostly being used by citizens for social security issues for the time being, with only 6% of all cases relating to the free movement of goods and services.²⁴

2.2. THE SINGLE MARKET FOR SERVICES

Background: Services still missing

The service sector represents an increasing share of most developed countries' economies, with economic development enabling a shift from the primary and secondary sectors to the tertiary sector. The rise of the data economy and digitalisation has further reinforced this pattern, with the creation of new types of services and business models, as well as expanded the servicification of manufacturing.²⁵ In Europe, the contribution of services to its GDP has increased from 61% in 1995 to 70% today.²⁶ It represents around 74% of employment in Europe and 90% of new jobs created.²⁷

Trade in services in the EU has grown at a lower rate than that of other trade blocs.

Despite being the main component of member states' economies, trade in services stand for only 8% of EU GDP, compared to 25% for goods.²⁸ Intra-EU trade in services is less developed than that in goods, with the Single Market reducing trade costs by 20% for goods and 7% for services. Trade in services has also grown at a slower rate than in goods. Even if services will never be as easily tradeable as goods in general, it is worth noting that trade in services in the EU has grown at a lower rate than that of other trade blocs such as the Trans-Pacific Partnership, the North American Free Trade Agreement and the Asia-Pacific Trade Agreement.²⁹ In other words, there is a large untapped potential in Europe's Single Market for services.

The full implementation of the Services Directive could add 2% to the EU GDP.

The Services Directive³⁰ adopted in 2006 was an important step in improving the Single Market and covered sectors which amount to 46% of EU GDP. Its implementation has however proven to be very disappointing: already by 2010, 12 member states received reasoned opinions for not having notified the Commission of changes as required by the Directive, and a year later three member states were referred

to the European Court of Justice (ECJ) for having failed to transpose it correctly.³¹ Still today the Directive is far from being wholly implemented and enforced across the EU (see Table 2). Estimates foresee that the full implementation of the Services Directive could add 2% to the EU GDP.³²

State-of-play: The Services Package

For the last few years, opposition from some member states has made it difficult to open up trade in services. In January 2017, the Commission presented new legislative proposals in its Services Package, including:³³

- a services e-card, to provide a simpler digital procedure for administrative formalities when providing a service abroad (and helping SMEs especially);
- the improvement of the service notification procedure, reinforcing the obligation of member states to notify the Commission about new national rules that may affect the Services Directive, and granting the Commission the right to take binding decision if it deems said national rules are incompatible with the Services Directive;
- a proportionality test, to assess national rules on professional services and ensure that member states undertake a comprehensive proportionality test before defining new rules on professional services.

Member states remain the main cause for the weak implementation of rules on services in the EU.

While the proportionality test was agreed upon by the two co-legislators, discussions on the e-card and the services notification procedure have been very difficult, with still no agreement in sight. Several member states criticised the reform of the service notification. A consultation carried out by the Commission, however, showed that a majority of stakeholders – 80% of public authorities and of businesses – favoured strengthening the compliance of member states with the notification obligation.³⁴ The Council, Parliament and Commission have been unable to agree on a common position. However, reform of the service notification, with new and more efficient procedures, and regardless of additional decision-making powers for the Commission, remains essential.

Similarly, the e-card proposal has raised concerns on subsidiarity and proportionality from national parliaments. Business organisations have been divided, with several in favour of the proposed solution while simultaneously arguing for a fine-tuning of the proposal. European trade unions such as UNI Europa and the European Trade Union Confederation have called on the Council and Parliament to reject the proposal, fearing that it may contribute to

social dumping and weakened workers' rights.³⁵ While an e-card for services is in principle a good initiative, the current proposal is unclear on what information will have to be provided by the service provider. The current proposal should, therefore, be rethought and clarified, with the option of extending its scope to other service sectors on the longer term.

Member states remain the main cause for the weak implementation of rules on services in the EU. According to the latest numbers provided by the Single Market Scoreboard, there are 36 outstanding infringement cases against member states in the field of services. Beyond those, the related fields of financial services (21) and free movement of persons (14) also account for a high number of the ongoing proceedings. Countries with the highest number of infringement cases on services are Germany (4), Belgium (4), Hungary (4) and Sweden (3) (see Figure 1).³⁶

Since the beginning of 2019, the Commission has sent letters of formal notice to 27 member states – all but Denmark –, followed up by reasoned opinions to 24 member states for breaches in the field of services³⁷ (i.e. breaches of the professional qualifications directive³⁸). The Commission could refer the concerned member states to the ECJ if they fail to provide a satisfactory reply (see Figure 1).

