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PART 1/2

**COMMISSION STAFF WORKING DOCUMENT**

**IMPACT ASSESSMENT**

*Accompanying the document*

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL**

**establishing the Programme for single market, competitiveness of enterprises, including  
small and medium-sized enterprises, and European statistics and repealing Regulations  
(EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014, (EU) No 258/2014, (EU) No  
652/2014 and (EU) No 2017/826**

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## Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
CHAFEA	Consumers, Health, Agriculture and Food Executive Agency
COSME	Europe's programme for small and medium-sized enterprises
DG COMP	Directorate-General Competition
DG DIGIT	Directorate-General Informatics
DG ESTAT	Directorate-General Eurostat - European statistics
DG FISMA	Directorate-General Financial Stability, Financial Services and Capital Markets Union
DG GROW	Directorate-General Internal Market, Industry, Entrepreneurship and SMEs
DG JRC	Directorate-General Joint Research Centre
DG JUST	Directorate-General Justice and Consumers
DG SANTE	Directorate-General Health and Food Safety
DG TAXUD	Directorate-General Taxation and Customs Union
EASME	Executive Agency for Small and Medium-sized Enterprises
EEA	European Economic Area
EFTA	European Free Trade Association
GDP	Gross Domestic Product
MFF	Multiannual Financial Framework
NGOs	Non-governmental organizations
REFIT	The Commission's Regulatory Fitness and Performance programme
SMEs	Small and medium-sized enterprises
SMP	Single Market Programme
TFEU	Treaty on the Functioning of the European Union

## 1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

The Single Market is a cornerstone of the European Union. Since its inception, it has proved a major contributor to growth, competitiveness and employment. It is one of Europe's major achievements and its best asset in an increasingly global world. It is also an engine for building a stronger, more balanced and fairer EU economy. To fully deliver the Single Market on the ground, the substantial body of EU legislation and standards underpinning it is not sufficient in itself. Adopting rules is only one part of the picture; making them work is just as important: citizens and businesses need to know their rights, local administrations need to know how to apply the rules and courts need to know how to enforce them. This means information tools, training programmes or emergency mechanisms need to be in place. Financial support within the EU Budget is thus indispensable to help ensure the effective operation of the Single Market. This is ultimately a matter of trust in the EU, in its capacity to create growth and jobs while protecting the public interest.

The achievements of the Single Market are not irreversible. They will require continued investment in the future not only to be preserved but also to achieve their full potential and for the EU to be able to address new economic challenges. In view of the increasing pressure from global competitors and in the absence of appropriate financing, there is a risk that the effectiveness of the Single Market would be undermined and that fragmentation and protectionist tendencies within the EU could increase. This would in turn impact the way citizens perceived the benefits of European integration. The EU has an interest, therefore, in ensuring that such support framework continues to function to the benefit of the EU economy and citizens.

### 1.1. Scope and context

One of the priorities of the Juncker Commission is to establish a deeper and fairer Internal market, as shown in particular by the adoption of the Digital Single Market<sup>1</sup>, of the Single Market Strategies<sup>2</sup> and the Capital Markets Union Action Plan<sup>3</sup>, all in 2015. A strong Single Market is also seen as a precondition for a stronger Union in the President's "6th scenario" for the future set out in the State of the Union speech of 2017<sup>4</sup>. This requires a consistent effort in all the relevant fields of the Single Market. To be in a better position to tackle them, in a context of budgetary constraints, the EU needs to seek synergies and prevent duplication and fragmentation in its support to the Single Market. It also needs to ensure greater visibility and coherence of its action towards Single Market users, who may find in particular the proliferation of tools and support programmes confusing.

Strengthening the governance of the Single Market is also fully in line with the numerous Council conclusions or European Parliament Resolution dealing with the Single Market most notably in the *Competitiveness Council conclusions of 29 February 2016 on the Single market strategy (Ref 6622/16)* and of the *Resolution of the European Parliament of 26 May 2016 on the Single market strategy (Ref. 2015/2534 (INI))*.

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1 COM(2015) 192 final "A Digital Single Market Strategy for Europe"

2 COM(2015) 550 final, Upgrading the Single Market: more opportunities for people and business

3 COM(2015) 468 final, "Action Plan on Building a Capital Markets Union"

4 [http://europa.eu/rapid/press-release\\_SPEECH-17-3165\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm)

As a result, the Commission concluded on the need to propose a programme for the Single Market for the next multiannual financial framework.

At the time of submission to the Regulatory Scrutiny Board<sup>5</sup> various scenarios for the COSME, ISA<sup>2</sup> and Health programmes were under discussion. Either programme could remain integrated in the Single Market Programme or adopted as part of another programme or, in the case of COSME, part of the programme could be moved to the InvestEU Fund. If any of these programmes or parts of them were to be adopted under another programme, the present impact assessment would nevertheless remain valid by disregarding the relevant elements.

Following the finalization of this Impact Assessment the loan guarantees for SMEs previously provided for under the COSME programme, will be implemented under the SME window of InvestEU<sup>6</sup> in a format further described in this impact assessment<sup>7</sup>.

After the submission of this impact assessment to the Regulatory Scrutiny Board a political decision was taken by the Vice-Presidents that the Health programme will be implemented as part of the European Social Fund+. Through different actions, the Health programme and the Food Chain programme aim to ensure a high level of health protection (of humans, animals, plants) in the Single Market as mandated by Articles 114 and 168 TFEU. In other words, they contribute fully and appropriately to the objectives of the Single Market programme, notably (but not exclusively) to the objective of ensuring that the operation of the internal market "take(s) as a base a high level of protection" in matters concerning health.

On the other hand, measures under the Health programme are also characterized by a strong social dimension, in that they also aim to address health inequalities and health social determinants, issues which citizens and stakeholders in general consider to be better addressed in conjunction with other measures of the EU social pillar. The results of the open public consultation for the Internal Market programme indeed confirm citizens' and stakeholders' views in that sense, without questioning the relevance of the Health programme measures for the functioning of the Single Market or their objectives.

This means first that, when the Health programme be integrated into the European Social Fund+ framework instead of the present programme, its measures will continue to play a key role in ensuring the smooth functioning of the Single Market (for patients moving across borders, for products – pharmaceuticals, medical devices, blood, organs, etc.). Secondly, that the health dimension and objectives of the Internal Market programme will remain valid, and they will be pursued both through the measures of the Food Chain programme and through synergies to be established with the Health programme. To all extent and purposes, the Health programme impact assessment was an integral part of the Single Market programme impact assessment.

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<sup>5</sup> On 28 March 2018.

<sup>6</sup> COM (2018) 321 final "A Modern Budget for a Union that Protects, Empowers and Defends, The Multiannual Financial Framework for 2021-2027". Pages 18 – 19 indicate that the loan guarantees for SMEs will be delivered through the relevant window of the InvestEU Fund through an amount of € 2 billion attributable to this programme but allocated under the InvestEU Fund.

<sup>7</sup> See programme-specific annex 15, COSME Subannex – Access to Finance for SMEs

Implementing these actions through other MFF programmes changes the size of the programme but does not materially alter the objectives, suggested programme structure and delivery mechanisms for the Single Market Programme. Non-participation of any of these programmes may affect certain synergies quantitatively but not qualitatively as these synergies could still be partially achievable.

A stand-alone Impact Assessment for COSME<sup>8</sup>, ISA<sup>2 9</sup> and the Health Programme<sup>10</sup> have been drafted and are annexed to the Single Market programme. For the purpose of presenting the impact assessment for the Single Market Programme, these elements will remain included in the further analysis.

The baseline for this impact assessment includes both the current MFF and the theoretical impact of the departure of the United Kingdom from the EU (EU27 baseline scenario)<sup>11</sup> for 14 programmes and budget lines dealing with specific aspects of the Single Market. The total current budget is just under €6bn or 0.55% of the total EU28 budget meaning that the existing programmes and budget lines provide substantial EU value added with a very limited impact on the EU budget.

Following upstream guidance from the Regulatory Scrutiny Board (RSB) this impact assessment will focus on the merging of the existing programmes and not analysis of the individual programmes and budget lines<sup>12</sup> described in table 1.1, along with the additional commitments undertaken since the adoption of the current MFF by the Commission as described in table 1.2<sup>13</sup>. It also includes the analysis of proposed new interventions to support the functioning of the Single Market under the new MFF as described in table 2.1.

Potential benefits of grouping existing programmes and budget lines together, such as flexibility in terms of fund allocation, simplification of programme structure, management and delivery modes and exploitation of synergies (e.g. avoiding duplication of efforts or common actions), will be explored.

This impact assessment satisfies the requirements of the Financial Regulation in respect of preparing an ex-ante evaluation.

The selected programmes and budget lines under the current multiannual financial framework are united by their shared objectives to regulate, implement, facilitate, enforce and protect various activities and actors within the Single Market regulatory framework. Thus they are all, in their different ways, essential for the functioning of the Single Market. The selected budget lines include activities that support delivery of the Single Market in the wider sense, such as the need to safeguard the health of humans, animals and plants, so as to preserve a well-functioning Single Market and its resources and its activities. It includes supporting business opportunities for SMEs through access to finance and new markets and encouraging the entrepreneurial spirit in the Single Market. These programmes and budget lines are an important contribution to empower citizens,

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<sup>8</sup> See Programme-specific annex 15

<sup>9</sup> See Programme-specific annex 5

<sup>10</sup> See Programme-specific annex 16

<sup>11</sup> I.e. 2014-2020 MFF commitments minus 15%

<sup>12</sup> The programme specific annexes provide description and analysis of individual programmes and are prepared in accordance with the same guidelines as the main document. (see annex 4-18).

<sup>13</sup> These additional commitments are to be added to the Baseline EU 27 scenario

consumers, businesses and administrations in the Single Market. They are included in the scope of the Single Market programme to ensure their uninterrupted delivery.

Furthermore, it should be noted that, while it undoubtedly contributes to the delivery of Single Market policies, the European Statistical Programme covered by this impact assessment has a transversal character which is wider than the Single Market as it serves all policies of the Union based on Article 338 TFEU. Therefore it is important to ensure that the inclusion of the European Statistical Programme in the scope of this programme does not jeopardise the continued provision of high quality statistics on Europe to support the design, monitoring and evaluation of all Union policies, including empowering businesses and citizens to take informed decisions.

**Table 1.1 Initial commitments under the scope of the Single Market Programme**

Programme/ Budget line	Current MFF EU28 (m €)	EU27 baseline scenario (m €) <sup>14</sup>	Description
1. Interoperability solutions and common frameworks for European public administrations, businesses and citizens as a means for modernising the public sector (ISA <sup>2</sup> programme)	180	153	The programme supports the development of digital solutions that enable public administrations, businesses and citizens in Europe to benefit from interoperable cross-border and cross-sector public services.
2. Implementation and Development of Single Market for Financial Services	25.9	22	This budget line covers measures contributing to the completion of the internal market and its operation and development in the area of financial services, financial stability and capital markets union. It covers expenditures on consultations, studies (including conformity assessment of the legislation), surveys, evaluations, meetings of experts, information activities, awareness raising, training materials, publications and development of policy-related IT systems.
3. European Statistical Programme (ESP)	452.8	384.9	The programme provides high quality statistics on Europe using multiple data sources, advanced data analytics methods and digital technologies to support the design, monitoring and evaluation of all Union policies, including Single Market policies. The statistics provided through the programme will also empower businesses and citizens to take informed decisions in the Single Market and beyond.
4. Standards in the field of reporting and auditing	57	48.5	The programme provides EU funding to three European and international organisations in the field of financial reporting and thereby underpins the EU legal framework on financial reporting (accounting and auditing) and trust in the Single market for financial services.
5. Enhancing the involvement of consumers and other	6 <sup>15</sup>	8,9 <sup>16</sup>	The programme supports the development of financial expertise in organisations representing European end-users and other non-industry stakeholders thereby empowering consumer

<sup>14</sup> Baseline scenario showing 15% reduction following a EU27 scenario. Calculated on the amounts for MFF (EU28) for the individual programme/budget line. Such baseline scenario is without prejudice of the budgetary resources established in the context of the next MFF and any subsequent decision on the repartition of budget among the different specific programmes which are part of the proposed Single Market Programme.

<sup>15</sup> Covering only 3.5 years (from mid-2017 until 2020).

<sup>16</sup> Covering 7 years based on an average of 1.5 per year (10.5 m).

Programme/ Budget line	Current MFF EU28 (m €)	EU27 baseline scenario (m €) <sup>14</sup>	Description
end-users in Union policy-making in financial services (ICFS)			interactions in the Single Market for financial services markets.
6. Company Law prerogative	9.2	7.8	The budget line has supported studies with a view to making company law and corporate governance more transparent and efficient in the Single Market; performed studies on cross-border mobility of companies; Commission assessment of third countries Anti Money Laundering (AML) regimes; transposition checks of the AML Directives and membership of the Financial Action Task Force on Money Laundering.
7. Consumer Programme and the consumer and contract law part of the Rights Equality and Citizenship programme (REC)	188.8	160.5	The programme promotes the development and enforcement of consumer rights, product safety and supports measures to inform and empower consumers in the Single Market. The programme also supports the integration of consumers' interests in other policy areas and monitors, supports and supplement consumer policies in Member States. The REC Programme also aims at enabling individuals in their capacity as consumers or entrepreneurs in the internal market to enforce their rights deriving from Union law.
8. Internal market: Governance tools	29.1	24.7	The Internal market governance tools aim to provide information, advice, assistance and problem-solving services helping citizens and businesses move, operate and live in other member states, as well as facilitating those exchanges between public administrations provided by Single Market regulations.
9. Internal market: Support to Standardisation activities	159.6	135.7	The budget line provides support to European standardisation activities to facilitate circulation of products in the single market and to ensure compliance with the safety requirements imposed by European legislation.
10. Internal market: operation and development of the internal market for Goods, Services and Public Procurement	159.3	135.4	The budget line supports removing and preventing barriers on the Single Market by the enforcement of EU services and product rules including via market surveillance, conformity assessment and accreditation, mutual recognition, translation under the Single Market Transparency Directive <sup>17</sup> , support for policy-making in services, support for public procurement, and support for a number of sectoral purposes on harmonised product rules.
11. COSME	2357	2003.5	The Programme creates an environment favourable to the competitiveness of SMEs within the Single Market and beyond by encouraging an entrepreneurial culture, providing access to finance, supporting internationalisation, industrial modernisation and access to markets.
12. Health programme	449.4	382	The programme supports the improvement of public health, preventing and managing diseases, mitigating sources of danger to human health, including by harmonising relevant legislation and focuses on improving the health of EU citizens and reducing health inequalities, encouraging innovation in health and increasing the sustainability of health systems and defending the EU against cross-border health threats so as to preserve a well-functioning Single Market.
13. CFF for food chain (the Food Chain Programme)	1891.9	1608.1	The Common Financial Framework ensures that the EU has a legal framework to promote high levels of safety necessary for ensuring the free circulation of food, animals and plants in the

<sup>17</sup> Directive 2015/1535



Programme/ Budget line	Current MFF EU28 (m €)	EU27 baseline scenario (m €) <sup>14</sup>	Description
			Single Market and for safeguarding and protecting the health of EU citizens.
14. Customs and tax policy development support budget line	22.6	19.2	The budget line finance a series of punctual activities – mainly studies - which support the Commission in its policy developing role in the area of EU customs and tax policy which are both important for a well-functioning Single Market.
<b>Total</b>	5988.4	5090.1	

Whereas this Impact Assessment does not discuss the budgetary allocations for the overall programme and each of its components, it is important to note that the initial assumption provided for its preparation was to base this proposal on the basis of the current 2014-2020 MFF allocations. Concretely, this represents that the contents in terms of activities and actions included in each of the individual programmes in this Impact Assessment and its annexes are based on the assumption of that minimum baseline (MFF 2014-2020).

The EU-27 budget scenario is equivalent to approximately 1% of EU GNI following the UK's departure, i.e. entailing a 15% cut in relation to the current 2014-2020 MFF allocations (so called "EU 27 baseline scenario").

Bearing in mind that this programme is the added sum of a large number of programmes, some with an already limited budget, considering a 15% (or €0.9bn) reduction would have a direct impact and would impede some of the actions considered in this impact assessment (e.g. cuts would impair the collective capacity of the European statistical system to make the necessary investments in digital technologies and new data sources to produce in-time statistics with the required level of disaggregation across regions and population groups which will result in a reduction of statistical production across policy areas).

Compared to the baseline in 2014 the Commission has undertaken a number of new commitments during the current MFF that would also need to be financed under the next MFF as described in table 1.2.

