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BUSINESSEUROPE  
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## **BUSINESSEUROPE PRIORITIES FOR THE FUTURE OF THE SINGLE MARKET**

### **RESPONSE TO THE CONSULTATION ON THE SINGLE MARKET ACT**

#### **EXECUTIVE SUMMARY**

- BUSINESSEUROPE strongly supports the single market and believes the Single Market Act is taking up the challenges that Europe is facing today.
- The ten key areas which should take priority to relaunch the single market are:
  - Improve governance and further increase Member States' involvement in single market policy
  - Ensure better implementation and enforcement, and promote informal problem-solving tools
  - Tackle barriers to the four fundamental freedoms
  - Support the international dimension of the Single market
  - Create a true Digital Single Market
  - Promote and protect creativity and innovation in the single market
  - Promote SMEs' competitiveness
  - Eliminate tax barriers to cross-border operations
  - Remove remaining obstacles to transport
  - Improve infrastructure
- Although BUSINESSEUROPE supports the SMA as a tool to achieve the objectives of the Europe 2020 Strategy, it is too early for a full assessment of all the proposals, as much will depend on their concrete content. In particular, BUSINESSEUROPE has concerns on the SMA proposals on standardisation, public procurement and services concessions.
- Any new EU initiative in the field of social affairs should support the creation of jobs to safeguard future prosperity. It is key that social partners are consulted on future initiatives.
- Better regulation principles should be respected. Early stakeholder consultation and comprehensive impact assessments are crucial in this respect.
- It is absolutely key to secure strong political commitment to implement the SMA's proposals, and achieve better cooperation with Member States to successfully relaunch the single market and further create growth and jobs.
- Almost twenty years after the launch of the Internal Market project, the EU is at a key junction for further integration. Europe should not miss this opportunity.



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## **BUSINESSEUROPE PRIORITIES FOR THE FUTURE OF THE SINGLE MARKET**

### **RESPONSE TO THE CONSULTATION ON THE SINGLE MARKET ACT**

#### **QUESTION 1**

#### **WHAT IS YOUR OVERALL ASSESSMENT OF THE SINGLE MARKET ACT?**

**Positive: BUSINESSEUROPE supports the Single Market Act (SMA).**

BUSINESSEUROPE strongly supports the single market and believes the Single Market Act is a solid basis to revitalise it. The Communication takes up the challenges that Europe is facing today.

With a market comprising 30 countries and 500 million citizens, annual cross-border investment flows of 430 billion Euros and 70% of Member States' exports being destined for other EU countries, the benefits from closer integration are undeniable.

Nevertheless, barriers to the free movement of people, goods, services and capital still represent an untapped economic potential of between 275 and 350 billion euro. As an example, services account for about 75% of EU GDP and 70% of total employment, with nine out of ten jobs created in services sectors. Yet, cross-border services only account for 5% of EU GDP, compared with 17% for goods.

The single market is the cornerstone of European integration. However, the current difficult economic situation has also created serious challenges coming from protectionism trends, weaker political support and a certain disenchantment among citizens. This could put at risk the benefits achieved and stall further progress of the single market.

To counteract this trend, revitalisation of the single market is a key element for European recovery and for the objective that BUSINESSEUROPE would like EU decision-makers to achieve: double the EU's growth potential by 2014.

As a tool to achieve the objectives of the Europe 2020 Strategy, the Single Market Act needs strong support and a coherent approach from the EU institutions, Member States - including the three EFTA countries party to the EEA Agreement - and stakeholders.

BUSINESSEUROPE supports the Commission in enhancing dialogue and partnership among all actors in the single market: public authorities, social partners, citizens, consumers and businesses. The Communication should also better emphasise the rights and opportunities offered by the single market.

