



INT/899-908

**Single Market Enforcement Action Plan/
Identifying and addressing barriers to the Single Market**

OPINION

European Economic and Social Committee

a) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Long term action plan for better implementation and enforcement of single market rules

[COM(2020) 94 final]

and

b) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Identifying and addressing barriers to the Single Market

[COM(2020) 93 final]

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Legal basis	a) and b) Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	25/06/2020
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Outcome of vote (for/against/abstentions)	212/2/5

1. Conclusions and recommendations

- 1.1 The European Economic and Social Committee (EESC) supports the Commission's Long-term action plan for better implementation and enforcement of single market rules¹.
- 1.2 The EESC is willing to support and endorse the Commission's Communication on *Identifying and tackling barriers to the single market*².
- 1.3 The EESC believes that for too long the insufficient or inadequate application of EU rules has been the Achilles heel of EU law, and that therefore many instances of fraud and illegal behaviour have not been dealt with. The application of EU law is essential to build business and consumer confidence and to ensure that the single market delivers its full potential to businesses, employees and consumers.
- 1.4 The EESC believes that to be effective an implementation strategy must: 1) be based on a strong partnership involving all relevant stakeholders; 2) allow for greater cooperation at European level between existing enforcement networks to ensure that problems which affect several sectors simultaneously are targeted; 3) develop strategies and means to target wide-ranging EU infringements, where a single effective and transparent enforcement action can be taken to protect all stakeholders and ensure transnational law enforcement; 4) use the potential of new technologies.
- 1.5 The EESC urges the Commission to include in the action plan a clearly defined role for civil society actors, entrepreneurs, workers and consumers.
- 1.6 The EESC fully supports the European Commission's idea to transform SOLVIT into an effective default tool for unjustified barriers on the single market, but it is important that SOLVIT be equipped with a more structured procedure to refer important cases to the Commission and work across all sectors and policy areas.
- 1.7 The EESC welcomes the initiative focused on **improving *ex ante* assessments of restrictive regulation under the Proportionality Test Directive**³. Stakeholder involvement during "proportionality testing" should be the norm rather than the exception.
- 1.8 **The Single Digital Gateway** is one way to digitally accommodate businesses' and consumers' needs for online information. Single points of contact will be quickly integrated into the Single Digital Gateway, so companies and consumers will only need to refer to one place for assistance and information.
- 1.9 The EESC supports the Commission's call for the European Parliament and the Council to adopt the proposal on the enforcement of Directive 2006/123/EC on services in the internal market

¹ COM(2020) 94 final.

² COM(2020) 93 final.

³ [OJ L 173, 9.7.2018, p. 25.](#)

laying down a notification procedure for authorisation schemes and requirements related to services⁴.

- 1.10 The Committee stresses that the crisis linked to the spread of COVID-19 entails serious risks for the single market, namely that differences between EU countries in terms of economic development, social guarantees and levels of prosperity could increase after the pandemic is over.
- 1.11 The Committee notes that despite the real achievements of the single market, businesses and consumers still report too many remaining obstacles.
- 1.12 The EESC agrees with the Commission's action plan, according to which "a real partnership of the different actors at European and Member State level responsible for implementation and enforcement will be essential to overcome existing single market barriers".
- 1.13 The EESC therefore urges the Commission to use the new Single Market Enforcement Strategy to build a strong collaborative framework that includes all stakeholders active in the application of EU law. Among other things, organisations should be fully involved in the work of the announced Single Market Enforcement Task-Force (SMET), which should serve as a forum to discuss horizontal enforcement issues.
- 1.14 The EESC believes that enforcement is essentially a horizontal problem and therefore should not be dealt with in a compartmentalised way. It is essential to better organise and streamline the workflow between the different enforcement networks and to facilitate their exchange of information and good practice.
- 1.15 The Consumer Protection Cooperation (CPC) Regulation has helped to build a bridge between civil society organisations and law enforcement authorities through better recognition of their cooperation. However, while positive, this framework remains incomplete and requires further improvement, for example in the speed of response to citizens' alerts.
- 1.16 The EESC believes that data and artificial intelligence can be used to help monitor markets. It therefore considers that these digital tools should be developed at EU level and shared by all stakeholders.
- 1.17 Enforcement authorities today face a proliferation of dishonest practices in the single market, while their work is often subject to strict budgetary constraints. In this context, the Committee calls for better use of scarce resources, better coordination between existing networks, development of new synergies between all actors, and new tools based on new technologies that can contribute to the effective implementation of EU law.