More importantly, together with air transport, **services and the free movement of persons are areas where cases take the longest period of time to be settled following the reception of a letter of formal notice** (either through a settlement or a referral to the ECJ): on average, 4.5 years for services and 5.4 for the free movement of persons. Obviously, this exceeds the proper and timely enforcement of services rules.³⁹

Table 2: The enforcement of European Union service rules by the European Commission (2015-2019)

	Free movement of services (incl. Services Directive, Professional Qualifications Directive)	Free movement of workers, working conditions (incl. Posting of Workers Directive, Working Time Directive)
Letter of formal notice	74	1
Reasoned opinion	58	28
Referral to the ECJ	12	1
Total	144	30

Source: Author, based on data from the European Commission⁴⁰

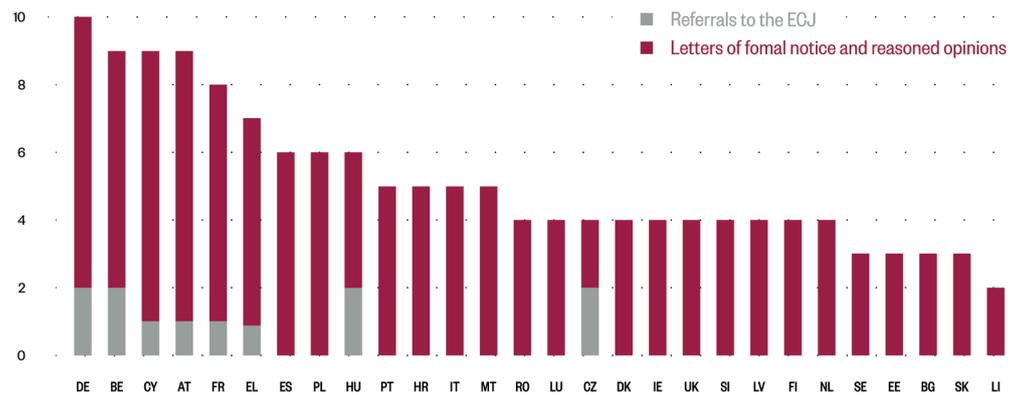
Recommendations: Moving ahead on services

- Define services as a priority for the next Commission

With servicification, digitalisation and the bundling of products and services becoming more prominent, it makes increasingly less sense to differentiate between a Single Market for goods and a Single Market for services.

Fig. 1

ENFORCEMENT OF EU SERVICES RULES BY THE COMMISSION,
INCL. THE SERVICES AND PROFESSIONAL QUALIFICATIONS DIRECTIVES (2015-2019)



Source: Author, based on data from the European Commission⁴¹

Services must become an integral part of the European Single Market, such as they are of modern economies. **The Commission should actively include the free movement of services in any future strategy aimed at developing Europe’s competitiveness and industrial policy.** A dynamic and modern single market at home is a prerequisite for a competitive Europe abroad.

It makes increasingly less sense to differentiate between a Single Market for goods and a Single Market for services.

- Enforce the Services Directive more actively

While the primary responsibility for the lack of enforcement lies with member states, **the Commission has also been called upon to be bolder in referring cases to the ECJ.** In its 2016 report, the European Court of Auditors (ECA) stated that the Commission “has been only partially effective in ensuring the implementation of the [Services] Directive” and is “reluctant to pursue legal proceedings”.⁴² While only one member state had been referred to the ECJ by 2015, 12 additional cases have been brought forward under the free movement of services following the release of the ECA report. Further endeavours to reduce the length of infringement procedures as much as possible, something which is especially long for services, should be put into place. If no solution is found following a reasoned opinion or via an EU pilot, **the Commission should send cases to the ECJ more automatically.**

- Move beyond the Services Directive

Endeavours to move ahead on services have produced very limited results in recent years. This is not due to a lack of efforts by the Commission, which has proposed several

initiatives, only to be turned down by member states. More dialogue is needed between the Commission and member states to find new ways to **strengthen the free movement of workers.** Member states opposing the strengthening of the Services Directive must start recognising the potential benefits and that a modern and competitive single market is impossible without services. Simultaneously, the EU and member states should also **intensify the dialogue on how to avoid a ‘race to the bottom’**, where companies offer services or relocate to countries with weaker employment, health and safety rules. There should be a better use of EU standards for services to ensure the quality of the service provided. A stronger focus should also be placed on digital services, building on elements of the DSM. The Single Market for services will only move forward if a package deal tackling the concerns raised by different member states is drawn up.

The Single Market for services will only move forward if a package deal tackling the concerns raised by different member states is drawn up.

- Improve member states’ implementation

Member states must commit to ensuring better implementation of services rules at the political level. Around 144 letters of formal notice, reasoned opinions and ECJ referrals of member states have been issued between 2015 and 2019. **All of the member states are concerned, but particular efforts may be needed from Germany, Belgium, Cyprus, Austria and France,** as they are overrepresented in infringement proceedings. France, Germany, Belgium and Cyprus are also among the countries that on average take the longest to respond to Commission queries via the EU

pilot tool, together with Czechia, Denmark, Italy and Romania.⁴³

Member states must commit to ensuring better implementation of services rules at the political level.