**Table 1.2 – Additional commitments by the Commission from 2014-2020**

Commitment	Budget (m €)	Description
<b>Health Technology Assessment (HTA proposal)</b> COM(2018) 51 final	17 per year <sup>18</sup>	Health Technology Assessment (HTA) proposes a mechanism for EU cooperation to help make innovative health technologies available to Europe's patients, make better use of available resources and improve business predictability. The proposal seeks to ensure that when HTA is performed, the methodologies and procedures applied are more predictable across the EU and that joint clinical assessments are not repeated at national level, thereby avoiding duplication and discrepancies.
<b>Goods package</b> COM(2017)795	13.7 pr. year under new MFF	The Goods Package addresses existing shortcomings of mutual recognition and market surveillance identified in the Single Market Strategy and foresees a set-up of a European Product Compliance network to enhance

<sup>18</sup> Budget decision not finalised

		enforcement. Mutual recognition: average 1M€/year under new MFF; Market surveillance: 22 M€/year under new MFF).
<b>Procurement strategy COM(2017)572 and Ex-ante assessment mechanism COM(2017)573</b>	0.6 pr. year	The procurement strategy sets out the priorities to improve the functioning of public procurement in the EU, in particular to use procurement more strategically, deliver better value for public money and better outcomes for citizens and society, and a better functioning of the internal market. The Commission commits to assisting Member States by developing a range of support tools in 6 priority areas. In particular, the roll-out of large infrastructure will be supported by the "ex-ante assessment mechanism for large infrastructure projects".
<b>Single digital gateway COM(2017)256</b>	2.33 pr. year	Integrates access to information, procedures and assistance at European and national levels and provides citizens and businesses with easier access to information tools and problem solving services and imposes an obligation for full online access to the most important procedures on Member States
<b>Type approval and market surveillance of motor vehicles COM(2016) 31 final</b>	16 until 2020 and 4.3 pr. year post 2020	Provides new Regulation on type approval and market surveillance of motor vehicles to assure that the new rules are followed and avoid the provision of non-conform products to the European citizens.
<b>New Deal for consumers (expected 11/04/2018)</b>	1.36 in 2019-2020 and 4.8 pr. year post 2020	Targeted amendments to 5 consumer law directives and revision of the injunction directive plus a package of non-legislative actions in order to better support enforcement of consumer rules. The objectives are to provide consumers with additional tools to defend their rights; strengthen redress by giving an added role to non-profit organisations for the collective defence of consumers in 'mass harm situations'; enhance product safety, and ensure equal treatment and empowerment of consumers.
<b>Action Plan: Financing sustainable Growth COM(2018)97 final</b>	Budget allocation not yet defined	Roadmap to boost the role of finance in achieving a well-performing economy that delivers on environmental and social goals as well. This Action Plan is also one of the key steps towards implementing the historic Paris Agreement and the EU's agenda for sustainable development.
<b>Proposal to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market COM(2017) 142 final</b>	2.3 per year	The main objective of this legislative initiative is to make sure that the full potential of the decentralised system of enforcement of EU competition rules put in place by Regulation (EC) No 1/2003 is realised, by empowering the National Competition Authorities to be more effective enforcers. This will boost effective enforcement of the EU competition rules. It will also underpin close cooperation in the European Competition Network.
Total based on available information	€45m per year, €315m during a 7 year MFF programme	

Taking existing (Table 1.1) and additional (Table 1.2) commitments together, the reference baseline budget would amount to €6.3bn or €5.4bn in the EU27 baseline scenario.

On 2 May 2018, the European Commission adopted its proposals for a new Multiannual Financial Framework (MFF) for 2021-2027. It included the Single Market Programme as one of the proposals. This impact assessment report reflects the decisions of the MFF proposals and focuses on the changes and policy choices which are specific to the Single Market Programme.

### **Exclusions from the scope and coherence with other MFF programmes**

The Single Market programme will function alongside other programmes with relevance for delivering the Single Market on the ground.

The cooperation activities supported under the **Fiscalis** and **Customs** programmes represent key elements to strengthen the Single Market. The customs union is a foundation of the Union and an enabler of the Internal Market and other EU political priorities. It has a key function not only in its traditional role of duty collection for the Union budget but also because customs authorities hold a central role in ensuring external border and supply chain security, contributing to the security of the European Union. As a result, Customs were not included into the Single Market programme due to their relevance under the security heading. Fiscalis has obvious links to the Single Market but supports a policy domain that remains subject to Member States' sovereignty and is based on the principle of unanimity in Council. Hence the decision not to have it merged with other Single Market programmes, which relate to areas under co-decision and/or falling under the exclusive competence of the Commission. However custom authorities still play an important role when controlling the safety or conformity of imports of food and non-food products. (30% of goods come into the Single Market from third countries). Import controls require close cooperation between customs and market surveillance, joint actions, linking up of IT systems at EU level as well as capacity building in Member States to align national systems.

The effectiveness of the Single Market Programme, notably its public authorities' cooperation, is also dependant on the effectiveness of the **Digital Europe** programme as it will provide the digital interoperability and infrastructures needed by a number of EU programmes. As this programme is intended to be a major infrastructure programme under the new MFF, it has been decided not to distinguish digital Single Market issues from its broader infrastructure focus. Generic solutions developed under the Digital Europe Programme will be streamlined, made fit-for-purpose so they can be integrated into the IT solutions supporting the Single Market under the Single Market Programme. Common governance for the IT Interoperable solutions inside and outside the Single Market Programme could further increase the coherence across programmes. Artificial intelligence, big data analysis, access to data sources and other IT related issues form a core part of the Competition programme. As these activities also feature in the Digital Europe programme, the effectiveness of the Single Market Programme, including the Competition programme, will be boosted by the Digital Europe programme. Close cooperation and planning among services will facilitate the combination of measures from the Health programme and from the Digital Europe Programme to support Member States' efforts toward digitalisation of health services; and measures from the Health programme combined with expenditure from the structural funds to foster investments that are in keeping with the need to increased resilience and efficiency of health systems.

The **European Social Fund** and **ERASMUS+** will act as a catalyst to foster labour and youth mobility. As both will become major programmes in the field of investing in people under the new MFF, it has been decided not to distinguish free movement of workers issues from such a broader focus.

The **European Regional Development Fund** provides important support to SMEs, start-ups and scale-ups via financial instruments, grants for SME innovation, business-research cooperation, technology transfer and advisory services (including results stemming from other Union programmes), take-up of energy and resource efficient production methods, support to internationalisation, clusters and networking, and

provision of infrastructures facilitating business development (e.g. broadband access, FabLabs, demonstrators, science parks) and improving institutions and governance (e.g. via eGovernment). The focus of the ERDF programmes are regionally and locally relevant impacts, in particular helping SMEs to benefit from digitisation, decarbonisation, circular economy and globalisation opportunities based on Smart Specialisation Strategies. Around 4% of the ERDF budget also supports trans-national cooperation, including to foster administrative cooperation, capacity building and integration among Member States. The Single Market Programme will take these investments into account when designing its work programmes in order to ensure complementarity.

Also, the programme will encourage SMEs to benefit from breakthrough innovation and other solutions developed under other EU programmes like the **9<sup>th</sup> Framework Programme** and the **Space programme**. On Support to innovation Horizon 2020's SME instrument covers the business development and prototyping phases whilst COSME provides support to recipients via EEN and Financial Instruments. Finally, and subject to the caveat expressed in the section 1.1 Scope and context, the budget for the SME guarantee facility attributed to the COSME programme will be implemented under the SME window of the **InvestEU** Fund.

The Food Chain programme actions, such as veterinary measures in case of animal health crises implying culling of animals and decontamination of farms, could be complemented by market based interventions from the EU's **Common Agriculture Policy (CAP)** programming. The inclusion of the Health programme in the **ESF+** will foster synergies with the Single Market programme, notably through actions on Antimicrobial Resistance with the Food chain program, which is part of the Single Market Programme.

## 1.2. Lessons learned from previous programmes

Given the significant divergence in size, scope and organisation of the individual programmes and budget lines there is also significant divergence in the depth of lessons that can be extracted from each programme/budget line. The main lessons learned in individual programmes and budget lines included in the Single Market Programme are summarised in table 1.3<sup>19</sup>.

***Table 1.3 Main lessons learned in programmes and budget lines included in the Single Market Programme***

Programme/ line	Budget	Description
Interoperability solutions and common frameworks for European public administrations, businesses and citizens as a means for modernising the public sector (ISA <sup>2</sup> programme)		The final evaluation of the previous ISA Programme was largely positive, describing the ISA programme as aligned with the policy priorities of the European Commission and the needs of Member States were implemented efficiently and coherently, delivering results that are reused by both Commission services and Member States. It was highlighted the need to further engage the stakeholders, mainly policy domain owners and major national Member States administrations during the whole lifecycle of the definition and implementation of solutions; The use of pilots with the MS where they can tailor and test in the field how to integrate

<sup>19</sup> The programme specific annexes provide full description and analysis of individual programmes (see annex 4-18).

Programme/ line	Budget	Description
		and benefit from the adoption ISA2 funded solutions has proved to be quite successful for both sides (the solution owner and the user Member State).
Competition programme		Studies have shown the macroeconomic impacts of EU competition enforcement to be significant. Major lessons in terms of identifying new and growing challenges have also been learnt in the day-to-day enforcement of EU competition policy. These include a more complex and demanding IT and data driven world (increasingly sophisticated IT tools used by firms, continuous increase in the volume of electronic communications and the use of artificial intelligence, big data and algorithms) as well as the need for a wider and deeper engagement with national authorities and courts. Findings from a number of surveys demonstrate that there is scope for reaching out to a wider group of stakeholders impacted by EU competition policy.
Implementation and Development of Single Market for Financial Services		The diversity of the actions undertaken under this programme (studies, surveys, subscriptions to databases, development and maintenance of information systems in support of the business, etc.) enabled the Commission to adapt its policies to a wide-ranging and constantly changing environment and to adopt evidence-based proposals following a broad consultation with stakeholders. This influenced for example the progress made on the implementation of the Capital Markets Union Action Plan, the Consumer Financial Services Action Plan as well as the progress made on the Banking package to improve resilience and reduce risks in the banking sector.
European Statistical Programme (ESP)		The two mid-term evaluations of the ESP demonstrate that the current delivery mechanism works effectively and that the programme is run efficiently and is reaching its objectives. The ESP provides a clear EU-added value, thanks to the harmonised provision of comparable and high-quality data for the EU. However, the evaluations also show the need to ensure adequate resources in the future for the modernisation of the statistical production processes, to be able to respond to the growing needs of the users, especially concerning timeliness and coverage of new data for emerging policy needs, while becoming more agile and taking advantage of new technologies.
Standards in the field of reporting and auditing		In the context of the programme on standards in the field of financial reporting and auditing the Commission carried out an ex-ante evaluation in 2012, an evaluation in 2014 and annual evaluations as from 2015. The results of such evaluations clearly show that the objectives of the programme were achieved and that therefore the current funding delivery mechanisms function effectively and will ensure performing results also within the context of the new SMP.
Enhancing the involvement of consumers and other end-users in Union policy-making in financial services (ICFS)		The financing of Better Finance and Finance Watch through the current DG FISMA capacity building programme as well as previous pilot projects and preparatory actions enhancing the involvement of consumers and other end-users in Union policy-making in financial services, was also a success which enabled both organisations to grow as expert non-industry organisations with complementary profiles bringing high European added value in pursuing planned objectives. The continuation of such funding mechanism within the new SMP would allow the EU to successfully pursue the same objectives of predecessor programmes whose EU relevance is constantly increasing.
Company Law prerogative		The budget line "Company law" for company law/corporate governance and anti-money-laundering/counter terrorism financing has not been subject to evaluation or consultation due to the fact that it was financed under the Commission's prerogatives under Article 54(2) of the Financial Regulation. Experience in executing the budget shows that there could be potential synergies for instance for studies, where, company law and anti-money laundering policies, could benefit from activities funded under other policy fields of the future Single Market Programme to the extent that this allows covering the topics on which carrying out a study in these specific policy areas is required.
Consumer Programme and the consumer and contract law part of the Rights Equality and		The ongoing evaluation of the Consumer Programme shows a general satisfaction of the stakeholders in terms of relevance and effectiveness of the activities. The European Consumer Centres, E-enforcement academy, and the RAPEX system, scored highly, as well as the support to BEUC and for all the networking and

Programme/ line	Budget	Description
Citizenship programme (REC)		stakeholders events. Overall the objectives and priorities of the Consumer Programme are assessed as being still fully relevant and should be continued. Additional priorities could be given to sustainable consumption, a uniform and high level of consumer protection throughout the EU, support to consumer organisations at the Member State level (e.g. jointly with the Member States in their role as consumer watchdogs). Finally, experience shows that the programme should enjoy a higher degree of flexibility in order to better address new market challenges driven by fast and often unpredictable societal and technological changes.
Internal market: Governance tools		Continuous investment in boosting the quality, the visibility and the transparency of these tools (Your Europe, Your Europe Advice (YEA), SOLVIT, the Internal Market Information system) is needed to keep helping citizens and businesses to efficiently use their Internal Market rights, but also to cope with increasing cross-border mobility and activity and further digitalisation of the single market, i.e., a comprehensive upgrade of the Your Europe portal will be required, as the single digital gateway will be based on the Your Europe portal with a new common user interface (search engine) managed by the Commission
Internal market: Support to Standardisation activities		The evaluation confirmed that the existing Regulatory framework fits the objectives but showed areas for improvement at policy and operational level. At policy level the main lessons learnt concern: a) speed and timeliness elaboration of standards; b) inclusiveness of weaker stakeholders representing consumers, environmental, workers interests and especially of SMEs which link innovation with standardisation in the standardisation process c) support to competitiveness of European businesses at global level; d) enhance communication channels between the Commission and the European standardisation system. At operational level the main lessons learnt concern the need to: a) • Speed up and simplify the administrative procedures for conclusion of grant agreements , reporting requirements and providing practical guidance on the procedures by use of IT; b) move further towards a more performance-based system.
Internal market: operation and development of the internal market for Goods, Services and Public Procurement		The REFIT evaluation on the functioning of market surveillance found that the current approach of financing individual joint actions of market surveillance authorities without a more coherent framework for coordination has little effect in curbing the tide of non-compliant products that can be found on the single market. In addition, while national authorities professed a willingness to participate in joint actions, they criticised the heavy administrative burden that joint actions represent. The evaluation found that the problem of non-compliant products within the Single Market is driven by four main factors, namely (1) fragmentation of the organisation of market surveillance in the EU, (2) resources constraints for market surveillance authorities, (3) low deterrence of the current enforcement tools, notably with respect to imports from third countries and e-commerce and (4) important information gaps (i.e. lack of awareness of rules by businesses and little transparency as regards product compliance). The REFIT evaluation on the functioning of Mutual recognition found that another problem highlighted by the Single Market Strategy is the suboptimal functioning of the mutual recognition principle. Its inadequate application makes it harder for companies seeking access to markets in other Member States, leading to lost opportunities for the economy at large. Economic operators are often required to produce specific documentation or carry additional tests; this increases their costs and discourages them from expanding to new markets.
COSME		The interim evaluation for COSME <sup>20</sup> concluded that the programme is highly relevant in fostering economic growth and creating employment opportunities and is strongly aligned to the evolving needs of SMEs. Its strength lies in the use of intermediaries who have a direct and longstanding contact with SMEs for the implementation of the programme. This allows customised SME support tailored to specific sectors, such as tourism, textiles, creative industries etc. and to reach a high multiplier effect of actions. The COSME loan guarantee facility has delivered

<sup>20</sup> <http://ec.europa.eu/DocsRoom/documents/28084>

Programme/ line	Budget	Description
		significant impact on the ground and has also been positively evaluated by the European Court of Auditors.
Health programme		The mid-term evaluation of the 3rd Health Programme concluded that the programme has overall valid and appropriate objectives in place leading to actions which are relatively focused and generate EU added value while accommodating existing needs and challenges. Stakeholders participated in the mid-term evaluation through various consultations including an open public consultation on the relevance, added value, efficiency, effectiveness, and coherence of the programme. They signalled some concerns about administrative burdens in the programme's implementation and the need to strengthen communication and dissemination about its actions and results.
CFF for food chain (the Food Chain Programme)		The mid-term evaluation confirmed that the added value pursued through the programme (the first drawing together of all such actions) was delivering the desired objectives, and that the objectives and areas of action remain valid. In the open public consultation, concerns were raised about the impacts of measures that had to be taken after the outbreaks of "Xylella" (a plant pest) in southern Europe, thus confirming the need to focus more on monitoring and prevention in the phytosanitary area.

### *1.2.1. Key lessons learned from previous programmes*

This section will extract key lessons common to all Single Market sub-programmes. These can be grouped into four main areas, as well as for the cross cutting objectives of the new MFF.

#### **1) Empowerment of citizens, consumers and businesses in the Single Market**

Businesses need information and assistance on product requirements, authorisations, taxes, registrations and support to access to finance; and citizens and consumers on practical formalities when moving abroad or purchasing safe goods and services in another country. Despite this, stakeholders in the open public consultation (40%) cited the lack of sufficient information and communication about programmes as one of the important obstacles reducing benefits of EU programmes.<sup>21</sup>

Tools like Your Europe portal, Your Europe Advice, SOLVIT, Internal Market Information (IMI) system and the Single Market Scoreboard provide information, advice, assistance and problem-solving services based on close cooperation with national administrations and monitor the performance of the Single Market. Within the Commission, the Your Europe portal has become the primary EU portal in 2018 for information to citizens and businesses and the third-most consulted inter-institutional EU portal with 20 million visits in 2017.