Of course, although BUSINESSEUROPE supports the SMA, it is too early to make a full assessment of all of its proposals, as much will depend on their concrete content. In particular, BUSINESSEUROPE has some concerns with regard to:

- **Proposal 6 on standardisation:** BUSINESSEUROPE believes that the European standardisation system needs to be improved but not radically overhauled. With regard to extending the scope of standardisation to services, BUSINESSEUROPE believes that new standardisation projects should not be launched until the need for and feasibility of such standards in each sector has been identified. In general, standards should be market-driven, voluntary and international insofar as possible.
- **Proposal 17 on public procurement.** BUSINESSEUROPE considers that the EU public procurement legal framework (the 2004 Directives) secures open, transparent and fair public procurement throughout Europe. Therefore, BUSINESSEUROPE aims at essentially preserving the current framework, through which innovative, green growth and social objectives can also be achieved. Efforts should instead concentrate on more uniform enforcement of the existing rules. In relation to the 'in-house' concept BUSINESSEUROPE considers that the Teckal (C-107/98) and subsequent ECJ judgments offer a sound basis for its definition. However, there may be room for clarification of this concept as well as a clarification of the scope of public-public cooperation. This should be done through interpretative documents.
- **Proposal 18 on services concessions.** New legislative action on services concessions is unnecessary. BUSINESSEUROPE believes that transparency in concession contracts is key and that they should therefore be subject to mandatory publication in the Official Journal of the EU above certain thresholds.
- In the field of social affairs, BUSINESSEUROPE considers that any new EU initiative should support the creation of jobs to safeguard future prosperity. It is fundamental that social partners are consulted on future initiatives. The Single Market Act proposes nine recommendations in this area. In particular:
  - The Commission proposes to conduct an analysis of the social impact of all proposed single market legislation, to ensure that the guarantees of the EU Charter of Fundamental Rights - including the right to take collective action - are taken into account (**proposal 29**). Article 9 of the Treaty already has a general application with regard to the social dimension of the single market. A further guarantee will not provide any added value. It would contravene the clear exclusion of right to strike from EU competences in article 153.5 of the Treaty.
  - BUSINESSEUROPE supports the Commission in ensuring better implementation of the **Posting of Workers Directive (proposal 30)**. This proposal should focus on achieving better enforcement without reopening a debate on the working conditions applying to posted workers.
  - A positive attitude towards change is essential to unleash the potential of the single market. This should be reflected in the upcoming social partner consultation on a European framework on restructuring (**proposal 32**).

- The aim of the proposed **Social Business Initiative (proposal 36)** is unclear. BUSINESSEUROPE supports innovative and voluntary business projects in the social sphere. But BUSINESSEUROPE has major doubts regarding the proposed development of socially innovative corporate projects through tighter rules such as social rating, labeling and public procurement.

Lastly, better regulation principles should be respected throughout the legislative process. Early stakeholder consultation and comprehensive impact assessments are crucial in this respect.

## **QUESTION 2**

**THE SINGLE MARKET ACT PROPOSES 50 ACTIONS: PLEASE INDICATE THE ACTIONS YOU CONSIDER TO BE THE MOST IMPORTANT (UP TO 10 CHOICES POSSIBLE)**

The Single Market Act puts forward 50 measures. The ten key areas which BUSINESSEUROPE believes should take priority are:

- **Improve governance and further increase Member States' involvement in single market policy.**

A fundamental improvement in the governance of the single market is key.

In this regard, BUSINESSEUROPE supports **proposal 44 (“Evaluating implementation of EU rules with Member States”)** for Commission and Member States to cooperate in continuing to develop the single market by stepping up procedures to evaluate transposition and implementation of the *acquis*.

BUSINESSEUROPE recommends that the 'mutual evaluation' process set out in the Services Directive is applied to a limited number of other crucial single market legislation, especially in cases where implementation requires more than pure legal transposition of rules. This will help Member States to take ownership of the single market.

- **Ensure better implementation and enforcement, and promotion of informal problem-solving tools.**

The EU produces a lot of legislation. Action must now focus on effective implementation and enforcement of existing rules.

As guardian of the Treaties, the Commission should ensure closer monitoring of implementation of EU legislation.