- Invest in Points of Single Contact

Many smaller service providers are dissuaded from competing in other EU countries because of a lack of information about local requirements for qualifications and establishment. The PSCs established in each member state can be useful in providing service providers with an online portal to receive information on administrative procedures in other countries. They are often underperforming, however, as more should be done to provide solutions that are fully digital and accessible for all businesses abroad. Only 10 of the 30 participating countries provide sufficient information about the needed procedures through the PSCs.⁴⁴ In many cases, **a more substantial budget must be allocated by member states to their PSCs**, and more of the information provided by PSCs should be made available in several languages.

- Create a single one-stop shop in member states

PSCs have suffered from a lack of visibility amidst businesses, as has been the case for many of the other contact points established under the Single Market directives and regulations. Reversely, a multitude of contact points does not lead to the simplification of the regulatory environment, either. To mention a few, the Services Directive, the Mutual Recognition Regulation, the Recognition of Professional Qualifications Directive, the Enforcement Directive on Posted Workers, the Electric Commerce Directive and the Regulation on the free flow of non-personal data, all have their own set of contact points.⁴⁵ What the EU needs is a one-stop shop in each member state for Single Market issues, providing businesses with a better overview of the rules and administrative requirement they should abide by, and coordinating decisions taken across national authorities.

What the EU needs is a one-stop shop in each member state for Single Market issues.

- Update the Single Market Scoreboard

The Single Market Scoreboard has become a very useful tool in measuring the progress and implementation of Single Market rules. Nonetheless, it requires continuous updating as it does not measure all aspects of the Single Market, especially regarding services. Stakeholders and businesses have often stated in recent years that new additional barriers to trade have emerged in member states, for instance in the form of additional administrative requirements and standards. However, there are no figures gathered beyond the available data from infringement procedures. More indicators could be included to better **measure member states' performance in reducing barriers to services and trade.**⁴⁶

2.3. THE DIGITAL SINGLE MARKET

Background: The importance of digitisation

Already in 2010, the EPC highlighted the economic and societal benefits of a European DSM – specifically, the potential addition of up to 4% to EU GDP by 2020 – and called on the Barroso II Commission to define it as one of its major priorities.⁴⁷ A fully functional DSM could contribute €500 billion per year to the European economy.⁴⁸

A fully functional DSM could contribute €500 billion per year to the European economy.

The importance of working towards a DSM has been clearly recognised by the succeeding Juncker Commission. A “connected digital single market” was mentioned among Juncker’s ten political priorities in 2014, and the Commission presented its DSM strategy towards achieving it a year later.⁴⁹ The latter introduced 16 new initiatives centred on three main pillars:⁵⁰

- Better access to online goods and services for consumers and businesses.
- Creating the appropriate conditions and a level playing field for digital networks and innovative services.
- Maximising the growth potential of the digital economy.

The Commission adopted all 16 initiatives by 2017, and in its mid-term review the Commission outlined three additional areas where EU action was needed.⁵¹

- the European data economy;
- cybersecurity;

- the promotion and regulation of online platforms.

Moreover, additional priorities in developing the data economy were identified, including on digital skills, industry digitisation, high-performance computing and artificial intelligence (AI).

State-of-play: The Commission's biggest accomplishment?

Since the launch of the DSM, the Commission has put forward a wide array of initiatives aimed at creating an environment whereby online platforms, SMEs and businesses can thrive. These initiatives aim to remove barriers to the access and exercise of online activities and ensure fair competition in the digital sphere – think the end of roaming charges and unjustified geo-blocking; the modernisation of rules for e-commerce VAT, digital contracts and online purchases; the granting of cross-border parcel delivery; and the free flows of non-personal and public sector data.

The initiatives introduced have also sought to ensure a high level of consumer and data protection. Examples include the Cybersecurity Act, the ePrivacy Regulation, the New Deal for Consumers and the General Data Protection Regulation (GDPR). Finally, the initiatives have also included measures towards improving connectivity and digitalisation across Europe (e.g. WiFi4EU, European Cloud, eGovernment, SDG, the new Electronic Communications Code, high-performance computing, the rollout of 5G).

Several of these initiatives have been adopted by the Council and Parliament, and will greatly benefit e-commerce throughout Europe. Most notably, the proposals regarding the free flow of non-personal data and the reuse of public sector information will be crucial for boosting data mobility. These will also enable the development of emerging technologies such as AI fuelled by big data. The end of roaming charges, cross-border portability and geo-blocking are also essential in further enabling cross-border trade.

While an impressive amount of legislation has been passed under the DSM banner these last years, it should also be remembered that several Commission proposals have seen their level of ambition or reform somewhat weakened during consequent negotiations with the Council and Parliament.

Arguably, **in terms of initiatives passed, the DSM has been one of the Juncker Commission's greatest achievements.** With the late agreements found between the two co-legislators on the Directive on Copyright in the Digital Single Market, the digital content directive, the sales of goods directive and the New Deal for Consumers, the EU has delivered on almost all of its DSM initiatives. Measures such as the GDPR, the Directive on Copyright in the Digital Single Market, as well as ending roaming charges and geo-blocking have received significant attention from EU citizens and the international domain. Even if the latter measures have raised criticism, they have undoubtedly also positioned Europe as a shaper of the global digital economy.