Every year the European Consumer Centres Network (ECC-Net) assist about 100.000 consumers to resolve disputes with traders from another Member State and an amicable solution found in at least 3 cases out of 4. Since 2004, over 20,000 alerts on dangerous products have been published thanks to the EU rapid alert system for dangerous consumer products (RAPEX). Since opening in 2016, the EU Online Dispute Resolution platform has attracted more than 4 million visitors.

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<sup>21</sup> See annex 2 for more details

Despite all this, only 6% of EU citizens feel that they are well informed about their rights as a citizen of the EU and only 36% feel that they are fairly well informed<sup>22</sup>. In the public consultation on the single digital gateway<sup>23</sup>, 80% of businesses found complying with national requirements in other countries difficult and 60% of citizens find it difficult or somewhat difficult to know which national requirements they should fulfil when moving to another Member State<sup>24</sup>.

The evaluation<sup>25</sup> of the functioning of market surveillance for products also revealed lack of awareness of rules by businesses and little transparency as regards product compliance.

In the competition area, Eurobarometer Citizen Surveys in 2010 and 2014 showed a lack of awareness of where to turn in cases of higher prices, fewer products or supplier choices or lower quality. In addition, a 2016 Eurobarometer survey showed only limited knowledge and awareness of State aid rules<sup>26</sup>. In 2016, the Court of Auditors also pointed to the need to increase awareness of and ensure more effective compliance with State aid rules by Member State authorities<sup>27</sup>.

## **2) Administrative cooperation and integration among Member States**

Supporting administrative capacity and cooperation to achieve a high level of business compliance with EU rules is essential for ensuring that EU legislation does not remain on paper but is applied in practice, for the safety of consumers and for establishing a level playing field across the Single Market. Around three quarters of public authorities regarded digitization of public institutions as a key challenge whilst, at the same time, policies supporting digitization were judged as the least successful by up to 18% of respondents.<sup>28</sup>

In the field of the Single Market for goods and services, a number of market surveillance 'joint actions' have been successfully implemented to improve coordination across Member States. They have contributed to the identification of sensitive non-compliant products such as helmets, toys or childcare products but the problem of non-compliant products within the Single Market persists. For instance in 2015 a joint report found that 30% of children's high chairs tested presented a serious or a high risk. The REFIT evaluation<sup>29</sup> on the functioning of market surveillance found that non-compliance is

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<sup>22</sup> Eurobarometer 430: European Union citizenship – March 2016.

<sup>23</sup> [https://ec.europa.eu/growth/content/public-consultation-single-digital-gateway-0\\_en](https://ec.europa.eu/growth/content/public-consultation-single-digital-gateway-0_en)

<sup>24</sup> Commission staff working document synopsis report on the stakeholder consultation on the single digital gateway Accompanying the document Proposal for a regulation of the European Parliament and of the Council on establishing a single digital gateway to provide information, procedures, assistance and problem solving services and amending Regulation (EU) No 1024/2012 (SWD/2017/0212 final - 2017/086 (COD)).

<sup>25</sup> (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2017:0469:FIN>)

<sup>26</sup> For example only four in ten citizens in the EU had recently heard or read about a company receiving State aid, a figure similar the result of a previous Eurobarometer survey where about 40% of the respondents said they heard about EU competition policy. At the same time, fewer than one in five respondents (17%) feel well informed about State aid in their country while 81% of respondents agree that citizens should have full access to information about State aid given to companies.

<sup>27</sup> In the specific area of cohesion (see Special Report No 24/2016 by the European Court of Auditors). As a follow-up of this report, DG COMP together with DG REGIO has set-up an action plan on how to raise awareness of national granting authorities as regards the interaction between State aid rules and structural funds. Thematic workshops have been organised (e.g. State aid rules regarding RDI and risk finance) and specific training sessions have been organised for those Member States that considered that they lack administrative capacity and knowledge regarding State aid rules.

<sup>28</sup> See annex 2 for more details

<sup>29</sup> (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2017:0469:FIN>)



driven among others by the fragmentation of the organisation of market surveillance in the EU. Financing individual joint actions of market surveillance authorities needs to move to a more coherent coordination framework to reduce non-compliant products in the Single Market.

National consumer protection authorities have screened more than 5,000 websites since 2007 to identify and follow-up infringements of EU consumer laws. Since 2004, numerous coordinated actions have been carried out regarding product safety by the network of competent national market surveillance authorities and a specific cooperation has been established with China given the high share of notified dangerous products originating from this country. According to the 2017 evaluation of the EU consumer and marketing law, the legislative framework is fit for purpose but there is a need to better enforce rules and support redress on the ground to ensure consumer rights are a reality and faster and more efficient response is provided on EU wide cases as highlighted by recent large-scale cross-border issues, such as "Dieselgate", dual quality standards of foodstuff or the slow response to the problems of passengers stranded in large flight cancellations.

Cross-border cooperation between national authorities surveying the food supply chain is needed to preserve the safety of our foods as recognised by the recent Fitness Check evaluation of the General Food Law in relation to the functioning of the Rapid Alert System for Food and Feed (RASFF)<sup>30</sup>. For example, it has been estimated that an escalation of African swine fever outbreaks could lead to losing export markets in pig meat products worth €5 billion per year with very significant impacts on jobs and farmer incomes and a significant potential impact on the EU budget due to pressures to support prices and compensate for income losses. These risks have been avoided to date due to the range of support measures to assist Member States to combat the disease.

The horse meat crisis in 2013 and similar fraudulent food practices reported in the EU have also shown the need to improve cross-border cooperation. Such crises show the need to strengthen the capability of national enforcers to detect, prevent and pursue violations of food chain requirements, and potential frauds<sup>31</sup>. Food safety tops the list of challenges for the EU, with 75% of answers in the consultations.

### **3) Rule-making, standard setting and enforcement at EU institution level**

To prepare and evaluate policies, support standard setting and enforce EU legislation, the Commission needs up to date and reliable data. For instance, the European statistical programme has been developed to produce and disseminate high quality European statistics which are indispensable for EU decision-making and for the measurement of the performance and impact of EU initiatives.

The importance of having up to date and relevant information is also visible in the need to continuously adapt policies and enforcement responses to fast evolving markets, new business models and new threats to consumers. Specifically the evaluation of the Consumer Programme indicated its slow capacity to respond to new market challenges driven by fast and often unpredictable societal and technological change and to specific

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<sup>30</sup> [COMMISSION STAFF WORKING DOCUMENT THE REFIT EVALUATION of the General Food Law \(Regulation \(EC\) No 178/2002\) {SWD\(2018\) 37 final}](#)

<sup>31</sup> [https://ec.europa.eu/food/safety/official\\_controls/food\\_fraud/horse\\_meat/qanda\\_en](https://ec.europa.eu/food/safety/official_controls/food_fraud/horse_meat/qanda_en)

limitations in certain Member States for an optimal uptake typically due to limited resources. Finally the production of evidence is valued but the timeframe is too slow.

The ongoing evaluation of the European Statistical Programme<sup>32</sup> showed that a permanent capacity to respond faster to emerging new data needs has to be developed. Globalisation, digitalisation and rapid technological change challenge the foundations of measuring economic performance, i.e. GDP and key economic indicators. Therefore, substantial efforts also need to be invested in developing new methodologies. Data collections need to be adapted using all available data sources.

#### **4) Health as a resource for society and the Single market**

Human, animal and plant health, and a safe food supply chain, are a prerequisite for society and for the smooth functioning of the Single Market and promoting trade. Cross border health and food crisis disrupt the functioning of the Single Market by limiting the movements of persons and goods and disrupting production. Protection of health and food safety was quoted by three quarters of respondents to public consultations as the key challenge for the EU.

Health is the third among main concerns of citizens<sup>33</sup> mentioned by 20% of Europeans, and stands in first place in eight countries, with the highest scores seen in the Netherlands (54%), Hungary (42%) and Finland (41%).. More than 70% of the public want "*the EU to do more for health*"<sup>34</sup>

The mid-term evaluation<sup>35</sup> of the third Health Programme confirmed the importance of increasing the capacity of the EU and Member States to prepare for and swiftly manage cross border health threats, of stepping up coordinated efforts to fight against antimicrobial resistance, to seek new forms of integrated actions to create economies of scale to help Member States deliver their healthcare duties<sup>36</sup> and foster interoperable and standardised cross-border exchange of health data, and the scaling up of best practices.

The mid-term evaluation of the Food Chain Programme<sup>37</sup> shows that all activities receiving EU financial support in this area remains essential to human, animal and plant health along the food chain and the support to trade with non-EU countries. The Food Chain Programme has also proven to be flexible in addressing emerging needs for co-financing especially in the occurrence of outbreaks of health threats.

##### *1.2.2. Lessons learned concerning cross-cutting objectives of the new MFF*

Participating DGs and the results of the open public consultation confirm simpler rules as the most desired change in the next MFF (90% of responses). This was followed by the need for flexibility and the exploitation of synergies between EU programmes and funds

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<sup>32</sup> The report is not yet published but available upon request to Eurostat.

<sup>33</sup> Standard Eurobarometer 88, November 2017 at <http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/STANDARD/surveyKy/2143>

<sup>34</sup> Eurobarometer 87.1 March 2017 at [http://www.europarl.europa.eu/external/html/eurobarometer-052017/default\\_en.htm?utm\\_source=POLITICO.EU&utm\\_campaign=6e69d6d588-EMAIL\\_CAMPAIGN\\_2017\\_05\\_08&utm\\_medium=email&utm\\_term=0\\_10959edeb5-6e69d6d588-189770033#health](http://www.europarl.europa.eu/external/html/eurobarometer-052017/default_en.htm?utm_source=POLITICO.EU&utm_campaign=6e69d6d588-EMAIL_CAMPAIGN_2017_05_08&utm_medium=email&utm_term=0_10959edeb5-6e69d6d588-189770033#health)

<sup>35</sup> [Mid-term evaluation of the 3rd Health Programme 2014-2020](#)

<sup>36</sup> [e.g. to develop a common EU approach to Health Technology Assessment \(HTA\); to share medical expertise through European Reference Networks that enable patients suffering from rare disease to access healthcare irrespective of where they live in the EU](#)

<sup>37</sup> [Mid-term evaluation of Regulation \(EU\) No 652/2014](#)

(60% to 75% of replies). In general, there is a high demand for rationalisations of EU funds among stakeholders but also with national and local authorities.<sup>38</sup>

### ***Uncoordinated approach to different actions:***

#### **- Data gathering and processing by different programmes**

To prepare policies, set standards and check enforcement the Commission is often looking for specific evidence in commercial databases<sup>39</sup>. Pooling resources in this area between services could provide concrete gains. One significant example is access to a database containing detailed worldwide firm level information. Identical access to this dataset is currently bought by at least 4 Commission services, each paying approximately €100,000 a year.

Another example is Eurobarometer where each question costs around €15,000. This limits the number of questions asked by services. A more coordinated use of this tool by the services involved in Single Market policy making should produce synergies. Joint coordination and planning could increase SMP members bargaining power when asking for slots in the Eurobarometer planning calendar.

Greater coordination in studies can lead to a more value focused use of the budget and avoid unwanted duplications. Good examples were the cooperation of several Commission services to gather and analyse data on related Single Market topics such as the Public consultation on the regulatory environment for platforms, online intermediaries, data and cloud computing and the collaborative economy and the study "Mystery shopping survey on territorial restrictions and geo-blocking in the European digital single market". This can be further enhanced through a more coordinated assessment of needs and timing at planning stage.

#### **- Trainings, and capacity building actions**

Trainings on similar topics such as basic consumer law requirements for consumer organisations and SMEs organisations could benefit from a common core of principles and branding while ensuring adaptation to the needs of consumers and interests of SMEs which are very different.

The same applies to training programmes for national authorities on enforcement of Internal Market Law which are run separately by different Commission services, covering complimentary subjects and sometimes targeted to the same audience. For example, in the areas of Internal Market<sup>40</sup>, Consumer Protection<sup>41</sup> and Food Chain<sup>42</sup> trainings are run related to product and food chain safety and to verification of compliance which are targeted at national enforcement bodies and inspectors which could benefit from a common core and branding, while preserving the sectorial

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<sup>38</sup> See annex 2 for more details

<sup>39</sup> There are already strategies to purchase data for the whole Commission (e.g. through Eurostat).

<sup>40</sup> Commission Services are organising ad hoc training, EU Product Compliance Network training to Member States inspectors (incl on the use of internet-supported information and communication system),

<sup>41</sup> Commission Services is currently running a consumer protection and product safety "e-enforcement academy" which is open to product inspectors working under Regulation 765/2008, to General Product Safety Directive competent authorities and to about 400 national and regional authorities competent for the enforcement of the consumer law acquis in the CPC Regulation 2004/2006 (about 20 directives, including some sector specific ones).

<sup>42</sup> DG SANTE: training actions for MS and third countries on EU requirements – "Better Training for Safer Food". E-commerce and food fraud sessions are open to other national enforcement actors involved in verification of compliance with food chain rules.

specificities. Different Commission services are also organising trainings for national judges<sup>43</sup>. Greater coordination could lead to simplification at Commission and at Member State level, particularly as some are resource intensive activities and thus participation may be problematic for smaller national enforcement authorities. Moreover they may not be coordinated among Commission DGs. This is the case for instance with the purchase of testing/ laboratories services on product testing.

#### **- Awareness raising activities**

Awareness raising activities, when targeting the same audience may mean a duplication of management and administrative costs at the level of each DG. One such example is linked to awareness-raising on the circular economy (food waste, recycling, etc.) where different audiences need to be targeted.

### **Coordinated and cross-border enforcement**

The Commission facilitates and supports coordinated actions or control campaigns by Member States in several areas such as joint enforcement actions on product and food safety or consumer protection law. These could be streamlined to avoid overlaps of similar actions covering the same sectors<sup>44,45</sup>.

#### **- Support to network of Member State authorities**

Most of the current programmes run different networks of Member State authorities or expert groups that consist of representatives of the Member States<sup>46</sup>. At present, the organisation of these different network meetings is not coordinated centrally which

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<sup>43</sup> DG JUST organises a training programme for national judges which is covering a wide array of EU laws. DG COMPETITION also organised their own trainings for national judges in competition law.

<sup>44</sup> DG SANTE: co-funding can be provided to Member States to cover laboratories' and other costs incurred in the context of Coordinated Control Programmes (i.e. EU-wide, time-limited, ad-hoc plans to verify a specific aspect, e.g. fraudulent practices in a certain segment of the food chain). So far SANTE has not procured testing itself. JUST joint/coordinated enforcement actions are run on product safety as well as on consumer protection law. GROW is facilitating joint inspections of harmonised products. Joint actions in the area of medical devices is currently financed from the Health Programme, organised by GROW. DG COMP carries out the inspections to which MS can join.

<sup>45</sup> In the context of the new CPC Regulation 2017/2394, national authorities and the Commission have the duty to jointly address widespread infringements to consumer law of Union dimension.

<sup>46</sup> GROW: the EU Product Compliance Network is a network of market surveillance authorities and administrative cooperation groups (ADCOs). It is also foreseen to run a network of testing laboratories. For services, there are several expert groups that consist of representatives of the Member States in order to foster cooperation. DG JUST: Network of national authorities enforcing consumer protection law. For example, the Consumer Protection Cooperation network meets at least every month either face to face in committee meetings and specific workshops or via webinars. It uses a very active knowledge sharing platform, it is facilitated by an internal community managers who is managing rights, training users and posting news. DG COMP: The European Competition Network (ECN) comprising of national competition authorities enforce antitrust and cartel rules. There is a need for a wider and deeper cooperation with national competition authorities and courts on the application of EU competition rules. Administrations can electronically and securely communicate and cooperate in the context of the ECN. ECN may have synergies with the consumer one. In the area of State aid, Multilateral Cooperation with Member States consists of the State Aid Modernisation Working Group (SAM-WG) chaired by a Member State, the High Level Forum (HLF) chaired by the Commission, to which the SAM-WG reports and gives recommendations and technical working groups under the SAM-WG. DG SANTE : Admin cooperation on cross-border enforcement in the food chain - tracing of goods, Specialised Network for fraud,

results in possible duplication and administrative burden. Exchange of the lessons learned from running these networks can also be improved. Moreover there are currently networks with similar interest or members whose meetings are not always adequately synchronised (e.g. competition and consumer protection networks are constituted of the same authority in several Member States).

#### **- IT development**

At present there are separate systems used for the cooperation between national competent authorities and the European Commission which are not interoperable or are implemented independently of each other due also to different legal basis and could benefit from greater convergence. They often include the same national authorities which have to use different systems to exchange information in relation to particular fields. Around 80% of public authorities in the open public consultation asked for introduction of user-friendly IT tools and 65% for e-governance solutions<sup>47</sup>.