This must be complemented by a renewed partnership with Member States, which should do more to ensure correct application of EU rules. Application of the rules on the ground is key: the Single Market Act rightly focuses on strong enforcement. The Commission - and the EFTA Surveillance Authority for the three EFTA countries

party to the EEA Agreement – should take strong action in case of infringements by Member States.

In this context, BUSINESSEUROPE believes priority should be given to **proposal 47 (“national transposition of EU rules”)** to work in partnership with Member States to develop a more resolute policy to enforce the rules of the single market and further reduce transposition deficits.

At the same time, citizens and companies should have easy, cost-effective and quick access to tools to solve disputes. BUSINESSEUROPE supports **proposal 46 to improve the use of Alternative Dispute Resolution (ADRs)**, as they can provide quick, effective and affordable redress while avoiding excessive litigation. However, BUSINESSEUROPE is opposed to the introduction of judicial collective actions at EU level, as they are too costly, complex and long and risk encouraging frivolous litigation.

Finally, existing **problem-solving tools (proposal 50)** such as SOLVIT should be further promoted. In 2009 alone, SOLVIT dealt with over 1,500 complaints by citizens and businesses, on mostly services, goods and taxation issues in the single market. 86% of these cases were resolved successfully. But SOLVIT is still underused. BUSINESSEUROPE highly recommends actions to promote this network.

- **Tackle barriers to the four fundamental freedoms**

There are still too many barriers to the free movement of people, goods, services and capital. In total they still represent an unfulfilled potential of almost 350 billion euro.

The growth potential is huge in particular in the area of services: as recognised by the Single Market Act, the potential gains from high-quality implementation of the Services Directive range between 60 billion and 140 billion euro. This represents an increase between 0.6 and 1.5% of EU GDP.

Consequently, BUSINESSEUROPE believes that Commission and Member States should in particular continue to develop the **single market for services (proposal 4)** by ensuring high quality and full implementation of the services directive.

Efforts must also continue to tackle the many barriers that still exist in practice in the single market for goods, starting from proper implementation of the “Goods Package”.

Making it easier to do business cross-border for SMEs is also key. A simple and flexible European Private Company Statute would help achieving this. The Council should adopt this proposal swiftly.

- **Support the international dimension of the Single market**

The single market is an asset which should be used as a springboard to meet the challenges and seize the opportunities of the global market.

BUSINESSEUROPE encourages swift action on the SMA proposals to improve the EU's global competitiveness. As the EU is facing challenges with market access, IPR protection, services liberalization and the proliferation of subsidies in areas like procurement or big infrastructure projects, BUSINESSEUROPE strongly supports **proposal 23** to further develop regulatory cooperation with EU's main trading partners.

In terms of dialogue, cooperation with the US should be stepped up not only to promote bilateral trade but also to strengthen global rules vis-à-vis emerging markets. Cooperation with the large emerging markets and the neighbourhood countries is also important.

**Proposal 24** is another key priority for BUSINESSEUROPE, which in its position paper of 6 October 2010 asked for the EU to reflect on an instrument to enhance its capacity to ensure improved symmetry in access to public procurement in the industrialised nations and the major emerging economies.

However, all work in this field should be done in close consultation with BUSINESSEUROPE. The Commission should explore legislative avenues that are least burdensome administratively and, while tackling reciprocity, should not be protectionist. The Commission should also look at other procurement issues raised in our paper related to IPR violations, abnormally low bids, etc.

- **Create a true Digital Single Market**

Europe needs to tackle barriers preventing the Digital Single Market from producing full benefits for consumers and businesses.

Completing the Digital Single Market by 2020 will boost EU GDP by more than 4% (Study by European Policy Centre and Copenhagen Economics, "The Economic Impact of a European Digital Single Market", March 2010).

The specific measures of the Single Market Act aimed at creating a true Digital Single Market should take priority: BUSINESSEUROPE welcome in particular **proposal 5 ("electronic commerce")** and the announced initiatives to develop e-commerce in the single market.

Close coordination with the implementation process of the Digital Agenda is also needed, especially in relation to the important measures aimed at successfully disseminating digital technology, promoting digital inclusion and develop next-generation networks.