Recommendations: A work-in-progress

- Boost the free flow of data

Despite Europe's newfound role as a 'global shaper', even if much of the regulation called for by the Commission has been put in place, Europe is still far from becoming a true digital single market. On the one hand, most DSM rules still require transposition and implementation at the national level. On the other hand, many of the new DSM rules do not go far enough in dismantling regulatory barriers across Europe. Unfortunately, **some of the new rules have been a source of additional administrative burdens for businesses, hitting SMEs and start-ups particularly hard.** Even if additional regulation might be needed to deal with privacy, liability and algorithmic transparency, initiatives at EU level will have to focus more on the free flow of data and the reduction of cross-border trade costs if the DSM is to become a reality.

Europe is still far from becoming a true digital single market.

- Work towards a *digitised* single market

The DSM certainly gained momentum thanks to a designated project team and Commissioner since 2014. However, this may have artificially distanced it from the more traditional Single Market policies. Most initiatives introduced by the Commission have focused on specific digital regulations rather than the necessary market conditions for new digital firms and online platforms to thrive. **The DSM should be viewed as synonymous and a inherent element of the EU's Single Market.** There is not a single part of the Single Market that does not contain a digital element, and many of the main barriers are not necessarily digital in nature but relate to better enforcement of Single Market rules, legal complexity and lack of investments.

- Review the General Data Protection Regulation

The GDPR has been a flagship initiative of the Juncker Commission, described by commentators as establishing a "New Digital World Order".⁵² The GDPR represents a significant step in harmonising data protection rules across member states. Still, it is not welcomed enthusiastically by all as it also raises difficulties.

Firstly, companies have complained **about the substantial administrative cost and burden created by the GDPR.** SMEs and start-ups do not always possess the skills, workforce and resources to cope with said issues. In worst-case scenarios, this could lead to an overall weakening of competition, since the cost of compliance is much easier to bear for large companies.

Secondly, the definition of personal data under the GDPR – “any information relating to an identified or identifiable natural person” – has been criticised for being too broad and **could potentially add unnecessary restrictions on the free flow of data.**⁵³

Thirdly, **willingness to enforce the GDPR strictly may also vary across member states, depending on a country’s approach to data privacy**, as seems to be already the case with the Irish Data Protection Commission. The Regulation is designed to assign significant additional responsibility to national authorities, and questions may arise on whether they have the required financial means and workforce to take on those responsibilities.

It will, therefore, become necessary to provide additional guidance, adapt or review the GDPR to ensure effective enforcement and answer concerns raised by businesses. A way forward would be to **introduce a proportionality test for GDPR relevant legislation**, weighing the principle of data protection with that of free data flows.

It will, therefore, become necessary to provide additional guidance, adapt or review the GDPR to ensure effective enforcement and answer concerns raised by businesses

- ▶ Provide targeted support for key technologies

More targeted support should be provided to innovation and digital technologies to develop Europe’s digital economy and Industry 4.0. further. Europe is lagging in developing key technologies for industries, which could have long-lasting effects on its competitiveness and security. While targeted initiatives are being developed in the US and China, the **EU would benefit from a new comprehensive action plan on digitising European industry.** This action plan should be integrated within a wider EU policy on industry, aiming to restore competitiveness and allowing for more innovation to take place in Europe. EU innovation policy must continue to allow for **a strong intellectual property rights and patents framework**, including when public money is involved, thus making it attractive for businesses to invest in innovation.

- ▶ Invest in digital skills

The Digital Economy and Society Index shows that while Europe has become more connected and digitalised overall, **a significant gap in digital skills persists across the EU**, with over 40% of Europeans still lacking basic digital skills.⁵⁴ A digitally skilled workforce is crucial if businesses are to remain competitive and make better use of emerging

technologies. Rather than simply eliminate jobs on a grand scale, emerging technologies will most probably automatise a part – up to 30% – of most jobs.⁵⁵ Any follow-up to the DSM should, therefore, ensure that digital skills programmes **prepare workers for interactions with digital technologies**, and use the opportunity to narrow down Europe’s digital skills gap. Failing to take this challenge seriously could lead to low-skilled workers being forced out of labour markets, and thus ultimately to social polarisation.

- ▶ Strengthen trust through cybersecurity

Cybersecurity is crucial if citizens and businesses are to fully trust and make use of digital solutions and engage with the digital economy. The lack of trust and security concerns are often mentioned as the main barriers to the development of connected devices, digital platforms, AI and automated decision-making in Europe. The Cybersecurity Act aims to reinforce the mandate of the European Agency for Network and Information and Society further and establish a framework for certification. The Commission has also proposed to create a European Cybersecurity Industrial, Technology and Research Competence Centre and Network. It is now imperative that the two co-legislators agree on these proposals swiftly, and eventually consider whether **the mandates and the budget allocated to the EU’s cybersecurity agency and centres should be further strengthened.**