#### **- Uncertainty about budget negotiations**

Certain activities such as studies, surveys, evaluations, expert meetings, trainings and information activities<sup>48</sup> (accounting for at least €435m or 7% of the combined budget of the Single Market programmes and budget lines under the MFF2014-2020<sup>49</sup>) are necessary for proper implementation of existing policies and are classified as Commission prerogatives. The legitimacy of prerogatives is frequently challenged by the Council and budget has to be negotiated every year putting these activities constantly under pressure. Conversely, the financial envelope for a programme is set for the whole MFF period and constitutes a reference amount for the budget authority during the annual procedure. This causes uncertainty each year as to how much money will be available for these essential support measures. Such uncertainty affects the quality of studies or evaluations that could span over several years and may affect the quality of final Commission proposals based on such evidence.

### ***Simplification***

Some programmes and budget lines have reported a need for simplification of administrative management and reporting procedures. In the area of supporting standardisation, evaluations revealed lack of a common understanding of the management of grant agreements and no solutions for electronic reporting tools and data comparability issues. This complicates both reporting and measurement of impacts and performance of individual actions. The evaluation of the Consumer Programme also showed that there seems to be significant room for simplification for grants management.

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<sup>47</sup> See annex 2 for more details

<sup>48</sup> This concerns the following budget lines: Digital Single Market Support programme, Implementation and Development of Single Market for Financial Services, Company Law prerogative, Internal market: operation and development of the internal market for Goods and Services, Internal market budget line – support to standardisation activities, Customs and tax policy development support budget line

<sup>49</sup> Calculation based on budget lines 1, 2, 6, 9, 10, 11 & 14 in table 1.1. Amounts for support activities in remaining programmes is not fixed and not included in the calculation.

As regards the Food Chain Programme, reimbursement mechanisms to Member States can be simplified to reduce unnecessary burdens on the Commission and the recipients alike. Similarly, in the Health Programme simplified forms of grants, such as lump sums, unit costs and flat rates could be used.

In the open public consultation, respondents underlined that complex procedures leading to high administrative burden and delays were considered as the most important obstacles reducing benefits of EU programmes (around 80% of answers)<sup>50</sup>.

Going forward, there is scope for simplification and cutting down the number of small, one-off actions in COSME and devote the resources towards the key areas of intervention (e.g. access to finance, access to markets) where a sustained effort and economies of scale will yield the highest efficiency and the biggest impact at EU level.

### ***Flexibility***

Lack of flexibility in case of unforeseen events is considered by stakeholders (60%-70% of answers) as an important obstacle to fully exploiting the benefits of EU programmes<sup>51</sup>.

This is particularly the case in the Food Chain Programme and in the Health Programme, where there is a need to establish a direct mechanism to react to large scale health threats or emergencies affecting food, animals and plants. Since the EU 2014-2020 MFF, the reserve for crises in other sectors such as agriculture is, for instance, not available for the food chain area. In the event of serious health crisis or outbreaks of veterinary and phytosanitary epidemics, such as the recent case of avian influenza, the financial support to counter those threats or to implement eradication activities and to timely contain the spread of these epidemics could become difficult as their budgetary impact might not always be accommodated within the ceiling of the current programme.

The European Statistical Programme also calls for the inclusion of a specific mechanism, ensuring a certain budgetary flexibility in order to cope with new and emerging statistical needs and ad-hoc data collections.

Flexibility is also required in those areas where standardisation is used to implement legislation. The absence of common budget lines for standardisation and food safety lead to a 3 year delay in developing necessary standards following the entry into force of the Regulation on the placing on the market and use of feed. Another similar example is the Child Resistance Requirements for Cigarette Lighters where development of the standard was delayed by two years.

## **1.3. Main findings of public consultation**

The public consultation on the Multiannual Financial Framework proposal took place between 10 January 2018 and 9 March 2018. The questionnaire covered areas of investment, research and innovation, SMEs and Single Market.

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<sup>50</sup> See annex 2 for more details

<sup>51</sup> See annex 2 for more details

Among challenges relevant to the Single Market Programme the most important were access to finance, especially for SMEs and digital transition of economy (82%), promotion of public health (79%), support to industrial development (78%) and fair competition and safe food (75%). Generally between 20 and 50% of respondents considered SMP related policies as fully or fairly well contributing to these challenges. Smooth circulation of goods both within EU and at EU borders was judged highest (50% of all replies). Followed by support to industrial development (42%), provision of EU statistics (40%) and support to capital flows and investments (39%). Only up to 12% of respondents considered that these policies are not successful at all<sup>52</sup>.

## **2. THE OBJECTIVES**

### **2.1. Challenges for the programmes of the next MFF**

Maintaining the achievements of the Single Market and addressing new challenges to achieve the Single Market's full potential will require continued investment.

#### *2.1.1. Existing challenges for a Single Market Programme*

Existing challenges for a Single Market Programme are foreseen in four areas in particular:

*1. The Single Market is still fragmented, knowledge about it is lacking and doing business remains cumbersome, and especially SMEs face hurdles when starting or scaling-up a business or when looking for finance.*

The Single Market is still far from perfect. In particular the Single Market for services needs action to remove remaining barriers for companies. The regulatory framework needs to accommodate new innovative business models. The Single Market should also become more competitive and integrated to better benefit consumers, businesses and employees and to ensure financial stability. Strong consumer organisations and national competent authorities are needed to follow the rapid development and increasingly complex retail markets, to act to counterbalance market asymmetries and advocate consumers' interests. Limited awareness and/or expertise is also limiting the capacities of consumers, businesses or public administrations to meet the challenges stemming from the transition to a green, circular and low-carbon economy and thus contribute to this transition via changes on retail markets. Tools also need to be developed for consumer knowledge and to support the building up of capacities of NGOs supporting consumers and/or specific groups of citizens (e.g. those subject to "vulnerability patterns").

The administrative burden to operate a business, such as obtaining permits and licenses, or complying with regulatory framework in the area of company law and corporate governance often remains high. In addition, there is often a lack of entrepreneurial spirit to generate new activity. Newly created companies and smaller firms still do not sufficiently reap the opportunities offered by the Single Market and by internationalisation. They also face difficulties in obtaining finance and in the uptake of innovation; they do less business on-line than bigger firms and have difficulties in

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<sup>52</sup> See Annex 2 for details.

finding the right skills. While SMEs are essential to generate jobs and growth, they are limited in their contributions by these barriers, and to a greater extent than bigger firms.

2. *Cooperation between Member States and enforcement at national level is still too limited and cooperation between Member States and the Commission needs to be further strengthened*

Member States authorities need to improve cooperation between themselves. Exchanges on best practices and joint market surveillance across Member States are insufficiently used as demonstrated during the preparation of the goods package proposal<sup>53</sup>. Enforcement authorities may lack state-of-the-art tools to share intelligence and investigate increasing complex products, online business models and international supply chains and their capacities may remain uneven. E-commerce sales of non-compliant and unsafe products is a concern. However Member States' internet investigation capacity and instruments (both for general product safety requirements and for food chain requirements) do not keep up with international trade and supply chain developments, also due to sub-optimal exchange of information across border and with customs authorities. Market surveillance authorities often lack resources, leading to EU rules not being equally enforced or applied which endangers a level playing field and encourages regulatory arbitrage. In the health and food chain areas, effective implementation of statutory requirements is a prerequisite to ensure the safety of commodities and citizens in the Single Market.

National administrations lack data on the use of certain policy tools. This is the case for public procurement, which impacts the governance of public procurement systems, the detection of problems or the efficiency of public policies and public spending. Finally, EU competition policy requires enforcement and compliance at national level in the area of State aid where cooperation with national authorities and courts needs to be strengthened to prevent fragmentation of the Single Market.

3. *EU rules and standards are at risk of falling behind in terms of speed, excellency and relevance and EU level law enforcement needs to adapt to new challenges*

EU rules and standards are not always up-to-date or future proofed. Insufficient knowledge on the application of existing acquis and on transposition measures in Member States puts the relevant legislation at risk. EU level law enforcement needs to adapt to the digital age for effective detection of possible infringements and efficiency in its enforcement. At global level, the progressive globalisation of trade call for increased convergence on international standard setters and coordinated enforcement of rules to ensure a reliable business environment for companies operating across the world.

4. *If health of humans, animals and plants is not preserved, the good functioning of the Single market and of the society as a whole is under threat*

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<sup>53</sup> Proposal for a Regulation on Enforcement and Compliance in the Single Market for Goods (Goods package) COM(2017)795



Health and the safety of food chains are invaluable resources for society. Failure to protect them will have a negative impact on people and on the free circulation of goods, services and people. Potential problems include risk of pandemics, cross-border health and food security threats; loss of biodiversity; insufficient information and data for Member States to respond to pressures to make health systems more effective, accessible and resilient. These can result in sustainable development goals becoming more difficult to reach, in hurdles for companies and/or professionals to introduce new innovative health technologies, in risk of premature mortality and increase of health inequalities. Resilient food chains also need to harness preparedness for cyclical outbreaks of animal diseases and plant pests.

The EU has an interest, therefore, in ensuring that this support framework continues to function to the benefit of the European economy and citizens. To be in a better position to tackle these challenges the EU needs to seek synergies and prevent duplication and fragmentation in its support to the Single Market. It also needs to ensure greater visibility and coherence of its action towards its users, who may find the proliferation of tools and support programmes confusing.

### *2.1.2. Main adjustments to existing activities under the Single Market Programme*

The evaluations and lessons learned of the included programmes and budget lines show that they have all brought added value and should continue. It has however been shown that a number of adjustments are needed in the existing activities under the Single Market Programme, Table X shows the main adjustments across all programmes<sup>54</sup>.

**Table 2.1 Main adjustments in existing programmes/budget lines**

<b>Programme/ line</b>	<b>Budget</b>	<b>Description</b>
Interoperability solutions and common frameworks for European public administrations, businesses and citizens as a means for modernising the public sector (ISA <sup>2</sup> programme)		Exchange of information between different public sector IT systems (cross-sector interoperability) has been identified as a challenge which among others slows down or prevents electronic data exchange and thus creates administrative burden. Development of horizontal digital solutions that cross-cuts different policy areas in the Single Market Programme, should improve cross-sector interoperability, as well as the sharing and reuse of existing IT solutions. This more holistic approach will also tackle another challenge flagged by the Member States, and that is the take-up of digital interoperability solutions in the context of the Single Market.
European Statistical Programme (ESP)		The evaluation of the current European Statistical Programme underlines that there is a need for more timely data delivery as well as for filling existing data gaps. Moreover, globalisation, digitalisation and rapid technological change call for more agility to better capture new phenomena and to respond to the spread of 'fake news'. Therefore, the new programme must invest substantial efforts in developing new methodologies and in exploiting new technologies and data sources.
Consumer Programme and the consumer and contract law part of the Rights Equality and Citizenship programme (REC)		The evaluation of the existing Consumer programme does not lead to the conclusion that substantial change is necessary. What is mostly needed is an improvement in the delivery model. The flexibility and simplification brought by the Single Market Programme should allow faster adaption of financing schemes to retail market developments and to new needs of authorities or consumer associations.

<sup>54</sup> Full description of lessons learned and adjustments are available in the corresponding programme-specific annexes (see annex 4-18).

Programme/ line	Budget	Description
Internal market: governance tools		Continuous investment in boosting the quality, the visibility and the transparency of these tools and a single digital gateway as an entry point to information, procedures, assistance and problem-solving services are required to keep helping citizens and businesses to efficiently use their Internal Market rights. More systematic collection of comparable user feedback and statistics from information and assistance services, as foreseen through the single digital gateway should help providing essential feedback on the functioning of the single market. Gradual expansion of IMI for any legislation in the field of the internal market should reinforce its role as the "default tool" for administrative cooperation.
Internal market: Support to Standardisation activities		Experience has shown that development of standards is often delayed due to lengthy process of negotiating grant agreements with standardisation organisations for elaboration of standards and for conducting necessary standardisation work and laboratory test (time to contract). Simpler and faster working methods such as implementing of a general template with electronic submission instead of paper should speed up the process.
Internal market: operation and development of the internal market for Goods, Services and Public Procurement		The REFIT evaluation on the functioning of market surveillance found that the current approach of financing individual joint actions of under-resourced market surveillance authorities has little effect against non-compliant products. Substantial change under the future MFF is going to be an increased EU funding for the establishment of an EU Product Compliance Network within the Commission to facilitate coordination, capacity building leading to an effective enforcement.
COSME		The programme is very efficient in delivering jobs and growth. Its contribution to global and societal challenge is less evident. The Commission propose to include in certain actions a bigger focus on global and societal challenges. 20% of the programme is fragmented into many actions, this hampers effectiveness and efficiency. Need to reduce the number of one-off small actions and invest in the most efficient actions such as the loan guarantee facility, the Enterprise Europe Network, the mentoring scheme for new entrepreneurs (formerly Erasmus for Young Entrepreneurs) and the Clusters actions. COSME will no longer propose an equity instrument. This is best achieved by the EU invest fund and at the same time we will focus on the Guarantee instrument within the SME window of the EU invest fund. The geographical coverage of COSME could be improved. The Commission proposes the creation of a network of national contact points to follow-up implementation. There is no centralised database of implementation results so the Commission will create a centralised tool to provide implementation data.
Health programme		The midterm evaluation of the 3rd Health Programme found that it would be desirable to streamline the thematic priorities and focus on areas with more visible EU added value. Therefore, in the current health programme the Commission is proposing 15 work areas under 4 objectives, instead of 24 thematic priorities. In addition, the mid-term evolution identified the three key areas with the biggest EU added value (cross-border health threats, economies of scale and exchange of best practices). These areas of work are proposed as central elements of the health programme. Stakeholders signalled during the mid-term evaluation their wish to be more closely involved in the programme's planning. The evaluation also recognised that the establishment of 24 European Reference Networks (ERNs) for rare diseases, a new form of integrated work, has a huge potential to improve the care provided to citizens across EU. Therefore that support to integrated work – including establishing further ERNs - will be strengthened.
CFF for food chain (the Food Chain Programme)		A number of recent and emerging challenges, such as globalisation, the increasingly complexity of the food supply chain and climate change, will pose significant threats and challenges and are therefore expected to influence the future EU approach in this area. Simplification of the administrative management will also contribute to a more effective and efficient EU food chain programme. Amongst others, some stakeholders expressed the need for increased possibilities to co-fund preventive measures.

### 2.1.3. New political priorities or emerging problems needing EU intervention

#### *Support to EU Competition policy*

The macroeconomic impacts of EU competition enforcement are significant<sup>55</sup>. At the same time, the increasing sophistication of the IT tools and algorithms used by companies for conducting their business, as well as the steadily growing volume of electronic communications and economic data that need to be analysed in competition cases have significantly increased the complexity of the investigations handled by the Commission. This will therefore require sophisticated, tailor-made IT tools and equipment and the possibility to involve outside experts for certain technical issues, and the monitoring of remedies and ex-post assessment of the effectiveness of the Commission's enforcement action. Enforcement of EU competition law also requires deepening the cooperation between the Commission and the national competition authorities. This depends on well-functioning and state-of-the-art IT systems that allow for the timely and secure exchange of confidential information. The effectiveness of national State aid control, transparency and evaluation need to be enhanced as more than 97% of new State aid measures are being implemented without prior scrutiny by the Commission following the recent modernisation of State aid rules. In the absence of a support programme addressing those challenges, the enforcement of all branches of EU competition policy would gradually become less effective, less timely and less relevant to rapidly evolving market developments, thereby – by extension – threatening the proper functioning of the Single Market. Around three quarters of respondents to public consultations considered fair competition as an important challenge for the EU<sup>56</sup>. To address this gap this impact assessment also includes a new proposal for *An Ambitious Competition policy for a stronger Union in the digital age* as described in table 2.1 below and in the corresponding sector specific annex.

#### *Innovation uptake by SMEs and industrial modernisation*

A recent study<sup>57</sup> on advanced manufacturing provides evidence that there are barriers to the uptake of innovation, such as sufficient know-how, adequate human capital and organisational and managerial capacity. Small firms have much larger problems overcoming these barriers than large firms. While 75% of companies indicate the high costs of investment in advanced manufacturing technologies, an EIB study<sup>58</sup> shows that over 90% of smaller companies active in key enabling technologies struggle to raise the finance they need. More than 90% of SMEs in Europe also feel lagging behind in digital innovation. As the specialised competences are often concentrated in few countries and

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<sup>55</sup> See in particular Dierx, Adriaan, Fabienne Ilzkovitz, Beatrice Pataracchia, Marco Ratto, Anna Thum-Thysen and Janos Varga (2017), "Does EU competition policy support inclusive growth?", *Journal of Competition Law & Economics*, Vol. 13, No. 2, pp. 225-260 (at <https://academic.oup.com/jcle/article/13/2/225/3920779>); for metastudies on the benefits (including macroeconomic benefits) of competition and competition policy see also OECD Factsheet on how competition policy affects macro-economic outcomes (October 2014) (at <http://www.oecd.org/daf/competition/2014-competition-factsheet-iv-en.pdf>) and 'Ex-post economic evaluation of competition policy enforcement: A review of the literature' by Fabienne Ilzkovitz and Adriaan Dierx, DG Competition (June 2015) (at [http://ec.europa.eu/competition/publications/reports/expost\\_evaluation\\_competition\\_policy\\_en.pdf](http://ec.europa.eu/competition/publications/reports/expost_evaluation_competition_policy_en.pdf)).