⁴ COM(2016) 821 final.

2. **Regarding the Communication Long term action plan for better implementation and enforcement of single market rules [COM(2020) 94 final] – INT/899**

2.1 Challenges for the single market

2.1.1 The single market is at the heart of the European project and has made the life of European consumers and businesses easier. An efficient single market should allow EU citizens to enjoy a wider choice of services and products and better job opportunities. The single market should stimulate trade and competition and is fundamental to achieving the EU's green, industrial and digital transformations.

2.1.2 To achieve this, Europe needs to establish criteria-based priorities and proceed on the basis of well-established criteria towards clear political guidance, giving absolute priority to people.

2.1.3 To strengthen cooperation on enforcement of single market rules, the European Commission announces the establishment of a Single Market Enforcement Task-Force (SMET), whose role is to assess the state of compliance of national law with single market rules, prioritising the most pressing barriers, addressing overregulation, discussing horizontal enforcement issues, and monitoring implementation of the proposed action plan. In this respect, SMET should lay down clear criteria to decide what the most pressing obstacles are according to their economic value.

2.1.4 The Commission also intends to use preventive mechanisms to: avoid new barriers to providing services in the single market; improve capacity to detect non-compliance; set up a platform for online enforcement (e-enforcement lab) to share information about illegal and non-compliant industrial and consumer products; establish a single European information entry point for authorities for controls on non-food products and the forthcoming Customs Single Window; ensure that the Internal Market Information system (IMI) becomes the default tool; create a tool allowing individuals and businesses to report anonymously on regulatory obstacles encountered by them in exercising their internal market rights; improve enforcement in relation to EU agri-food legislation (including animal and plant health); assess the integration of existing structures (such as the Consumer Protection Cooperation Network, the EU Product Compliance Network or the EUIPO observatory) and a laboratory funded under the Single Market Programme or the Digital Europe Programme to test and apply advanced IT solutions; strengthen the fight against counterfeit and illegal products, including illicit products produced or assembled in the EU from imported components, and extend OLAF's current mandate; strengthen enforcement in the agri-food chain; develop labelling and traceability systems by promoting the use of digital tools to allow for more targeted controls at the external borders and within the EU; make SOLVIT the default tool for single market dispute resolution; streamline the process for handling cases, carrying out a preliminary review of complaints within two months so as to establish the next steps; and use the EU Pilot system under clear conditions and timetables for cases where a quick solution within a short period appears attainable.

2.2 General comments

- 2.2.1 The EESC considers that completion and effective enforcement of the single market is paramount, being a means of delivering on the political objectives enshrined in the European Union's founding documents, rather than an end in itself.
- 2.2.2 The main barriers identified in the Communication are: regulatory choices at national and EU level; transposition, implementation and enforcement of legislation; administrative and practical capacity in the Member States; the general business and consumer environment; and underlying causes unrelated to public policy, such as language or culture.
- 2.2.3 Making SOLVIT the default tool: the EESC supports the aim of ensuring that SOLVIT procedures become the default tool for unjustified barriers on the single market. However it only has dialogue and soft power at its disposal; moreover, it cannot be used in parallel with litigations. The SOLVIT system needs a more structured procedure to refer important cases to the Commission. At the same time, it is important that SOLVIT works across all sectors and policy areas.
- 2.2.4 Improving *ex ante* assessments of restrictive regulation under the Proportionality Test Directive⁵ is a very welcome measure. However, the Commission should provide structured assistance and issue guidance to Member States on how to conduct *ex ante* proportionality assessments of newly planned national regulation of professions according to the Proportionality Test Directive. Moreover, stakeholder involvement during "proportionality testing" should be the norm rather than the exception.
- 2.2.5 Obtaining information and administrative procedures: the Single Digital Gateway is one way to digitally accommodate businesses' and consumers' needs for online information, but according to existing single market legislation, Member States must also inform companies through single points of contact. Various pieces of EU legislation provide for centralisation of single points of contact. These will be quickly integrated into the Single Digital Gateway, so companies and consumers will only need to refer to one place for assistance and information. Businesses should only receive a single, coordinated answer.
- 2.2.6 The EU is currently being shaken to its very foundations by both external factors such as the ongoing pandemic, which has caused many deaths and sown panic, tipping the entire EU economy into recession, and internal factors such as the absence of that surge of solidarity which brought about the birth of the Union. We are therefore asking ourselves what is needed to establish a single market that is not just a technical and legislative exercise, rethinking the entire model of the European project. It is absolutely reasonable to wonder whether a united Europe – as some imagined, many have struggled to build and others have undertaken to destroy bit by bit, at least since the rejection of the EU constitution – will still be here in 2050 and beyond as a model of freedom, a beacon of culture, a champion of peace, supporting good will between peoples and defending equal opportunities for men and women in a world without discrimination or barriers.