2.4. STRATEGIC PUBLIC PROCUREMENT

Background: The importance of strategic procurement

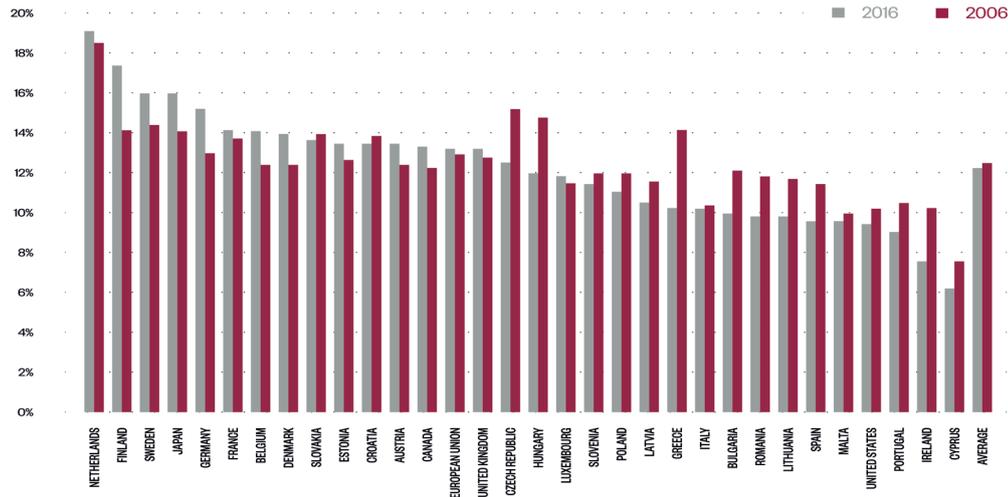
In Europe, a large amount of public investment is spent through PP. The Commission estimates that **PP accounts for 14% of EU GDP, around €2 trillion yearly. Therefore, if spent properly, PP may represent a huge added value to the stimulation of growth; thus encouraging more innovation and sustainable, climate-friendly solutions.** However, for this to happen, public bodies must think more strategically when tendering, and look beyond pricing when allocating a contract.

Public bodies must think more strategically when tendering, and look beyond pricing when allocating a contract.

PP is used differently across Europe: while it accounts for 15% to 19% of GDP in countries such as the Netherlands, Finland, Sweden and Germany, others such as Portugal, Ireland and Cyprus spend relatively little (see Figure 2). Similarly, some countries spend mostly at the central level (Malta 96%, Cyprus 90%, Portugal 81%, Hungary 64%, the UK 63%), while most others spend at the local level and

Fig. 2

SIZE OF PUBLIC PROCUREMENT MARKETS IN RESPECT TO GDP



Source: Kutlina-Dimitrova (2018)⁵⁶

relatively little at the central level (Belgium 10%, Germany 11%, Spain 12%, the Netherlands 19%, Italy 20%).⁵⁷

State-of-play: New rules, new guidelines

In 2014, new PP rules were introduced into the EU to foster simpler and more flexible procedures, encourage innovation, facilitate PP access for SMEs and promote competition. Member states were expected to transpose these rules by April 2016. However, **the implementation and correct transposition by member states have proven to be a lengthy process.** So far the Commission launched 58 infringements against 21 member states for not communicating on the transposition of the new rules, and three infringement cases are still ongoing with three member states.⁵⁸

The Juncker Commission presented in 2017 a non-legislative package to ensure that the 2014 rules are properly implemented in the Single Market. It included:

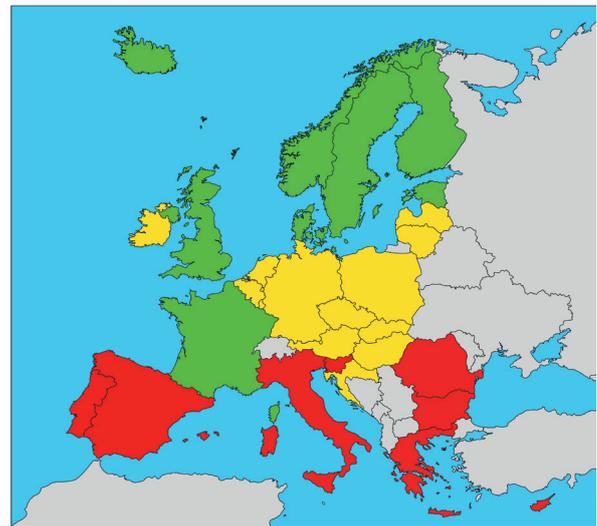
- ▶ new guidance and exchange of good practices on the use of innovative, green and social criteria when awarding contracts;
- ▶ recommendations for the professionalisation of public buyers;
- ▶ improved access to procurement markets for SMEs;
- ▶ the collection of better and more reliable data;
- ▶ the improvement of the digitalisation of procurement;
- ▶ the promotion of joint cross-border and cooperative procurement.