- **Promote and protect creativity and innovation in the single market**

The Single Market Act rightly stresses the importance of supporting innovation to face international competition. Patenting costs in the EU are ten times higher than in the US. This amounts to a tax on innovation. These costs need to be drastically



reduced. In this context, BUSINESSEUROPE strongly supports **proposal 1** (“**EU Patent**”), to step up adoption of the EU Patent.<sup>1</sup>

- **Promote SMEs’ competitiveness**

SMEs are the backbone of Europe’s economy. Therefore, **proposal 12** on improving SME access to capital markets, and the objective of ensuring that venture capital funds can operate freely across the EU, as stressed in **proposal 16**, should take priority.

- **Eliminate tax barriers to cross-border operations**

Obstacles to cross-border business transactions deriving from corporate as well as from indirect taxation entail significant costs to growth and employment, and must be removed. The Single Market Act addresses some of these issues.

**Proposal 19** on a directive introducing a **common consolidated corporate tax base** (CCCTB): The lack of cross-border profit and loss relief within the EU constitutes an important obstacle to an efficient single market. In the long run, it has been suggested that the introduction of a common consolidated corporate tax base (CCCTB) could provide a comprehensive approach to tackle obstacles in the single market related to the interplay of 27 different corporate tax systems. For business, the CCCTB would need to be optional to be competitive, e.g. not replace national corporate tax systems, allow for consolidation of profits and losses from the start and should not involve decisions on tax rates.<sup>2</sup>

**Proposal 20** on a Green Paper on the future of VAT: The **VAT system** as currently designed has limitations in a number of areas, leading in particular to a disproportionate administrative burden for businesses. Therefore, in order to build a fairer, more efficient, and safer VAT system, BUSINESSEUROPE welcomes a reflection on the future of VAT. BUSINESSEUROPE highlights also the importance of closer cooperation between businesses, Member States, and the Commission during the overhaul of the VAT system.

- **Remove remaining obstacles to transport**

BUSINESSEUROPE looks forward for the adoption of a **White Paper on Transport (proposal 7)**, to propose measures to remove the remaining obstacles to the creation of an efficient European transport system, which is essential to the smooth movement of goods, people and services within the single market.

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<sup>1</sup> CEOE, the Spanish Employers’ Confederation, does not support an unbalanced and discriminatory EU Patent.

<sup>2</sup> IBEC, the Irish Business and Employers Confederation and CBI, the Confederation of British Industry do not currently support this position.



- **Improve infrastructure**

Priority should be given to **proposal 27** on the implementation of the EU energy infrastructure priorities in order to move towards an integrated European energy network and thus contribute to the development of a fully operational single market for energy and to **proposal 26** on the revision of Community guidelines for a trans-European transport network to contribute to the functioning of the internal market and transport efficiency.

Europe is facing huge investments in its infrastructure that are critical for growth, innovation and competitiveness. The Commission must put in place the right conditions to develop a market for funding infrastructure, by fostering public-private partnerships, which can provide new sources of finance, better value for money and more choice.

#### **QUESTION 4**

**ARE THERE ANY OTHER ISSUES YOU CONSIDER SHOULD BE ADDRESSED IN THE SINGLE MARKET ACT IN THE CHAPTER ON "STRONG, SUSTAINABLE AND EQUITABLE GROWTH FOR BUSINESS"?**

- Swift adoption of the **European Private Company Statute**, aimed at making it easier to do business cross-border for SMEs, is not mentioned in the Single Market Act.
- Further opening to competition for the provision of services of general economic interest (SGEI): the SMA should more clearly state the need to **revise the Monti-Kroes package** on the application of state aid rules to public service compensation in order to bring it in line with the principles set out by the Treaty and by the Altmark judgment of the Court of Justice.

#### **Conclusion**

Almost twenty years after the launch of the Internal Market project, the EU is at a key junction for further integration. We should not miss this window of opportunity.

In this context, it is absolutely key to secure strong political commitment to implement the Single Market Act's proposals, and achieve better cooperation with Member States to successfully relaunch the single market and further create growth and jobs.

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