⁵ [OJ L 173, 9.7.2018, p. 25.](#)

- 2.2.7 The above is all the more true in this particularly difficult time, when Europe is being suffocated by a prolonged crisis that is systemic rather than just triggered by the current state of the economy: this is not just an economic and financial crisis, but also a crisis of social and cultural values. A fair number of citizens believe that the only credible solution is to set aside the purely monetary and economic approach in favour of a genuinely political Union.
- 2.2.8 The EESC believes that the COVID-19 crisis, which has affected all European countries, calls for a rethink of the whole system, not only in an organisational sense but also to generate new ideas and devise new business models.
- 2.2.9 Civil protection systems have not worked in every country to deal with the crisis. On the contrary, in many places those systems have failed: neither central governments, nor municipalities, nor citizens have shown that they were ready for an emergency, and responses have often been slow and costly, and sometimes baffling.
- 2.2.10 It has become apparent that in some areas Europe is dependent on third countries, a situation that requires a rethinking of certain foundations of the European Union, which must demonstrate a capacity to react and reorganise itself. Municipal, regional and state procurement, and support for local suppliers, will require particular attention: public procurement must become a guarantee of economic security.
- 2.2.11 Market-driven standardisation plays an important role under the "new approach", applied not just to products but to services as well.
- 2.2.12 There should be an accurate assessment of the need for and the efficiency and impact of the measures to be adopted, so that, when regulating services, those relevant to the single market are clearly distinguished from other services.
- 2.2.13 The EESC agrees with the Commission on the importance of all measures designed to promote the development, implementation and enforcement of EU law in the single market. Fields such as goods and services, public procurement, market surveillance, corporate law, contract and extra-contractual law, the fight against money-laundering, free movement of capital, financial services, competition and the development of tools for governance all urgently require the establishment of a single market which upholds the rights of individuals, producers, workers and consumers, without undermining balanced economic activity.
- 2.2.14 The EESC calls for a fair single market to take account of the need to comply with labour, consumer and environmental rules, in line with the newly proposed industrial strategy for Europe⁶, the circular economy principles set out in the Commission's programme. The EESC has already fully endorsed these principles and considers that Europe should take the lead in this area.

⁶ COM(2020) 102 final.

2.2.15 The EESC supports the decision to set up a Single Market Enforcement Task-Force (SMET), made up of the Member States and the Commission, in line with proposals and recommendations made by the EESC on a number of occasions⁷.

2.2.16 The EESC stresses the importance of fighting every single instance of overregulation and incorrect enforcement of the rules, which have so often undermined the proper functioning of the market. The EESC strongly asks to be represented in this task force at least as an observer.

2.2.17 As already stated in several of its previous opinions⁸, the EESC agrees with the Commission's identification of risks and delays in the completion of the single market linked to market fragmentation, discrepancies in enforceable rules, uncertainty regarding confidentiality of data, unscrupulous and not always controllable use of IT networks, and the fact that illegal services are available online, mostly due to the lack of enforcement through fiscalisation and penalties by the relevant parts of the Commission. The EESC recommends that the Commission DGs tackle these issues based on a cross-cutting approach.

2.2.18 The EESC regrets that EU laws are still not effectively enforced. European citizens need to have the right to meaningful collective action at European level, which should be introduced unambiguously and promptly; this would greatly help to guarantee, as a last resort, accountability for failure to comply with European rules and thus contribute to voluntary compliance with those rules⁹.