The national implementation of PP rules varies across member states. The EU Single Market Scoreboard ranks the performance of member states in implementing procurement rules based on 12 indicators, including the

presence of a single bidder, calls for bids, publication rate, decision speed, cooperative procurement. According to the Scoreboard, only six member states are performing ‘satisfactorily’: Denmark, Sweden, Finland, Estonia, France and the UK (see Figure 3, in green). The countries with ‘unsatisfactory’ performance are Portugal, Spain, Italy, Slovenia, Romania, Bulgaria, Greece and Cyprus (red). All other countries rank average (yellow).

Fig. 3

PERFORMANCE OF MEMBER STATES IN IMPLEMENTING PUBLIC PROCUREMENT RULES



Source: European Commission⁵⁹

Recommendations: Making better use of procurement

- ▶ Strengthen the enforcement of public procurement rules

The 2014 rules and 2017 PP package have been useful in stimulating innovation. However, even after their transposition, the EU’s PP rules are not always enforced properly and equally across Europe. Much of

the relevant legislative framework is now in place, but **efforts are needed on the member state level to ensure effective implementation**. Elements such as localisation requirements, price preference margins and legal interpretations may still disadvantage non-national bidders. Member states that have an unsatisfactory performance in implementing PP rules need new implementation action plans for PP rules.

Even after their transposition, the EU's PP rules are not always enforced properly and equally across Europe.

- ▶ Encourage national public procurement strategies

Many member states still do not have policies or strategies on using PP strategically to enable more innovation and sustainability in place. Roughly one-third of EU member states have defined strategic procurement as a priority and have defined policies on the field, another third have identified it as important but still lack substantial policies on the field, and the final third have not identified strategic procurement as a priority at all. There is, therefore, **considerable potential in raising awareness on the possible benefits of using more strategic PP**. Given that a majority of public buyers in some member states are local or municipal bodies (e.g. Belgium, Germany, Spain), much more could also be done to develop local and regional initiatives for strategic PP. Attributing procurement contracts is often complex and –especially if one is to look beyond price – more should also be done at the national level to **improve the skills and competences of public buyers**, with the support of the EU.

- ▶ Define timetables for the digitisation of PP

Despite being a priority of the EU's PP strategy, the digitisation of PP is slow in many member states. At the national level, relevant authorities should include **timetables for the rollout of e-procurement in PP strategies**. Such initiatives should build upon existing European tools, such as the European Single Procurement Document and eCertis, which will help simplify and improve transparency in the tending process. Digitising PP will also make it easier for SMEs to participate. EU institutions could also start by further improving and digitalising their own PP systems, thus leading by example.

- ▶ Set goals and ambitions for innovative, green and social public procurement

Long-term strategies could also help to move beyond short-term investments and enhance investments in the technologies of the future. In cooperation with member states, the EU should help **define concrete goals and**

set qualitative ambitions for innovative, green and social procurement. In a world where increased global competition is the norm and competitors invest heavily in innovation, EU member states must not fall behind: they should use all the tools at their disposal, including PP, to create and stimulate a market for innovative products and services.

- ▶ Use public procurement to combat counterfeit and uphold intellectual property rights

PP also plays a role in combatting counterfeits and ensuring intellectual property protection. Public buyers that select only based on price may encourage counterfeits more easily. This may be avoided with **stronger IPRs within the framework of PP**. Stronger copyrights and patent rights may cover the work accomplished within a tender, and public bodies should systematically screen PP for IP infringements. An exchange of the best practices for screening IP rights and counterfeits within PP should take place at the European level.

- ▶ Develop more sector-specific guidelines

In specific sectors such as the pharmaceutical, health or information and communications technology (ICT) industries, different national systems and considerations lead to very specific tenders and contracts. In such cases, **EU rules and Commission guidelines** should be adapted to stimulate more innovation through procurement. For example, a value-based MEAT criteria (“most economically advantageous tender”) would be useful in the healthcare sector, addressing benefits for patients, healthcare professionals and society at large before awarding a contract. In the ICT sector, more specific guidance could include considerations around cybersecurity and the security of supply.

- ▶ Encourage the de-bundling of contracts for SMEs

PP contracts often remain too big and extensive for SMEs and small bidders. The Commission should **encourage public buyers to divide or de-bundle larger contracts**, allowing for more actors to place bids. This could ultimately lead to cheaper and more innovative solutions. Similarly, large and long-term contracts can be impervious to new modern solutions already available on the market, with public bodies sometimes remaining stagnant with outdated solutions. Increased cooperation through public-private partnerships should allow for more SMEs to join public bids.

2.5. EUROPEAN STANDARDS FOR INNOVATION

Background: The added-value of standards

European Standards (ENs) have proven to be powerful tools in promoting innovation, fostering competition and guaranteeing consumer safety in the Single Market. Standards are used to provide consumers and businesses with technical requirements for specific products, systems or services. Recent studies conducted by national standardisation associations have estimated

that standards and technical rules were responsible for between 0.8% and 1% of the growth rate in Germany and France.⁶⁰ Similarly, the British Standards Institution has estimated that 28% of annual UK GDP growth can be attributed to standards.⁶¹

European Standards have proven to be powerful tools in promoting innovation.