<sup>56</sup> See annex 2 for more details.

<sup>57</sup> Kroll et al. (2016) An analysis of drivers, barriers and readiness factors of EU companies for adopting advanced manufacturing products and technologies.

<sup>58</sup> EIB (2016) Access-to-finance conditions for KETs companies, available at:

<http://www.eib.org/infocentre/publications/all/access-to-finance-conditions-for-kets-companies.htm>

SMEs struggle to find the right partners, too few SMEs in the EU embrace advanced and additive manufacturing, artificial intelligence and augmented reality and master new service offerings, especially in traditional manufacturing sectors. This situation has a direct impact on the ability of small businesses to reap the benefits of the Single Market. A more strategic use of SME intermediaries such as clusters and business networks is needed to better help SMEs to scale-up and grow and to boost industrial modernisation. The proposal for a new Single Market Programme therefore also includes a new proposal for a new *scaling-up instrument* (e.g. lump sum grants) to provide growth acceleration support to over 20,000 SMEs engaged in strategic inter-regional collaboration for different industrial specialisations. This support is to be channelled via clusters and business networks, which provides a framework for the modernisation of and partnership between SMEs as described in table 2.1 below and in the corresponding programme specific annex 15 for the COSME programme.

**Table 2.2 Proposed new commitments**

Name	Description
<i>An Ambitious Competition policy for a stronger Union in the digital age</i>	The Competition section of the programme pursues; 1) that the enforcement of EU competition policy as well as policy guidance is supported by state-of-the-art tools and infrastructure, as well as external technical expertise and information; 2) strengthening, deepening and extending cooperation and partnerships with European public administrations; 3) strengthening, deepening and extending cooperation and partnerships with third country authorities and 4) raising awareness of EU competition policy among a wider group of stakeholders concerned by the enforcement of EU competition rules.
<i>COSME+ Scaling-up instrument</i>	A new scaling-up instrument under the programme will encourage the uptake of results from other EU programmes (Horizon/FP9, LIFE, Galileo, Copernicus, ERDF, ESF, EAFRD, EMFF). It will complement the support provides by ERDF programmes to technology take-up and strengthen the link between SME support under regional and industrial policies to unlock the growth opportunities of SMEs. It is designed as a tool to support scaling-up activities of SMEs across regional, sectoral and technological boundaries in order to help them to embrace industrial transformations, to access global industrial value chains and international markets, and engage in strategic interregional collaboration. The instrument will therefore offer growth acceleration support to help groups of SMEs to jointly foster internationalisation activities, business and new skills development and to test and take-up advanced technologies, new business models and low-carbon and resource-efficient solutions to reduce production costs or to integrate them into new or emerging industrial value chains. This will complement the support for interregional partnerships along value chains provided under the ERDF.

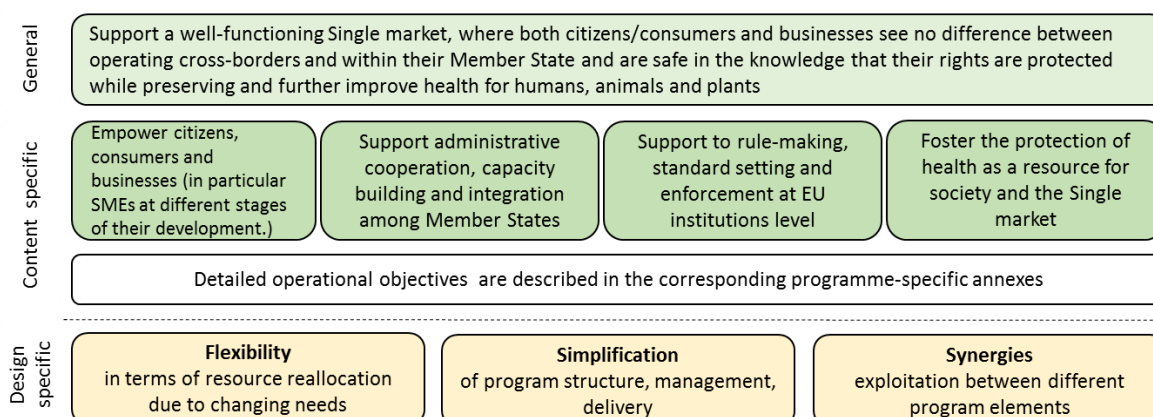
As described in section 1.2, a number of lessons have been extracted in terms of cross cutting challenges to be addressed by the next MFF. A modern budget for the EU should not only continue to improve the delivery of both existing and new political priorities but also deliver solutions to the increasing need for flexibility, synergies and simplification. By adopting a Single Market Programme, that merges a large number of existing programmes, these cross-cutting challenges can be most appropriately addressed via the programme structure as described in chapter 3.

## **2.2. Objectives of the programmes of the next MFF**

To tackle these challenges a programme for the Single Market should do two things in terms of general and design specific objectives:

1. Aim to support and develop a well-functioning Single Market where citizens, consumers and businesses, especially SMEs, can fully exploit opportunities, and are safe in the knowledge that their rights and human, animal and plant health are protected and where competition is preserved.
2. Reduce overlaps and explore synergies between the different Single Market programmes implemented by the Commission, offering ultimately better value for money and more efficient delivery on the ground.

**Figure 2.1. Objectives tree**



The programme's main aim is to support a well-functioning Single Market, ensure high levels of health protection and appropriate action to counter cross-border health risks. To achieve this general objective in terms of contents the specific goals of the programme are:

- Empowering citizens/consumers (directly or indirectly), businesses (in particular SMEs) and public administrations to get full access to the opportunities offered by the Single Market.
- Fostering administrative cooperation between Member States and between the Member States and the Commission via information, best practice exchange and capacity building.
- Support to rule making, standard setting including at international level, and enforcement at EU level through financing data gathering and analysis.
- Foster the protection of health as an invaluable resource for society and the internal market<sup>59</sup>.

More operational objectives are presented and are analysed further in the detailed annex describing each action/subprogram.

The connection between the content specific objectives of the Single Market Programme and the operational objectives of the individual programmes/budget lines under the scope is described in table 2.2. and present the internal coherence between the objectives of the programme and the programmes and budget lines included under its scope.

<sup>59</sup> The objective to 'foster the protection of health as a resource for society and the Single Market' will remain relevant and valid also with the Health programme being integrated in a separate spending framework (see above, section 1.1).

While also supporting the objectives of the Single Market Programme, the European Statistical Programme, with its highly transversal character, will ensure the provision of high-quality statistics on Europe to support the design, monitoring and evaluation of the Union policies, using multiple data sources, advanced data analytics methods and digital technologies.

**Table 2.3 Coherence between objectives for the Single Market Programme and objectives of individual programmes and budget lines<sup>60</sup>**

<b>Objectives Programme/line</b>	<b>Empower citizens /consumers and businesses(in particular SMEs at different stages of their development)</b>	<b>Support to administrative cooperation, capacity building and integration among Member States</b>	<b>Support to rule-making, standard setting and enforcement at EU institutions level</b>	<b>Foster the protection of health as a resource for society and the Single market</b>
<b>An Ambitious Competition policy for a stronger Union in the digital age</b>	√	√	√	N/A
<b>IT and business solutions for the Single Market (successor of ISA2)</b>	√	√	√	√
<b>European Statistical Programme (ESP)<sup>61</sup></b>	√	√	√	√
<b>Implementation and Development of Single Market for Financial Services</b>	√	√	√	N/A
<b>Standards in the field of reporting and auditing</b>	N/A	N/A	√	N/A
<b>Enhancing the involvement of consumers and other end-users in Union policy-making in financial services (ICFS)</b>	√	N/A	√	N/A
<b>Company law and anti-money laundering</b>	N/A	√	√	N/A
<b>Consumer programme and New Deal for consumers</b>	√	√	√	N/A
<b>Internal Market - Governance tools</b>	√	√	√	N/A
<b>Internal market – Support to Standardisation activities</b>	√	N/A	√	√
<b>Internal market – operation and development of the internal market for Goods, Services and Public Procurement</b>	√	√	√	N/A
<b>EU programme for the Competitiveness of SMEs (COSME)</b>	√	√	N/A	N/A
<b>Health programme</b>	√	√	√	√
<b>Food chain Programme</b>	√	√	√	√
<b>Customs and tax policy development support budget line</b>	N/A	N/A	√	N/A

<sup>60</sup> √ signifies that the operational objectives of the programme/budget line contribute to the content specific objective of the Single Market Programme. Detailed description of the connection between Single Market objectives and all (sub)objectives of the included programmes and budget lines are presented in annex 19

<sup>61</sup> The European Statistical Programme has a transversal character, covering all Union policies, not only those covered by this impact assessment.

### 3. PROGRAMME STRUCTURE AND PRIORITIES

As demonstrated in section 1.2 and section 2.1 a number of both content specific and cross-cutting challenges run across the existing programmes and budget lines. The new Single Market Programme will have as its strong priority to achieve a programme structure that is both politically and legally feasible while addressing the need for flexibility, simplification and synergies.

To achieve both the abovementioned content specific and cross-cutting objectives for the programmes/budget lines under the proposed scope three overall scenarios for implementation are possible:

- Option 1: A **business as usual scenario** where implementation is a continuation of the current multiannual programmes and budget lines while adding the new spending proposals described in tables 1.1 and 2.1 with separate legal bases.
- Option 2: An **integrated scenario** where a new programme is adapted to deliver current and new programmes and budget lines falling under the scope via a single legal base that is flexible enough to ensure preservation of specific legal and institutional requirements.
- Option 3: A **fully unified scenario** where a complete merger of all programmes under the scope is delivered under a single common basic act with identical legal and institutional requirements for all activities under the scope.

Under the '**business as usual**' scenario the current structure of 14 separate programmes and budget lines would continue with the possible addition of new activities as described in tables 1.1 and 2.1.

This structure would not provide any new simplification or added flexibility. Cooperation and possible synergies in delivery of the budget would continue on an ad hoc basis as is the case today (e.g. as is already being done with the YourEurope platform). Feasibility is high since it is the continuation of already successful programmes/budget lines with the only potential complexity coming from establishing the new activities described in table 2.1. This option will be considered the baseline scenario for comparison with other possible structures of the programme.

The '**integrated scenario**' expands on the business as usual scenario in the delivery of proposed activities through a joint programme. Under this scenario all existing prerogative lines and the administrative support from all the programmes and budget lines in the scope would be grouped together under a horizontal structure. This structure would allow for increased coherence, simplification, flexibility and synergies across the administrative spending (studies, data collection, IT tools, etc.) and on some content in the existing prerogatives (for example market information and enforcement actions).

Along with the horizontal structure, "pillars" would be created to accommodate the specific legal and institutional requirements for governance of each individual programme/budget line, such as the European Statistical Programme<sup>62</sup> or the emergency procedures under the food and feed programme, which have dedicated institutional/governance settings and are not of relevance to other parts of the programme. This would

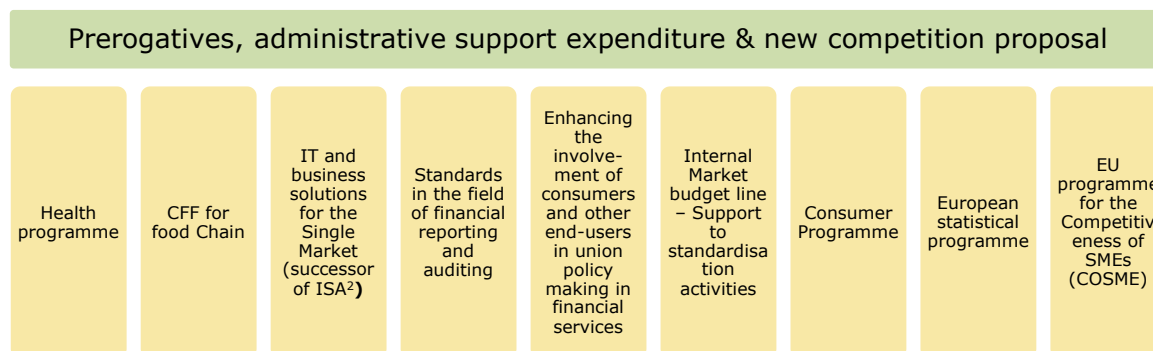
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<sup>62</sup> As formulated in Regulation (EC) 223/2009 on European statistics.

ensure the uninterrupted delivery of such procedures and inclusion of the associated stakeholders where relevant.

Such an approach would place a limit on the synergies and simplifications that can be achieved. However, from a feasibility point of view this structure scores high because it can be implemented through a new unified basic act with sub-provisions for specific institutional/governance models and therefore avoid disruption to current policy objectives and governance models for existing programmes and budget lines.

**Figure 3.1: Architecture for an Integrated Single Market Programme option<sup>63</sup>**



The third scenario is a fully '**unified programme**' where a single legal structure covers all spending under the scope of the programme. This would potentially make it possible to develop synergies in a larger part of the operational and administrative categories of spending in all programmes and budget lines and potentially increase the scope of synergies significantly. However this would require extensive political debate in order to streamline different existing governance requirements into an approach that could potentially satisfy all involved stakeholders and respond to specific EU intervention logic, in particular under the above mentioned pillars such as, for instance, the emergency procedures under the food and feed programme. There is a strong stakeholders support for the continuation of the current programmes so a "unified" programme could be badly perceived by stakeholders e.g. SMEs who could fear that's the SME policy is not receiving sufficient recognition by the Commission. It is therefore not considered feasible that a single unified governance mechanism for a fully integrated programme can be found under the current legal and political requirements.

As summarized in table 3.1 the analysis shows that, scenario 1 (business as usual) would be feasible but would bring no added benefits in terms of flexibility, simplification and synergies between existing programmes/budget lines. This scenario would thus be inconsistent with the level of ambition identified for the next multiannual financial framework. On the other hand, scenario 3 (fully unified programme) for the Single Market would increase the scope of potential benefits significantly but due to the pre-existing diversity of activities under the scope it is considered prohibitively difficult to arrive at a governance model that can satisfy all necessary requirements and deliver simplification at the same time. For this reason this scenario is discarded. Scenario 2 would allow for a less ambitious but feasible pursuit of new simplification, flexibility and

<sup>63</sup> The measures included in the Health programme pillar will be integrated in a separate framework (see section 1.1 above) and the architecture of the Single Market Programme will be adjusted accordingly.



synergies across the programmes/budget lines included under the scope. Scenario 2 of an integrated Single Market Programme is therefore considered the preferred option and will form the basis for further analysis in the impact assessment.

**Table 3.1 Analyses of a Single Market Programme in the next multiannual financial framework**

Scenario Parameter	Business as usual	Integrated Single Market Programme	Unified programme for the Single market
<b>Flexibility</b>	<b>0</b>	<b>+</b>	<b>+</b>
<b>Simplification</b>	<b>0</b>	<b>+</b>	<b>+</b>
<b>Synergies</b>	<b>0</b>	<b>+</b>	<b>++</b>
<b>Feasibility</b>	<b>0</b>	<b>+</b>	<b>--</b>
<i>Total</i>	<i>0 points</i>	<i>4 points</i>	<i>2 points</i>
0 = no change, - = negative effect, + = positive effect.			

### 3.1. Possible synergies under a changed MFF structure for the Single Market

The integrated Single Market Programme allows pursuing synergies for all supporting expenditure for the various programmes/budget lines under the scope (data gathering and processing, IT tools, etc.) and for a limited set of operational activities such as training and capacity building in Member States.

For the preparation of this section on synergies, data was compiled from Commission services involved in the programme and subsequently validated and developed in a half-day workshop on 2<sup>nd</sup> March 2018 (see section 1.2 for examples of issues related to uncoordinated approach to different actions). The result of this work is compiled in table 3.2 below.

As a result of closer cooperation between Commission services it would be expected that additional synergies are discovered and developed during the implementation of the Single Market Programme.

**Table 3.2 Potential synergies in the Single Market programme**

Affected policy area of programme Potential synergy	Competition	IT	Statistics	Financial	Market	SME	Consumer	Health / Food	Customs and Taxation
<b>Trainings and capacity building</b>	√	√	√	√	√	√	√	√	
<b>Coordinated and Cross-border enforcement</b>	√				√		√	√	
<b>Data gathering and processing.</b>	√	√	√	√	√	√	√	√	√
<b>Awareness raising activities</b>	√	√	√	√	√	√	√	√	√
<b>Support to networks of Member States' authorities</b>	√				√	√	√		
<b>Sharing IT development and operations</b>	√	√	√	√	√	√	√	√	

The potential synergy areas, solutions proposed and their pros and cons are:

#### **- Trainings and capacity building**

- *Developing a general training offer under a Single Market capacity building heading.* This would involve pooling together organisation of training activities, focusing on the preparation of re-usable training material, offered on-line (i.e., e-learning) and open to other EU institutions and to all Member States. Common, horizontal modules could be developed (e.g. on e-commerce, detection of fraudulent/deceptive practices, risk based planning of controls in the field of dangerous products) and would complement the modules for specific policy areas. This could also include a corporate approach for the organisation of trainings, for example through a framework programme for developing capacity training modules for both consumers and businesses under the same contract.
- *Setting up a capacity building programme focusing on SMEs and covering different aspects under Single Market policies:* dealing with consumers' issues, accessing finances, etc. or to other targeted groups (i.e. Consumers' associations).
- *Coordinated approach to supporting Member States' enforcement capacities.* Comprehensive national enforcement strategies could be the basis for funding support to Member States, covering capacity building, modernisation and alignment of control systems and funding of testing and controls.

