



Mr Héctor José Gómez Hernández
Minister
Chair of the EU Competitiveness Council
Ministry for Industry, Trade and Tourism
Paseo de la Castellana, 160
28071 Madrid, Spain

20 September 2023

Dear Minister,

RE: key messages to EU Competitiveness Council of 25 September 2023

BusinessEurope supports the Spanish EU Council Presidency steps to continue focused discussions on the competitiveness challenge. A policy debate on the competitiveness check included in the agenda of the upcoming EU Competitiveness Council meeting is a good follow-up to the European Council conclusions of 29-30 June calling to enhance competitiveness and increase productivity and growth. It reflects what Commission President von der Leyen highlighted in her State of the Union speech of 13 September, that one of the key challenges ahead was making business easier for our companies. It also meets the call of the business community in Europe to ensure top quality competitiveness checks on all EU regulatory initiatives as well as on EU strategies and Commission work programmes.¹ However, we need to steer this discussion towards tangible outcomes as fast as possible.

Competitiveness check.

The competitiveness check that Europe needs is about improving our economy's resilience and making policy and regulatory decisions with **long-term competitiveness** in mind. That is why BusinessEurope suggests that it should not only be applied in impact assessments of individual legislative proposals, as it is the case under the present Better Regulation tools, but also to assess the programming documents where those individual legislative proposals stem from. In this regard, we encourage the EU Council to:

- Support the recent European Commission proposals on the introduction of the competitiveness check for all legislative proposals but also work towards **a more comprehensive overarching political framework**, as suggested by the European business community² in April, in order to bring the competitiveness considerations into all policy- and law-making processes.

¹ [Madrid declaration - BusinessEurope's Council of Presidents | BusinessEurope](#)

² [Competitiveness check in EU policy- and law-making - BusinessEurope](#)



- Consider significant governance improvements for the competitiveness check to be effective, including **a strong role of the EU Competitiveness Council** in the scrutiny of how such a check is applied as well as **the oversight by the Presidency Trios** (our paper mentioned above addresses this issue, too).
- In negotiations on individual legislative proposals or when assessing strategies and programs across the policy areas in the EU, put more focus on impacts on **Europe's international competitiveness, effects on digitalisation and Single Market integration.**

Single Market.

BusinessEurope reiterates the joint industry call to **remove all barriers to cross-border business operations and intra-EU investments**, forming a fully-fledged Single Market for all economic activities.³ We stand ready to contribute to the ongoing work of drafting a High-Level Report on the Single Market, to be submitted to the European Council of March 2024.

It is however very concerning that we still witness **some policy and legislative developments undermining the Single Market**, as it is the case in the **standardisation policy** that plays a key role in the geo-political playfield and delivery of the twin transition. Europe created and has been enjoying a well-functioning public-private partnership of the European Commission, European Standardisation Organisations and industry with other stakeholders for decades, businesses bringing up to 1 bn EUR per year to the table of voluntary standardisation. However, this successful model is jeopardised due to the **increasing 'judicialisation' of harmonised European standards and policy changes enacted as a result:**

- The interpretation of harmonised EU standards as EU law rather than implementing measures reduced flexibility for the industry innovations to be brought to the market and bureaucratized strategic standardisation processes.
- This concern over the future of standardisation in Europe is exacerbated by the direction the Advocate General (AG) of the European Court of Justice has taken in [the opinion](#) on Case C-588/21 'Public.Resource.Org, Inc. and Right to Know CLG v European Commission' in June. According to the Opinion, **harmonised European Standards must be made freely available without charge**, and should not benefit from copyright protection, thus reinforcing the interpretation that harmonised European standards are law and turning the system upside down.
- If this direction is confirmed, **the EU is about to destroy its public-private partnership model that allowed to benefit from the top-level industry know-how and establish its frictionless trade in the Single Market as well as**

³ [Joint industry statement - BusinessEurope/Eurochambres/Digital Europe/EuroCommerce/ERT](#)



global leadership in standardisation, our joint industry statement of 8 September warns.⁴

At this crucial moment for our future competitiveness, the **EU should not lose the industry interest to participate and finance standardisation, decouple from international standardisation and ultimately hurt its own global leadership ambitions.**

We urge the Council to discuss the rapidly deteriorating situation and search for solutions to protect the European Standardisation System of today as one of the cornerstones of the Single Market.

Yours sincerely,

Markus J. Beyrer

⁴ [Europe must maintain industry know-how for its standardisation system to succeed - BusinessEurope/Orgalim](#)