Europe has developed a unique system for standardisation with a particular emphasis on transparency and inclusiveness. Standards are created by bringing together stakeholders within the framework of one of the three European Standardisation Organisations (ESOs) that have the competence to ratify an EN: the European Committee for Standardization (CEN), European Committee for Electrotechnical Standardization (CENELEC) or European Telecommunications Standards Institute. By replacing potentially conflicting national standards, an EN helps to facilitate cross-border trade.

The European Commission may ask an ESO to develop a ‘harmonised standard’ in order to support the implementation of EU legislation. Such a request can help to define what exactly is expected from a new standard, and by when it should be produced. Once referenced in the EU’s *Official Journal (OJ)*, the standard will have legal effect, nonetheless remaining voluntary in nature. Manufacturers complying with a harmonised standard will then benefit from a ‘presumption of conformity’, allowing them to sell products or services throughout the Single Market. It is estimated that around 20% of all European standards are developed as a harmonised standard following a request from the Commission.⁶²

State-of-play: A new approach to standardisation

The Commission has repeatedly called for a **strategic review of European standardisation**, underlining the need to step up the speed and timeliness of standards. This is especially relevant given the rapid development of emerging technologies and the speed at which goods and services in the ICT sector are entering the European market. The timely development of new European standards can boost European competitiveness by facilitating market access for innovative products and reducing production costs. Once agreed upon at the European level, a standard has the potential to become an international standard if adopted by an international standardisation organisation, thus representing a competitive advantage for European industry.

The Commission introduced a set of measures and a new regulation on standardisation in 2011 and 2012 to improve cooperation with ESOs and the strategic use of standards in support of innovation, SMEs and competitiveness. The new

regulation on European standardisation policy that entered into force in 2013 defined a set of obligations for ESOs and national standardisation bodies regarding transparency, inclusiveness and acceleration of the adoption of new standards. It also made EU funding for ESOs conditional on certain performance criteria and defined deadlines in its requests for standards.⁶³

In 2016, the current Commission renewed its endeavours by presenting a new package that placed a particular emphasis on services and ICT and provided a framework for the Joint Initiative on Standardisation that brings together public and private stakeholders. The Commission’s vision to play a more active role in European standardisation seems to have been reinvigorated by the **ECJ ruling in the 2016 James Elliott Construction Limited vs Irish Asphalt Limited case (C-613/14)**.⁶⁴

In the James Elliott Construction case, the ECJ ruled that a harmonised standard, developed on the basis of an EU mandate, may be viewed as a provision of EU law. Parts of the industry and ESOs have criticised the ECJ’s ruling in this case for **putting into question the voluntary and non-binding nature of harmonised standards**. Indeed, ESOs are independent organisations and do not qualify as EU bodies. In reaction to the ruling, CEN and CENELEC have stated that the effectiveness and independence of the European approach to standardisation must not be undermined⁶⁵ and that some of the ECJ’s assumptions are “incompatible with the voluntary nature of standards”.⁶⁶

Recommendations: An industry-led standardisation process

- Avoid an over-regulatory approach

The Commission has adopted a more ‘hands-on’ and legally driven approach to standardisation in recent years and especially following the James Elliott ruling. The Commission is right to argue that standards are integral in achieving EU legislative objectives. However, **an over-regulative and intrusive approach by the Commission will undermine the industry-led and independent nature of European standardisation**. Therefore, the Commission must rethink its current approach. A dialogue should be established between all the stakeholders on how to best calibrate the Commission’s role in the current European standardisation system, in order to strengthen the independence of ESOs and their role in developing standards.

A dialogue should be established between all the stakeholders on how to best calibrate the Commission’s role in the current European standardisation system.

- Reduce paperwork and administrative requirements, focus on innovation

Moreover, with added checks and balances, there is a fear that there will be an increased administrative burden for the industry wishing to participate in the standardisation process. This might, in turn, reduce the attractiveness of participating in standardisation and further delay the adoption of standards. **If new standards for promoting innovation and protecting consumers are to be established, the standardisation process should allow for the industry to focus more on these issues instead of administrative requirements.** It is worth pointing out again that the industry's participation in the standardisation process is done voluntarily.

- ▶ Support SMEs in the standardisation process

The Commission has repeatedly called for SMEs to be more actively included in the standardisation process, as they represent the backbone of the European economy. Significant efforts have been made in the financing, raising awareness and supporting SMEs' participation in the standardisation process. Nonetheless, **additional administrative requirements would affect SMEs especially and make it even more difficult for them to participate as they do not have the same capacities as larger businesses.** Beyond calling for the inclusion of SMEs, the Commission and ESOs should continue to **support and provide guidance for SMEs** to actually be able to participate.