2.2.19 The EESC emphasises that very often the Member States themselves have breached agreed single market rules or created and tolerated obstacles in national law, with the aim of creating additional protection in their market and deriving advantages for national businesses. The gains are often very short term, but this harms SMEs and start-ups, along with individuals and consumers who are put at risk by non-compliant products or enjoy less choice.

2.2.20 For this reason, the EESC supports the Commission's call for the European Parliament and the Council to adopt the proposal for a Directive on the notification of national rules under the Services Directive¹⁰. However, the agreement should not undermine the existing Services Directive through exemptions from the notification obligation as regards territorial restrictions (including urban spatial planning) or by stripping the Commission of its current decision-making powers.

2.3 Specific comments

2.3.1 The scope of the single market means that the EU is able to create a multilateral, open, non-discriminatory and rules-based commercial system. Third-country businesses must comply with

⁷ See [OJ C 43, 15.2.2012, p. 14](#) and the other above-mentioned opinions.

⁸ See attached list.

⁹ The EESC has drawn up several opinions on this issue, including: [OJ C 309, 16.12.2006, p. 1](#), [OJ C 324, 30.12.2006, p. 1](#), [OJ C 162, 25.6.2008, p. 1](#), [OJ C 228, 22.9.2009, p. 40](#) and [OJ C 128, 18.5.2010, p. 97](#).

¹⁰ COM(2016) 821 final.

EU rules in order to gain access to the single market, including in fields such as health, the environment, food and product safety, and consumer protection.

2.3.2 The EESC endorses the Commission's decision to combine tools already in place to support the development of a single market with new tools (such as a central information point that civil servants in the Member States can refer to if they have practical questions, platforms for exchanges with Member States such as the one used for the Public Procurement Directives, and improved access to information on rules and requirements for users via the Single Digital Gateway).

2.3.3 The EESC recommends that the Commission add guidance on the following principles:

- a) subsidiarity and "double subsidiarity";
- b) mutual recognition;
- c) innovation and precaution;
- d) the general interest with respect to certain services (e.g. banking and insurance).

2.3.4 The EESC agrees with the decision to focus on public procurement. Administrators and beneficiaries of EU funds must be helped to improve their public procurement practices, so as to ensure a level playing-field and use procurement as a strategic tool for pursuing key policy objectives, such as circular economy principles.

3. **Regarding the Communication *Identifying and addressing barriers to the Single Market* [COM(2020) 93 final] – INT/908**

3.1 Barriers to the single market

3.1.1 The Commission's Communication to identify and remove barriers to the single market focuses on the 13 main barriers, demonstrating that they are not only regulatory or administrative, but also practical. Businesses and consumers operating in the EU often face several constraints at the same time. This concerns in particular small and medium-sized enterprises (SMEs), professionals and consumers.

3.1.2 In order to propose possible solutions at EU and Member State level, the Communication identifies five main root causes: regulatory choices at national and EU level; transposition, implementation and enforcement of legislation; administrative capacity and practices in the Member States; the general business and consumer environment; and root causes unrelated to public policy, such as language and culture.

3.1.3 Sometimes it appears that Member States breach agreed single market rules or create and tolerate obstacles in national law, with the aim of creating additional protection in their market and deriving advantages for national businesses.