A coordinated approach to training or a common training programme would avoid information overload and foster more cooperation between national enforcers in the Member States (in particular where cross cutting skill areas are needed for enforcement action, such as e-commerce or fraudulent practices), and create a centralised training offer related to enforcement in one place where e-learning materials could be provided in one place according to target groups across policy areas. The network of intermediaries<sup>64</sup> in the COSME programme would also facilitate better outreach, especially among SMEs

Organising these trainings together would reduce the number of trainings and will lead to resources savings, both on the side of the Commission and national authorities. Using joint contracts for trainings could increase the impact and reduce work on project cooperation which would result in cost savings. There could be however feasibility problems for national administrations to ensure participation at the right level in these joint trainings and also some programmes are subject to comitology procedure.<sup>65</sup>

A coordinated approach to supporting Member States' capacities would allow simpler co-funding and more flexibility for them to seek co-funding of "mixed" programmes which may span over several funding opportunities but not fit into any of them. In those cases where this approach is feasible Member States could introduce requests for strategy/capacity building funding under a single programme and take a more holistic approach to the Single Market.

#### **- Coordinated and Cross-border enforcement**

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<sup>64</sup> E.g. The Enterprise Europe Network and Cluster organisations.

<sup>65</sup> For example, financing of the Better Training for Safer Food programme is subject to comitology by the Standing Committee of the Food Chain votes.

- Commission coordinated cross-border enforcement campaigns by national authorities could be run in areas where several administrations need to be involved as in the case of product and food safety and cyber security issues, on commercial practices, personal data protection and Intellectual Property Rights or in the area of EU antitrust rules and merger cooperation. DGs organising coordinated or joint enforcement campaigns could come together for planning and exchanges of best practices and improve Commission engagement with national authorities.
- Single framework contract for procuring products testing by laboratories could be open to DGs supporting enforcement networks and joint actions and to national enforcement authorities for their controls of products in the Single Market.

Coordinated cross-border enforcement campaigns could help create cross-sectoral and cross-border investigation teams. The annual planning of these across different sectors would reduce overlaps and allow better exchange of experience. In cases where enforcement actions are voted/examined by a Committee feasibility may be a problem.

#### **- Data gathering and processing**

- Enhancing existing platforms on data available at EU level such as BASEXT<sup>66</sup> to better address the needs of the Single Market Programme.
- Making use of Eurostat advice and services for the production and dissemination of statistical information supporting SMP sub-programmes.
- A "Single Market Knowledge Hub" to gather and analyse market studies, performance indicators, country profiles, market research, Member State reports to organise all the information and allow for sophisticated analytics.
- Text mining: introduce thematic building blocks (instead of DGs building their own intelligence).
- Access to information, assistance and problem-solving services: all Single Market information and assistance services for citizens, consumers and business are to become more easily accessible through the single digital gateway.
- Common purchase of access to databases when needs are similar.
- Creation of a framework contract for studies with higher value and higher individual studies value, use of such framework contracts would be optional.
- Joint bid for Eurobarometer slots and coordination of questionnaires.

By grouping certain projects the services involved in the Programme could increase the size of their procurements, save on management costs and generate economy of scales<sup>67</sup>. This could allow services to get access to specific knowledge and to better pooling and analysis of market intelligence in bigger data sets. Data sets could also be required in the same, open format both from consultants and Member States which could lead to easier exchange and reporting. In addition, duplication of studies could be avoided and outcome of similar studies could be cross-checked for accuracy.

Making better use of the joint procurement of external databases will give the Commission a better bargaining position and allow significant savings compared to

<sup>66</sup> <https://webgate.ec.europa.eu/multisite/basext/en/home> . BASEEXT is managed by Eurostat.

<sup>67</sup> Special rules on confidentiality apply in the area of EU competition policy and may limit the use and exchange of certain information

individual contracts with data suppliers. The potential savings for 5 DGs currently using the same database would be up to €400,000 per year and €2.8m during a seven year MFF (assuming purchase of data and storing it on Commission servers for all to have access to).

A bigger budget in joint bids for Eurobarometer slots and coordinated questions would allow asking more and more coordinated questions (cost savings on each duplicative question avoided is €15,000). Furthermore a joint proposal by several departments would gain higher priority in the Eurobarometer planning calendar.

Creation of framework contracts with higher value would enable having joint studies covering similar topics no longer constrained by budget and more flexibility in situations where one department runs out of budget while the other has a surplus. Such framework contracts could also be open to Member States.

An option to manage contracts separately should also be kept, in particular for DGs with specialised needs, where it would still be necessary to run separate studies to get the appropriate knowledge and so the qualitative outputs expected. High value would also mean that SMEs would probably need to form consortia in order to participate.

### **Support to networks of Member State authorities**

- Pooling support activities to networks and centralised management of meetings.
- Framework contracts for meetings, web-meetings, conferences organisation support, common tools, common scheme for exchange of officials/investigations teams.

Pooling support activities could lead to a more efficient organisation of enforcement cooperation meetings and peer reviews among Member States as long as the centralised management doesn't create added bureaucracy at the expense of flexibility and speed in managing the networks which have different objectives, modes of work, participants or frequency of meetings.

### **Awareness raising activities**

- Setting up networks for raising awareness of existing services and tools, signposting to the most relevant service providing information, assistance or problems-solving capacity. Developing a common brand and readily identifiable elements to all campaigns.

A coordinated approach in this field would produce economies of scale. Also the long-standing experience of awareness-raising activities and an extended network of intermediaries of COSME can provide additional leverage for all Single Market awareness raising activities.

### **Streamlining IT assets, Sharing IT development and operations**

- The joint management of the Single Market Programme could facilitate a strengthened coordination of IT assets (frameworks, standards, solutions) currently supporting the various information systems used by the included programmes.

This approach would enable a more streamlined IT support across the Single Market Programme domains consistent with the corporate IT governance within the Commission. This enhanced collaboration between sectorial IT support will be a core driver in view of sharing and reusing common solutions across services and the pooling of IT resources. Besides reducing the total cost of ownership of the digital services, enabling scalability and reducing time to market and interoperability fragmentation, such an approach would contribute to critical mass towards a sustainable and aligned digital transformation that pays prime attention to cross-border, cross-sector dynamics.

For example, the information systems that are used for the cooperation between national competent authorities and the European Commission could benefit from technological overhauls and state of the art investments with a view to improve their effectiveness. The programme would also strive to reuse datasets across business portfolios and support policy principles such as the “once-only” – while ensuring due diligence of data privacy and other relevant legal provisions.

### **3.2. Possible simplifications and improved flexibility in a common MFF structure for the single market**

- Better predictability and flexibility of budget for support activities

Supporting activities such as studies, evaluations, information campaigns and trainings of firms currently falling under the prerogative lines (around 7% of last MFF budget falling under the scope of the Single Market Programme) will be integrated into the programme allowing the budget for these activities to be fixed for the whole period of the MFF<sup>68</sup>. The benefit of predictable financing should allow for long term planning of supporting activities in product standardisation or financial services regulation. The increased financing stability will be accompanied by a higher level of political scrutiny over budget implementation. As discussed previously, the integration of existing prerogative lines and administrative spending will also allow for increased flexibility in adapting to changing needs across these areas of the new programme<sup>69</sup>.

### **3.3. Possible prioritisations in response to the EU27 baseline scenario**

The lessons learned and stakeholder feedback shows that the activities to be included in the SMP provide strong EU added value and should as a matter of principle be continued. The SMP is only a small part of the budget in comparison with other MFF programmes (€6bn, 0.55% in current MFF). This limited budget is however supporting one of the most significant parts of the European Project. To decrease the available budget could endanger the functionality of the programmes especially taking into account the additional commitments as presented in the table 1.2, such as the Goods package, Health Technology Assessment or Single Digital Gateway.

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<sup>68</sup> Programme legislation will determine the volume of expenditure and it is not subject to annual budgetary negotiations. The budgetary authority cannot refuse budget already assigned by programme legislation based on the MFF.

<sup>69</sup> See section 3, Programme structure.

Savings from the identified synergies will materialise mainly from cross-cutting implementation, better coordination, common enforcement, and as such are difficult to quantify. Although potential savings have been identified during the preparation of the IA they are marginal when compared to the EU27 baseline scenario. The identified synergies are mainly considered avenues for improved delivery of the content-specific objectives and if the SMP were reduced to the indicated EU27 baseline there would need to be real reductions in delivery which could not be offset by the potential synergies identified at this stage. The main responses to the EU27 baseline scenario are identified in table 3.3.

**Table 3.3 Prioritisations in response to the EU27 baseline scenario**

Programme/ line	Budget	Description
An Ambitious Competition policy for a stronger Union in the digital age		The programme would be adjusted by removing the priority of boosting external partnerships and wider stakeholder outreach. In terms of the actions listed that would mostly effect the outreach actions as well as the human competency actions to the extent they relate to third country authorities.
Interoperability solutions and common frameworks for European public administrations, businesses and citizens as a means for modernising the public sector (ISA <sup>2</sup> programme)		The policy initiatives under the Single Market Programme will continue to require IT solutions in their implementation. Those solutions will continue to need to be interoperable across borders and across sectors. As such, the budget needs for “IT and business solutions for the Single Market Programme” would not diminish, but the coverage or scope of the IT solutions can be adapted according to the budgetary constraints.
Implementation and Development of Single Market for Financial Services		Actions will continue to be implemented but would inevitably require a scaling back of activities funded that could potentially undermine the quality of policy delivery in the context of financial services, capital markets union and financial stability because of more limited options for example to acquire data, procure studies, build up IT tools and communication strategies.
European Statistical Programme (ESP)		Eurostat would cover only a minimum of information needs required by EU legislation. Many existing regular statistics based on voluntary data collections, e.g. related to the Energy Union or Digital Single Market, will have to be discontinued. It will not be possible to develop specifically designed statistical surveys or other data sources that would meet emerging policy needs.
Standards in the field of reporting and auditing		Actions will continue to be implemented but would inevitably require a scaling back of activities funded that could potentially undermine their effective functions in the context of global standard setting activities and therefore have a negative impact on EU interests in such context, including for example a qualitative and quantitative decrease of European Financial Reporting Advisory Group opinions..
Enhancing the involvement of consumers and other end-users in Union policy-making in financial services (ICFS)		The funding of current activities will be at risk. The current funding is already very limited and further reduction would put into question the survival of the programme in a policy field. Consequently the already underrepresented views of consumers would be even less represented while defining policy on financial services.
Company Law prerogative		While possibly some synergies could be gained within the SMP (studies benefiting from activities funding under other policy fields where suitable, communication activities) the margin for adjustment remains very small, also given a very small budget available for these policies in the past and a number of legal obligations in the current acquis to produce reports. Both, as regards company law and anti-money laundering/counter terrorist financing policy, it must be taken into account that any possible reduction of the budget would impact significantly the quality of the support and development of this EU policy
Consumer Programme and the consumer and contract law part of the		Activities in the UK will discontinue and help to offset budget reductions rather than abandoning specific actions, the programme expects to make productivity gains on certain activities (for example thanks to more efficient IT systems), the use

Programme/ line	Budget	Description
Rights Equality and Citizenship programme (REC)		of more powerful data analytics and through the development of synergies within the Single Market Programme. However, it may still be necessary to reduce funds allocated to supporting consumer assistance on the ground, awareness-raising activities as well as the support and capacity building of consumer authorities and organisations, and market analysis. Priority will be given to activities indispensable to ensure an efficient implementation of the consumer acquis and the Commission's obligations found in this acquis.
Internal market: Governance tools		Reduction would make it impossible to fulfil existing legal obligations stemming from Internal market legislation, such as the provision of the Internal Market Information system (IMI) for all those policy areas currently listed in the annex of the IMI Regulation and its expansion to new legal areas. It would mean halting any further development of services despite increasing demands from citizens and businesses and incapacity to address new business and/or societal developments related to the digital single market and e-government, such as the deployment of the IT tools and the comprehensive upgrade of the Your Europe portal which are required to launch the up-coming single digital gateway.
Internal market: Support to Standardisation activities		Running the standardisation system would continue but it would not be possible to fund all standardisation projects needed to support recently adopted EU legislation and would entail a negative impact on innovation - particularly so for SMEs since they have lesser means to defend themselves against non-compliant products being placed on the market. Costly laboratory trial tests needed before developing a standard would no longer be afforded which would negatively impact quality of standards.
Internal market: operation and development of the internal market for Goods, Services and Public Procurement		A reduction would make it impossible to fulfil new commitment made during the current MFF e.g. under the Goods Package or type approval proposals. Activities indispensable to preserve the proper functioning of the Single Market (such as accreditation, conformity assessment, preventing new barriers under the Single Market Transparency Directive, services and maintaining the Single Market product legislation fit and up-to-date with the digital age) would need to be reduced and further developments would need to be restricted.
COSME		No entire action would be discontinued in the EU27 baseline scenario but parts related to implementation in the UK will be discontinued and other proportional reductions would be implemented.
Health programme		The further development of initiatives such as additional European Reference Networks, Health Technology Assessments and eHealth would be very limited, and the support to achieving the Sustainable Development Goal number three of "ensuring healthy lives and promoting well-being and access to health care for all" would be minimal.
CFF for food chain (the Food Chain Programme)		It would prevent the necessary strengthening of actions against plant pests. There is a strategic phasing-in under the current MFF of the budget for detection and eradication of harmful organisms. The baseline would not take this into account and would thus significantly reduce the scope for action (e.g. against Xylella). It would also limit the efforts to work with and support Member States in the fight against food fraud.
Customs and tax policy development support budget line		A reduction of budget to an EU-27 budget would not lead to the elimination of a certain type of activities. Indeed, the same types, namely studies, evaluation, and communication activities would continue to be set up. Studies for evaluations or reports which the Commission is obliged to deliver on the basis of Union legislations would be prioritised. In addition, the relevance of intended initiatives with the EU customs and tax agenda would be checked and would allow prioritisation. For example, initiatives which can be linked to fair taxation or the Union Customs Code implementation could be prioritised.

### 3.4. EU added value and legal base

#### 3.4.1. EU added value

The need for EU intervention is already well established for the existing programmes/budget lines<sup>70</sup> and the proposed structure for a Single Market Programme would not alter the pre-existing rationale of these individual interventions.

In the open public consultation around 80% of stakeholders considered that EU programmes and funds add more value than could be achieved at national level. The Single Market is considered the best illustration of EU added value action, as it is a public good delivering real and tangible value. However, as new barriers continuously appear, some respondents ask for further standardization and for strengthened market surveillance with sufficient budget allocation<sup>71</sup>.

Although Member States are primarily responsible for delivering the Single Market on the ground the Commission as a guardian of the Treaties and the EU as a whole has an interest that this delivery is done in a coherent way, and that citizens, consumers and businesses enjoy the same rights and the same opportunities throughout Europe. Action at EU level is required to ensure the consistent development of the Single Market, non-discrimination, consumer protection, functioning competition, developing capabilities in, as well as cooperation and trust between Member States, tackle cross-border issues and ensuring the security of the Single Market. Developing a Single Market Programme can only be achieved at EU level as actions require active cooperation and coordination of national capacities.

For instance, to ensure that consumer and safety laws are respected across the Single Market, consumer authorities and associations have to cooperate to ensure an equal assessment and correction of practices in this field. The EU has to support such cooperation with adequate IT tools, evidence and legal expertise. In addition, the EU is best placed to support EU-level consumer representation, including financial services, awareness raising, collection of evidence, exchange of best practices and networking among authorities and bodies assisting and/or representing consumers. EU action is in particular required in the area of awareness-raising concerning the application of the EU competition rules and its effects for the functioning of the Single Market. In addition, safeguarding health as an invaluable resource for the society and the Single Market by protecting citizens and the economy against cross border health threats (for humans, and animals and plants equally) can only be effective and efficient if coordinated at EU level.

As regards the new proposal for *An Ambitious Competition policy for a stronger Union in the digital age*, a large body of literature and studies demonstrates the macroeconomic benefits of competition and competition enforcement. For instance, a study<sup>72</sup> from 2017 demonstrated that the Commission's cartel and merger decisions taken over the period 2012-2014 boosted GDP by 0.3% and employment by 0.2% after five years, similar to

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<sup>70</sup> Discussion of subsidiarity and EU added value for individual programmes/budget lines can be found in the corresponding annexes.