- ▶ Reduce the backlog of non-cited standards

After having been adopted by the ESOs, it is up to the Commission to assess and eventually decide on the inclusion of harmonised standards into the OJ. Once a standard is cited in the OJ, it gains legal effect and can be used by businesses to prove compliance, conferring a presumption of conformity. Recently, the Commission has introduced a more intensive review process before citing standards in the OJ, which has resulted in extended approval processes and a rise in the backlog of non-cited standards. It is **crucial to reduce this backlog in order to ensure the timeliness of standards and avoid additional costs of compliance**, which is to the detriment of the industry and consumers. This will require joint efforts from all parties involved.

- ▶ Reinvigorate public-private partnerships on standards

Public-private partnerships are crucial to allow for better cooperation and common ground to be found between the different parties involved. The Joint Initiative on

Standardisation launched in 2016 is a step in the right direction. On the one hand, the standardisation process should be modernised to allow for more strategic and timely development of new standards. On the other, the industry-led and independent nature of the process must be preserved. **Public-private partnerships should also be reinvigorated** in order to reduce the backlog of non-cited standards and in finding new ways to reduce administrative requirements and paperwork.

- ▶ Improve the inclusion of the research community

More can be done to **include the research community more actively when defining new standards.** ESOs should invite the research community to the process whenever research results show that there is potential for developing new standards. This will require better monitoring of relevant research activities and raising awareness of the added value of cooperation in both sectors. **A strong link to the development of standards should be defined within the EU's Horizon Europe proposal**, allowing for the EU to support research projects that can lead to new technical standards, which then can support the promotion of innovation within the Single Market.

- ▶ Ensure better enforcement of standards

Without effective enforcement, standards are of little use. EU laws may refer to standards and make compliance compulsory. Improved enforcement is needed to ensure that products placed on the market are safe for consumers. As most Single Market rules are in effect enforced at the national level, **more cooperation is needed between different national market surveillance bodies at the EU level.**

- ▶ Increase cooperation in international organisations

Well-developed standards on the European level will allow for Europe to play a more active role as a global standard setter. In cooperation with ESOs, the Commission should promote European standards through international cooperation. Each European standard adopted as an international standard represents a possible competitive advantage for the European industry. Well-developed standards fostering innovation and safety for consumers are best placed to become attractive standards internationally.

Conclusion

This Discussion Paper has underlined a variety of ways in which the Single Market should be brought forward. Strategic priorities should include appointing a **Commission Vice-President for EU Industry and Single Market**, making EU rules more innovation-friendly, prioritising services, using strategic PP to its full advantage and **empowering citizens**. This Paper also argues for more detailed recommendations, including ensuring better enforcement of Single Market rules, **reviewing current legislation, boosting the free flow of data and reinvigorating European standardisation**.

The Single Market remains one of the main tools in achieving core EU goals and objectives. It underpins all of the main priorities set by the EU in its **new strategic agenda of 2019-2024**: developing a strong and vibrant economic base; promoting European interests and values on the global stage; building a climate-neutral, green fair and social Europe; and more. If the EU is serious about achieving these objectives, the Council, Parliament and Commission should prioritise the reform of the Single Market in the very first days and months of the new institutional cycle.

This Paper suggests doing so by defining a new masterplan with concrete objectives to be achieved by 2022 – exactly three decades after the creation of the Single Market. A **2022 Single Market Action Plan for Europe** should be shaped as a list of initiatives to be agreed upon as a package-deal, by the Commission, Council and Parliament. The recommended Vice-President for EU Industry and Single Market would have an important responsibility, together with relevant Commissioners, to monitor, follow-up and ensure the implementation of this Action Plan.

This is, however, not the first time that EU leaders are being asked to prioritise the Single Market. Over the years, there have been countless calls – including from the Parliament, Commission and Council – to improve, complete and ensure the well-functioning of

the EU's own market as a precondition for restoring European competitiveness. In many ways, such calls are increasingly falling on deaf ears as they are becoming commonplace.

It is unlikely that the Single Market agenda will move forward if it continues to be framed as a separate undertaking that simply needs to be completed. Firstly, the Single Market is an evolving entity and will never be fully complete. Secondly, the Single Market should be viewed for what it is: a strategic tool in achieving core EU goals and objectives. Therefore, rather than being defined as a separate endeavour, the Single Market should be actively included **as a central pillar of future EU policies** that will spring out of the EU's new strategic agenda, such as EU **industrial, trade, innovation and digital** policy.

The debate around an **EU industrial policy** has gained much momentum,⁶⁷ and it is set to become one of the main priorities of the next Commission. In developing an industrial policy for all of Europe, it will be crucial for member states more attached to the Single Market – and others calling for 'European champions' – to agree on a common agenda. Member states calling for a more integrated Single Market should view an EU industry policy as an opportunity to move ahead in areas such as services. Indeed, if the goal of an EU industry policy is to boost competitiveness, services cannot be left behind.

The Single Market must be approached more innovatively. Things will not change as long as the same old is maintained, and new ways of doing things are not debated and discussed. This is the goal and ambition of the EPC's Single Market Roundtable series, which has provided much needed input and helped define the recommendations in this Discussion Paper. Discussions will have to continue, focusing on what can be done to improve what we have, and what new initiatives should be put on the table.

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