3.2 General comments

- 3.2.1 The EESC acknowledges that the Commission's communication identifies the main remaining barriers to a real single market. These barriers are not only regulatory or administrative, but also practical, meaning that businesses and consumers operating in the EU often face several constraints at the same time. This has a negative impact on SMEs and liberal professionals in particular.
- 3.2.2 The EESC believes that an effective implementation strategy must: 1) be based on a strong partnership involving all stakeholders; 2) allow for greater cooperation at European level between the existing enforcement networks to ensure that infringements are targeted and complex problems affecting several sectors simultaneously are addressed; 3) develop strategies and means to efficiently target large-scale infringements of EU rules, where a single enforcement action can be taken to protect all stakeholders and ensure transnational law enforcement; 4) use the potential of new technologies to promote more efficient enforcement actions and closer market surveillance.
- 3.2.3 The EESC believes that for too long insufficient or inadequate application of EU rules has been the Achilles heel of EU law and has meant that many cases of fraud and illegal practices have not been tackled. Strong enforcement of EU law is essential to build consumer confidence and to ensure that businesses, employees and consumers use the full potential of the single market.
- 3.2.4 The damage caused to the single market by the COVID-19 crisis will amplify the damage caused by the UK's withdrawal from the EU. This could mean that when the pandemic is over, differences between EU countries in terms of economic development, social guarantees and levels of prosperity will increase, with consequences for the single market and its development.
- 3.2.5 The EESC believes that the current situation could well lead to the single market being reduced to a mere free trade zone – not the natural result of a supranational political project but just the lowest common denominator of countries' national interests.
- 3.2.6 The EESC therefore calls on the European institutions and civil society organisations concerned to clearly inform European citizens about the limitations of the single market so that they get a realistic idea of what they can actually expect from its realisation and enforcement. That makes it important not to impose either measures that may be superfluous and unjustified and which really only throw up barriers to the operation of businesses, particularly SMEs¹¹, including liberal professions, or full harmonisation, which is not defensible given that other principles must take precedence, for instance consumer rights and consumer protection. The single market must reflect the tenet of strength in diversity, which should be pivotal in European policy alongside harmonisation.
- 3.2.7 Standardisation plays an important role under the "new approach", applied not just to products but to services as well.

¹¹ [OJ C 376, 22.12.2011, p. 51.](#)

3.2.8 A long-term plan like the one drawn up by the Commission to remove remaining barriers is an ambitious and laudable undertaking, but it must be accompanied by substantial investment in information, warning, learning, training, integration and standardisation processes.

3.3 The social dimension of the single market

3.3.1 The EESC calls again on the Commission to take into account the social dimension of the EU in order to promote the creation of good-quality and effective jobs, promote cross-border mobility, improve capacities and skills, and step up investment in those SMEs which feel they are particularly limited by EU-imposed rules and benefit least from the status quo. For this reason, the EESC welcomes the adoption of the SME strategy for a sustainable and digital Europe.

3.3.2 The EESC considers that the rules laid down for the single market are useful only in so far as they contribute to the development of a healthy social market economy with a view to preventing poverty, inequality, discrimination and social exclusion, with a particular emphasis on ensuring that young people have a place in society.

3.3.3 There is a strong feeling among SMEs and employees that they are the ones hit hardest by the economic crises, the introduction of the euro and now the very serious pandemic which has pushed the European economy into recession. This means that every measure in support of a European single market must entail more straightforward, direct and effective communication, less red tape and rules that can be understood by everyone.

3.3.4 The EESC also calls for the future green economy measures and the Commission's single market action plan to include rules on the social economy sector so as to guarantee a level playing field for social economy enterprises and promote the development of this sector.

3.3.5 Support for young entrepreneurs and innovative products and services is a key aspect of the programme to deliver the single market. The EESC endorses the decision to support new business models, namely the circular economy, advanced technologies, low CO₂, resource-efficient solutions and other initiatives intended, for instance, to promote businesses' international dimension, attract talent and improve staff skills.

3.3.6 The EESC agrees that SMEs investing in digital projects should be supported. Projects should also be designed so as to benefit businesses, consumers and civil society as a whole.

3.4 Specific comments

3.4.1 The EESC emphasises the difficulties that European companies have when competing in global markets with oligopolies or monopolies, which are state-owned in certain cases. Examples include the railway industry, air transport and wind power, where European companies face ferocious competition (from third-country and, in particular, Chinese companies).

3.4.2 The EESC stands by the Commission in its fight to ensure the product compliance of online platforms so that illegal and unsafe products are not placed on the market. It emphasises the

importance of every single measure designed to check the compliance of products sold on online platforms and to try and ensure product safety in the global online supply chain.

3.4.3 However, the EESC would like to recommend that the Commission also consider, as part of this exercise, matters like artificial intelligence, commercial communications, marketing and advertising, legal and contractual guarantees in the sale of goods and services, and specific provisions for the implementation and enforcement of the internal market in the banking and insurance sectors.

Brussels, 15 July 2020

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The President of the European Economic and Social Committee