<sup>71</sup> See annex 2 for more details

<sup>72</sup> Dierx, Adriaan, Fabienne Ilzkovitz, Beatrice Pataracchia, Marco Ratto, Anna Thum-Thysen and Janos Varga (2017), "Does EU competition policy support inclusive growth?", *Journal of Competition Law & Economics*, Vol. 13, No. 2, pp. 225-260.



various estimates of the impact of the Services Directive<sup>73</sup>.. The competition enforcement action – which only covered part of EU level competition enforcement – was also found to reduce inequalities between rich and poor households.

The new *Scaling-up instrument* will directly leverage the high EU added-value of the COSME programme as it will target SMEs that are engaged in strategic interregional collaboration as part of clusters and encourage the transnational uptake of solutions to boost SMEs competitiveness. It will complement efforts at regional and national level and others measures at EU level, such as interregional collaboration of regional authorities under the European Regional Development Fund.

### 3.4.2. *Legal base*

According to settled case-law, the choice of the legal basis for a European Union measure must be based on objective factors amenable to judicial review, which include the aim and content of that measure and not on the legal basis used for the adoption of other European Union measures, which might, in certain cases, display similar characteristics. In addition, where the Treaty contains a more specific provision that is capable of constituting the legal basis for the measure in question, the measure must be founded on that provision. If examination of a measure reveals that it pursues two aims or that it has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the measure must be founded on a single legal basis, namely that required by the main or predominant aim or component. With regard to a measure that simultaneously pursues a number of objectives, or that has several components, which are inseparably linked without one being incidental to the other, the Court has held that, where various provisions of the Treaty are therefore applicable, such a measure will have to be founded, exceptionally, on the various corresponding legal bases. Recourse to a dual legal basis is not possible where the procedures laid down for each legal basis are incompatible with each other<sup>74</sup>

The basic acts establishing programmes currently in force which will be integrated into the Single Market Programme are based on diversified legal bases. Those include: Article 114 TFEU in case of activities supporting financial reporting and auditing<sup>75</sup> (and a large number of internal market measures that contain ancillary financing provisions), Article 169 TFEU and Article 169 (2) (b) TFEU concerning consumer protection<sup>76</sup>, Article 168 (5) TFEU concerning public health<sup>77</sup>, Articles 43 and 168 (4) (b) TFEU concerning measures in veterinary and phytosanitary fields<sup>78</sup>, Article 197 TFEU on administrative cooperation Article 173 TFEU encouraging a favourable environment for the development of undertakings, particularly small and medium-sized undertakings, Article 195 TFEU concerning tourism, and Article 338 TFEU on statistics.

In the light of the synergies obtained, the merging of the previous programmes has resulted in the proposal pursuing simultaneously four objectives that are inseparably linked without one being incidental to the other i.e. the internal market (Article 114

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<sup>73</sup> See Copenhagen Economics (2005a): "Economic assessment of the barriers to the internal market for services", Final report. 'The economic impact of the Services Directive: A first assessment following implementation', EUROPEAN ECONOMY, Economic Papers 456 (June 2012).

<sup>74</sup> See e.g. Case C-490/10 Parliament v. Council at paras 44 to 47.

<sup>75</sup> Regulation 258/2014

<sup>76</sup> Regulation 254/2014, Regulation 2017/826,

<sup>77</sup> Regulation 282/2014

<sup>78</sup> Regulation 652/2014

TFEU), measures in the veterinary and phytosanitary fields (Articles 43 and 168 (4) (b) TFEU), encouraging a favourable environment for the development of undertakings, particularly small and medium-sized undertakings (Article 173 TFEU) and statistics for EU policies (Article 338 TFEU).

#### **4. DELIVERY MECHANISMS OF THE INTENDED FUNDING**

Single Market governance, policy implementation and funding have traditionally been set up and implemented with a strong sector specific focus. Each of the programmes to be incorporated in the Single Market Programme has their own historic background and independent approach on implementation and delivery. The instruments used are direct funding by way of grants and financial instruments. Policy support actions are partly implemented by procurement. This is especially the case under the Commission prerogatives on budget lines not related to a funding programme and where tasks assigned to the Institutions by the Treaty require the exercise of discretionary powers in translating political choices into action<sup>79</sup>. Detailed descriptions of the delivery mechanisms for each budget line included in the scope of the Single Market Programme are described in the corresponding programme-specific annex.

Setting up this programme is an opportunity to streamline procedures, increase commonalities, adopt common management and delivery models and an opportunity to consider further the use of executive agencies to support programme implementation.

Finally, and subject to the caveat expressed in the section 1.1 Scope and context, and in line with the Commission's overall objectives of streamlining, increasing efficiency and achieving a better visibility of EU support, the successor to the SME guarantee facility of the COSME programme will be implemented under the SME window of the InvestEU Fund and under the rules established for the InvestEU Fund. The delivery of the SME guarantee facility under the InvestEU Fund is more efficient, as the InvestEU Fund will be based on a budgetary guarantee rather than a fully funded financial instrument. To this end, it will be stipulated in the Regulation that the budget allocated towards the SME guarantee under the COSME programme shall be made available to the guarantee fund linked to the InvestEU Fund on the condition that the implementation of an SME guarantee facility is focused on supporting higher risk SME financing transactions under the SME window of the InvestEU Fund.

##### **4.1. Programme coordination and delivery**

###### *4.1.1. Coordination in the Commission*

The day to day running of the Programme will require an Inter Service Group (ISG) within the Commission to ensure coordination between the services involved in running

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<sup>79</sup> See recital (5) of Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes stating that "*Outsourcing of management tasks should nevertheless stay within the limits set by the institutional system as laid out in the Treaty. This means that tasks assigned to the institutions by the Treaty which require discretionary powers in translating political choices into action may not be outsourced*".

the specific activities. The ISG will consist of the DGs tasked with the implementation of the programme and administrative support will be provided by the lead DGs.

The ISG will develop the internal arrangements for the cross-cutting activities and support measures announced in the work programme, monitor relations with any relevant executive agency and will be consulted on the scope of the activities to be externalised. The ISG will be involved in budget appropriation and programme evaluation.

An additional option in implementing the Single Market Programme would be for the responsible Commission services to be assisted by a Common Support Centre similar to the one set up to assist in the day to day management of the Horizon 2020 Programme under the current Multiannual Financial Framework which provides a consistent application and interpretation of a single set of rules in Horizon 2020 across all components of this Framework Programme and a harmonised implementation of full grants cycle across all implementing bodies. This support however also creates rigidity in the implementation when based on a single set of rules which is appropriate for a very large scale of operations in administering grants which is not foreseen for the Single Market Programme. . Given the diversity of actions under the Single Market Programme, the use of a Common support Centre is therefore not foreseen for the Single Market Programme. It is considered that the ISG within the Commission will be sufficient to ensure proper coordination of actions.

Under the template put forward for sector programmes under the Multiannual Financial Framework post 2020, the funding rules applicable to the programme budget will closely follow the provisions of the new Financial Regulations. Where appropriate, the programme's ISG can be consulted or ad hoc cooperation can be established for the implementation of specific cross-cutting activities, such as rationalising some IT tools developed under the Single Market Programme or its predecessors.

#### **4.2. Delegation to executive agencies**

Delegation to an executive agency is primarily relevant for activities that are repetitive, non-political and benefits from economies of scale in their production. A good example is the delegation of management of grants awarded to a large number of recipients according to a set of common rules or the contracting out of media buying for communication campaigns. One or several existing executive agencies could be tasked to run specific grants or procurements meeting these criteria and develop the necessary expertise in the delegated task across several programmes. Other procurements could be delegated to executive agencies on the basis of a pre-existing specialisation (e.g. in the health and food safety domain).

Due to specialisation and standardisation of administrative activities such agencies are very cost efficient. Cost analysis has shown, for instance, that delegation of programme management to EASME is estimated to deliver savings of 26% or €104m over 2014-2024 relative to implementation by the Commission itself<sup>80</sup>. They also form a single recognizable counterpart to recipients of funding. This will allow Commission services to concentrate resources on developing and retaining expertise required for non-repetitive and policy making tasks.

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<sup>80</sup> ICF GHK. 2013. Cost Benefit Analysis for the delegation of certain tasks regarding the implementation of Union Programmes 2014-2020 to the Executive Agencies (Final Report 19 August 2013), pages 63 and 135.

#### 4.2.1. Current delegation

Under the current multiannual financial framework the programmes included under the scope of the Single Market Programme have already delegated a number of such activities to executive agencies as summarised in table 4.1.

**Table 4.1 – Existing delegation of activities for programmes under suggested scope for the Single Market programme**

<b>Programme</b>	<b>Delegation (M€)</b>	<b>delegation (%)</b>	<b>Delegated to</b>
Health Programme	339	75	CHAFEA
Food Chain Programme	112	6	CHAFEA
Consumer programme	142	75	CHAFEA
Internal market governance tools <sup>81</sup>	3	11	EASME
COSME	765	32	EASME
<i>Total</i>	1.361		

Under the current multiannual financial framework the European Commission has entrusted the Consumers, Health, Agriculture and Food Executive Agency (CHAFEA) to implement activities for three programmes under the scope of the Single Market Programme: the Health, the Food Chain and Consumer programmes.

For the Health Programme this is mainly done through financing three types of different actions: grants for projects, grants for joint actions with Member States and operating grants. CHAFEA ensures a complete electronic lifecycle for grants from evaluation of proposals, to collection of deliverables and final reports. A good example is the "Better Training for Safer Food" (BTSF) initiative under the CFF for Food Chain Programme. The aim of BTSF is to organise a Community (EU) training strategy in the areas of food law, feed law, animal health and animal welfare rules, as well as plant health rules. While the Commission sets out policy objectives and the general strategy for BTSF, the Executive Agency puts into practice this initiative by managing all phases of the projects, from launch of calls for tender to evaluations of offers, award of contracts, and supervision of implementation. For the Consumer programme, CHAFEA implements grants and a part of the procurements in the programme. Certain specific procurements remain executed directly by the parent DG in case of highly sensitive files or where CHAFEA does not have the necessary technical expertise.

The COSME programme, on average, delegates around 110 million per year (90% of the budget for the non-financial instruments) to EASME. Half of this relates to the Enterprise Europe Network, the other half is constituted of a large number of smaller actions. Under the current multiannual financial framework, EASME has also partly implemented a small fragment of the Internal Market Governance tools (Your Europe Business) but with funding deriving from the COSME budget line.

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<sup>81</sup> The main part of the delegation for this activity (Your Europe Business) derives from the COSME budget.

#### *4.2.2. Future delegation of activities under the Single Market Programme*

From 2018, the portfolio of executive agencies is no longer limited by a strict interpretation of "programme" implementation as a result of the entry into force of the new Financial Regulation. This means that externalisation may now be considered for the implementation of certain tasks related to the management of individual projects and for the implementation of administrative expenditures. As such, externalisation can be extended to activities previously implemented by the Commission as long as it respects the requirements set out by Regulation 58/2003 for any delegation of tasks to Executive Agencies (prior cost benefit analysis, exclusion of any delegation of tasks involving discretionary powers, inclusion of the activity in the Establishment Act of the Executive Agency)..

In this context, the experience of executive agencies can be extended to other implementation tasks that are currently implemented within the Commission proper. Externalisation cannot be applied to all tasks. Some actions may be politically sensitive, or need a specific knowledge to be implemented most effectively, which would require in-house evaluation and award of individual contracts and funding to be performed by the Commission itself or some selected activities with a particularly close relation to policy making.

Without prejudging of the result of the cost benefit analysis that will be performed to analyse the opportunity of delegation to executive agencies for the next programming period<sup>82</sup>, the following elements can already be mentioned. Positive experience with the current delegations from the Health, Food chain, Consumer and COSME programmes means they should continue under the next multiannual financial framework. The current delegation of the activities for Your Europe Business might no longer be considered suitable for delegation to the executive agency as analysis has showed that the delegation created an extra layer of coordination that effective delivery can be better achieved by fully integrating delivery with the other Internal Market governance tools which are currently managed in-house.

As a part of the preparation of the impact assessment for the Single Market Programme, the services involved have performed a preliminary analysis and identified potential candidates for future delegation of activities to an executive agency.

As regards the delegation of the implementation of grants:

- The possible use of grants to incentivise uptake of digital interoperable assets from the current ISA<sup>2</sup> programme.
- Operating and action grants without calls for proposals (under framework contracts) to European standardisation organisations.
- The use of grants to support joint enforcement actions, best practise development and capacity building in the area of market surveillance and product compliance.

As regards the delegation of the implementation of public procurement:

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<sup>82</sup> The performance of this Cost Benefit Analysis is a requirement set out by Article 3 of Regulation 58/2003.

- Day to day management of the contract supporting Your Europe Advice (part of the Single Market Governance tools)<sup>83</sup>.
- Market studies, data gathering and analysis, product testing, communication actions, training programmes and material in the area of market surveillance and product compliance.

As regards the delegation of the implementation of other activities:

- Direct payment or reimbursement of travel and meeting costs linked to enforcement coordination meetings of market surveillance authorities, exchange of officials, peer review visits of market surveillance authorities.
- Direct payment or reimbursement of Member States' testing costs in the context of agreed priority actions of the EU Product Compliance Network.
- Management of joint procurement for EU Product Compliance Network (e.g. framework contracts open to COM/agency and authorities)

The potential for delegation in the next multiannual financial framework is described in table 4.2.

**Table 4.2 – Potential for future delegation in the Single Market Programme**

Name	Potential delegation (%) <sup>84</sup>	Type of activities to be delegated		
		Grants	Public Procurement	Other
IT and business solutions for the Single Market (successor of ISA2)	30	√	√	√
Ambitious Competition policy for a stronger Union in the digital age	0	N/A	N/A	N/A
Implementation and Development of Single Market for Financial Services	0	N/A	N/A	N/A
European Statistical Programme (ESP)	0	N/A	N/A	N/A
Standards in the field of reporting and auditing	0	N/A	N/A	N/A
Enhancing the involvement of consumers and other end-users in Union policy-making in financial services (ICFS)	0	N/A	N/A	N/A
Company Law prerogative	0	N/A	N/A	N/A
Consumer Programme and the consumer law part of the Rights Equality and Citizenship programme (REC)	75	√	√	√
Internal Market: Governance tools	29	N/A	√	N/A
Internal market: Support to Standardisation activities	75	√	N/A	N/A
Internal market: operation and development of the internal market for Goods, Services and Public Procurement	45	√	√	√
COSME	32	√	√	N/A
Health programme	75	√	√	√

<sup>83</sup> Your Europe Advice offers citizens and businesses tailored information and advice on their rights in the Internal Market, free of charge and in all 24 EU languages, including re-direction to the authority or other body (local, national or European) best placed to solve their problem. It is provided through a contractor (ECAS, European Citizens' Action Service) managing a network of 60 legal experts with EU law background, expertise and experience in national law and administration in all Member States, financed by the Commission which also takes care of the political guidance, maintenance and further adaptation of the YEA database application to the citizens and experts' needs

<sup>84</sup> Based on working assumptions and knowledge about the current multiannual financial framework.

Food Chain Programme	6	N/A	√	N/A
Customs and tax policy development support budget line	0	N/A	N/A	N/A

In a context of continuing existing delegations and as a result of the identification of the above potentials for new delegation, a political decision will be needed at the appropriate time as to how to organise the delegation of actions from the Single Market Programme. This choice will largely depend on the result of the Cost benefit Analysis.

## 5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?

As the Single Market Programme is a merger of 15 new and existing programmes it covers a very large number of policy areas and consequently includes a large number of (sub)objectives and indicators. In as much as only a limited number of key performance indicators are possible, combining indicators to measure the overall performance of the programme covering many policy areas is not a viable monitoring strategy<sup>85</sup>.

To prepare the impact assessment a half day workshop was conducted between the Commission services involved in the programme and the JRC. As a result the involved services were able to design and select a limited number of highly aggregated Key Performance Indicators that would best reflect the overall performance in terms of both the content-specific (reflecting key components of the programme) and cross-cutting objectives for the Single Market Programme<sup>86</sup>. The chosen indicators are based on the learnings from evaluation which showed the need for reducing the total number of indicators and shifting the focus to only key indicators which are measuring performance rather than output and for which the sources of data should be clearly identified at the design stage.

Programme/budget line	Indicator	Frequency	Source of data
<b>An Ambitious Competition policy for a stronger Union in the digital age</b> <sup>a,b,c)</sup>	Customer benefit from cartel prohibition decisions and merger interventions	Annual	In-house
<b>IT and business solutions for the Single Market (successor of ISA2)</b> <sup>a,b,c)</sup>	Level of alignment with the European Interoperability Framework <sup>87</sup> of the Member States Ability to complete procedures on-line.	Annual	NIFO (National Interoperability Framework Observatory)
<b>European Statistical Programme (ESP)</b> <sup>a,b,c)</sup>	Impact of statistics published on the internet: number of web mentions and positive/negative opinions	Annual	Eurostat, In-house
<b>Standards in the field of reporting and auditing</b> <sup>c)</sup>	Percentage of international financial reporting and auditing standards endorsed by the EU	Annual	N° of endorsement regulations
<b>Consumer programme and New Deal for consumers</b> <sup>a,b,c)</sup>	Consumer condition index <sup>88</sup>	Biannual	Consumer scoreboard

<sup>85</sup> The full mapping of (sub)objectives and indicators and their connection to the content specific objectives of the Single Market Programme are detailed in annex 19-20.

<sup>86</sup> The final list of the indicators will be decided in the legal base

<sup>87</sup> European Interoperability Framework Communication (COM(2017)134)  
([http://eur-lex.europa.eu/resource.html?uri=cellar:2c2f2554-0faf-11e7-8a35-01aa75ed71a1.0017.02/DOC\\_1&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:2c2f2554-0faf-11e7-8a35-01aa75ed71a1.0017.02/DOC_1&format=PDF))

<sup>88</sup> Composite index covering three dimensions: knowledge and trust; compliance and enforcement; complaints and dispute resolution

Programme/budget line	Indicator	Frequency	Source of data
<b>Internal Market - Governance tools</b> a,b,c)	Number of visits to Your Europe portal Number of IMI bilateral requests <sup>89</sup>	Annual	Single Market Scoreboard
<b>Internal market – Support to Standardisation activities</b> a,c,d)	Share of implementation of European standards as national standards by Member States in total amount of active European standards	Annual	Internal Market Scoreboard
<b>Internal market – operation and development of the internal market for Goods, Services and Public Procurement</b> a,b,c)	- Number of new complaints in the area of free movement of goods and services, as well as EU legislation on public procurement - Services Trade Restrictiveness Index <sup>90</sup> Joint market surveillance campaigns	- Annual - Annual	- Commission centrally registry of complaints (CHAP) - OECD
<b>EU programme for the Competitiveness of SMEs (COSME)</b> a,b,	Number of SMEs receiving support and total volume of financing made available to SMEs supported <sup>91</sup> . Number of companies supported having concluded business partnerships.	Annual	To be developed <sup>92</sup>
<b>Health programme</b> a,b,c,d)	Strength of integrated work engagement	Annual	Member States /SANTE
<b>Food chain Programme</b> a,b,c,d)	Number of successfully implemented national veterinary and phytosanitary programmes	annual	Member States /SANTE
Note: The key performance indicator for each programme is linked to content specific objectives for the Single Market Programme as described in table 2.2): a) Indicator linked to: <i>Empower citizens/consumers and businesses(in particular SMEs at different stages of their development)</i> ; b) Indicator linked to: <i>Support to administrative cooperation, capacity building and integration among Member State</i> ; c) Indicator linked to: <i>Support to rule-making, standard setting and enforcement at EU institutions level</i> ; d) Indicator linked to: <i>Foster the protection of health as a resources for the society and the internal market</i>			

In order to measure the achievement of the cross-cutting objectives for the new Single Market Programme the following design specific indicators will be monitored in-house:

Synergies
<b>Training and capacity building:</b> - Number and subject of training organised covering more than one policy area (with common programme or common venue or common participants or common date) - Participants feedback from such trainings and key learnings
<b>Joint enforcement actions:</b> - Number and field of common enforcement actions covering more than one policy area (no. of countries covered, no. of common inspections) - Reduction of time of product testing due to common Framework Contract
<b>Data gathering:</b> - Number of common purchases of databases and amounts saved - Number of joint Eurobarometers, number of policy areas covered and amounts saved (due to elimination of overlapping questions) - Number and value of studies launched under joint framework contract for studies - Number of joint studies launched and covering more than one policy area

<sup>89</sup> Requests/exchanges from one Member State to another

<sup>90</sup> OECD Services Trade Restrictiveness Index (STRI) is a unique, evidence-based diagnostic tool that provides an up-to-date snapshot of services trade barriers in 22 sectors across 44 countries, representing over 80% of global services trade. <http://www.oecd.org/tad/services-trade/services-trade-restrictiveness-index.htm>

<sup>91</sup> Subject to the caveat expressed in the section 1.1 Scope and context

<sup>92</sup> This information comes from different sources. This has to be centralised at programme level. Discussion with JRC will follow to develop a central monitoring system that would allow an annual calculation of this indicator.



<b>Support to networks of Member State authorities</b> - Usage of joint FWC for meetings (Saved time and cost on organisation of repetitive events)
<b>Awareness raising activities:</b> - Number of joint promotion campaigns covering more than one policy area - Measure of success of such campaigns (e.g. no. of citizens/firms reached, feedback received)
<b>IT development and operations</b> - Number, development time and related costs of common IT projects supporting more than one policy area -Users' feedback on these systems
<b>Flexibility</b>
- No of times budget were moved from one SMP pillar to another. - No of times FWC for studies was used for standard development and associated reduction in delivery time for standards.
<b>Simplification</b>
- Number, value and kind of common support activities cleared by Agency - Number of FTE saved for preparation of one work programme instead of many - Travelling time and lodging saved for the Commission and national authorities due to common Member State Programme Committee

There will be separate mid-term evaluations of the components of the Single Market Programme. Each evaluation will be content specific and focus on its detailed objectives. The findings will feed into the evaluation of the whole SMP, which will concentrate on design specific objectives (simplification, flexibility and synergies) and the key performance indicators specified in the legal base. In order to provide meaningful recommendations the mid-term evaluation should be conducted when SMP actions are likely to produce real output on the ground. Assuming that the next MFF has a duration of 7 years the mid-term evaluations should start during the 5<sup>th</sup> or 6<sup>th</sup> year of the programme implementation. The final evaluation should take place when all actions are executed and cleared.

The existing data sources seem sufficient for the monitoring of the proposed indicators.

Monitoring indicators presented above are not sufficient to provide an adequate evaluation of the effects of the whole programme. For this reason, it is foreseen to plan for mid-term and ex-post evaluations of specific SMP components with the relevant data collection. The detailed monitoring and evaluation arrangements for different SMP components are discussed in the respective programme-specific annexes. The detailed connection between all objectives and draft comprehensive list of all indicators is presented in Annex 19 and 20 respectively. Following experience with the current programmes, too many indicators can be difficult to monitor and not proportionate to objectives at hand. Therefore further work will be done to reduce and streamline the list proposed in the annex.

## **Annex 1: Procedural information**

### **1. LEAD DG(S), DeCIDE PLANNING/CWP REFERENCES**

#### **Lead Directorates-General (DGs)**

This initiative is co-led by Directorate-Generals for Internal Market, Industry, Entrepreneurship and SMEs (GROW), Competition (COMP), Informatics (DIGIT), Eurostat (ESTAT), Financial stability, Financial Services and Capital Markets Union (FISMA), Justice and Consumers (JUST), Health and Food Safety (SANTE) and, Taxation and Customs Union (TAXUD).

#### **Decide planning and Commission Work Programme references.**

The Decide Consultation reference for this initiative is ISC/2018/03016. The MFF proposal was published in the Commission Work Programme 2018<sup>93</sup>.

### **2. ORGANISATION AND TIMING**

The Inter-Service Steering Group for this initiative was chaired by the Secretariat-General. Besides lead DGs the following Directorates-General participated: the Legal Service (LS), Budget (BUDG), Communication Networks, Content and Technology (CNECT) and Joint Research Centre (JRC), Employment, Social Affairs and Inclusion (EMPL), Economic and Financial Affairs (ECFIN), Research and Innovation (RTD) and European Anti-Fraud Office (OLAF).

The following meetings took place:

- 27 November 2017 – preparation of public consultations
- 8 February 2018 – on lessons learnt and objectives
- 16 March 2018 – on the final draft Impact Assessments

There was also a separate Inter-Service Steering Group Meeting related to COSME which took place on 22 February 2018. In addition, to services represented in the Single Market Programme, the following Directorates-General participated: Regional and Urban Policy (REGIO), Research and Innovation (RTD), Environment (ENV), Joint Research Centre (JRC), Climate action (CLIMA), Economic and Financial Affairs (ECFIN), Budget (BUDG), Trade (TRADE) Employment, Social Affairs and Inclusion (EMPL).

Besides the above, leading DGs met regularly to discuss and develop different parts of the Impact Assessment.

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<sup>93</sup> Commission Work Programme 2018 page 11 and, Annex 1 page 2.

### 3. CONSULTATION OF THE RSB

An informal upstream meeting was held with RSB representatives. During this discussion Board members provided early feedback and advice on the basis of an inception impact assessment. Board members' feedback did not prejudice in any way the subsequent formal deliberations of the RSB. The Regulatory Scrutiny Board (RSB) discussed the draft impact assessment on 18 April 2018 and issued a positive opinion on 20 April 2018. The Board recommended the following improvements:

RSB recommendations	Revisions introduced
The report should be updated to reflect and explain the latest decisions regarding the scope of the programme.	Section 1.1 ' <i>scope and context</i> ' has been expanded to reflect scope of the Single Market Programme.
In the introduction, the report could better explain the nature of the programme-specific annexes. It should fix inconsistencies between the annexes and the report. It should include findings which are significant for the Single Market Programme budget from the annexes in the main report. It should spell out the changes within the individual programmes which will be implemented in the next period. It should also reflect stakeholder input more clearly in the presentation of the policy context and new priorities. The report should explain how the concerns expressed in particular in terms of prioritisation are properly reflected, e.g. with regard to health and to a safe and sustainable food chain.	The nature of the programme-specific annexes have been clarified in section 1.1 ' <i>Scope and context</i> '.  Main findings from SMP (sub)programmes have been clarified in the main IA report in table (1.3, <i>Main lessons learned in programmes and budget lines included in the Single Market Programme</i> ), and main changes to (sub)programmes have been added in table (2.1, <i>Main adjustments in existing programmes/budget lines</i> ) and stakeholder views have been clarified.
The report lays out common priorities of the Single Market Programme but could discuss more the prioritisation between them and between the sub-programmes. As such, the analysis could reflect the scenarios for cutting activities and/or achieving synergy gains in order to cope with a possibly limited budget.	Section 3.3 about ' <i>possible prioritisations in response to the EU27 baseline scenario</i> ' has been added to the report.
The report could better explain the coherence and potential synergies between the instruments of the Single Market Programme and other MFF programmes.	" <i>Exclusions from the scope and coherence with other MFF programmes</i> " under section 1.1 has been expanded with additional information about coherence and potential synergies with other programmes.

### 4. EVIDENCE, SOURCES AND QUALITY

This impact assessment is based on midterm evaluations and experience of the individual programmes of the MFF 2014-2020 budget period. The list of programmes is presented in section 1.1 Scope and context. The common lessons learnt from the experience with the programmes are summarised in section 1.2. More detailed information is available in programme specific annexes.

This impact assessment was also supported by public consultations, which are summarised in Annex 2.

## **Annex 2: Stakeholder consultation**

### **1. INTRODUCTION**

This synopsis documents public consultations accompanying the preparation of the proposal to introduce the Single Market Programme<sup>94</sup>.

The public consultation on the proposal took place between 10 January 2018 and 9 March 2018.

The questionnaire covered areas of investment, research and innovation, SMEs and Single Market. The analysis below focuses on areas covered by the Single Market Programme: SMEs and Single Market.

The results of this consultation were used for the preparation of the proposal and accompanying impact assessment.

### **2. RESULTS OF THE PUBLIC CONSULTATIONS**

The on-line public consultations for this initiative were announced on the Commission consultation page<sup>95</sup>, used EUSurvey as the consultation tool and lasted for 8 weeks<sup>96</sup>. The questionnaire was available in all EU languages. The questionnaire and replies are available on the abovementioned consultation page.

Responses to public consultation are voluntary and represent only views of the respondents. Consequently, they cannot be interpreted as representative in a statistical sense to the whole EU.

#### **2.1. Description of respondents**

Responses are classified based on self-identification by the respondent.

By the end of consultation period, 4052 replies arrived. This analysis however, will concentrate on around 28% of respondents (1122 replies) who chose “EU support to the Single Market” (307 replies) and/or “EU support for SME and entrepreneurship” (1034) as the topics of their replies<sup>97</sup>.

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<sup>94</sup> Individual sub-programmes of the Internal Market Programme subject to evaluations had also their own topic specific public consultations – for details please check programme-specific annexes.

<sup>95</sup> [https://ec.europa.eu/info/consultations/public-consultation-eu-funds-area-investment-research-innovation-smes-and-single-market\\_en](https://ec.europa.eu/info/consultations/public-consultation-eu-funds-area-investment-research-innovation-smes-and-single-market_en)

<sup>96</sup> The Commission Secretariat General granted a derogation from the recommended 12 weeks consultation period.

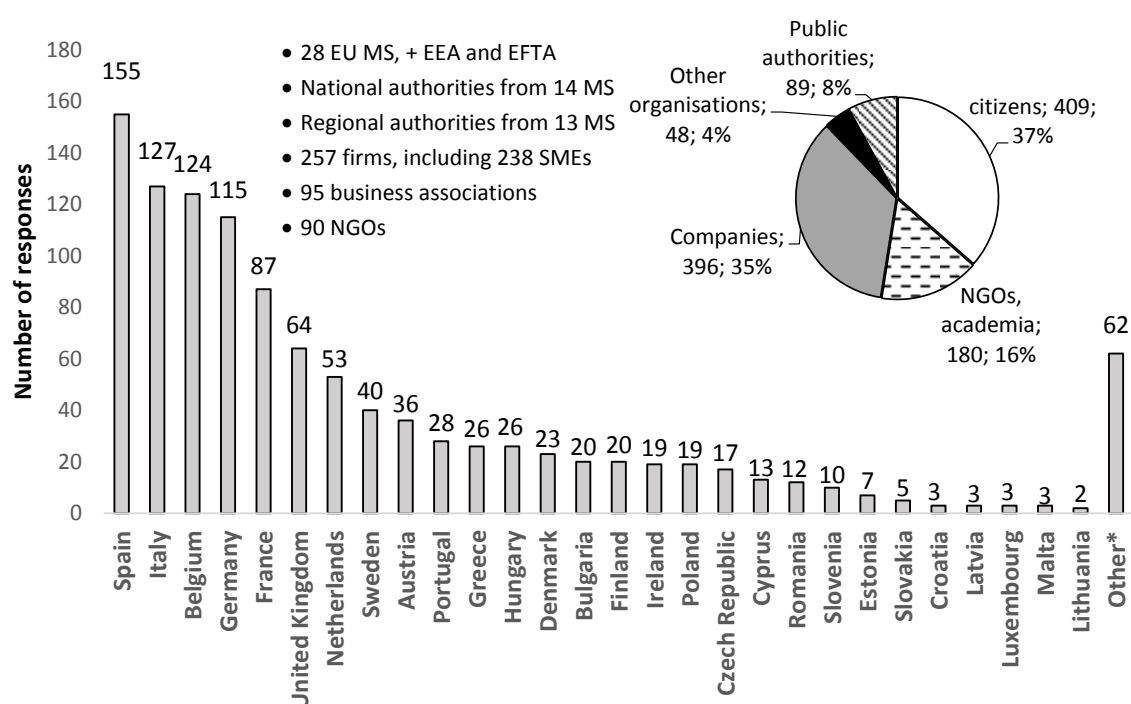
<sup>97</sup> Question 28, it was possible to choose multiple topics. The remaining topics were “EU support for research and innovation” (3837 answers, 95% of all answers) and “EU support for Investment” (642 answers – 16% of all)

The replies came from all 28 EU Member States, from Norway and Iceland (EEA), Switzerland (EFTA) and 13 other countries. Around 60% of replies came from just six countries: Spain, Italy, Belgium, Germany, France and UK. (See Fig. A2.1)

A third of replies came from citizens (409), a third from companies (396), 16% from NGOs and academia (180), 8% from public authorities (89). There were 257 replies from individual companies (93% of which were SMEs<sup>98</sup>) and 95 replies from business associations<sup>99</sup>. National public authorities from 14 EU Member States<sup>100</sup> and regional or local authorities from 13 Member States<sup>101</sup> participated in the consultations.

Around 230 organisations are registered as official lobbyists in the transparency register<sup>102</sup>.

Fig. A2.1. Distribution of answers to public consultations by country and stakeholder type.



Note: Covers only those who chose “EU support to the Single Market” and/or “EU support for SME and entrepreneurship” topics

\*Other includes 17 answers from Norway, 14 from Switzerland, 3 from Iceland, Israel (7), Turkey (4), two answers from Australia, Brazil, Canada, Moldova and Peru, one answer from Albania and Kosovo, Belarus, Bosnia and Herzegovina, Ecuador, Paraguay and USA

<sup>98</sup> 238 replies from SMEs, more than ten SME replies came from Spain (41 replies), Italy (37), UK (23), Germany (22), France (16), the Netherlands (15)

<sup>99</sup> The remaining 44 replies came from consultancies and law firms

<sup>100</sup> National authorities replies: Austria (5 replies), two replies from Hungary, the Netherlands, Spain, Sweden, one reply from Czech Republic, Cyprus, France, Germany, Italy, Ireland, Latvia, Slovenia and Romania. There was also seven national authorities from outside EU

<sup>101</sup> Regional or local authorities from: Germany (13 replies), eight from France and Spain, Italy (7), Sweden (6), Belgium (4), three from Finland and Denmark, two from Poland, Portugal and UK, one from the Netherlands and Slovenia

<sup>102</sup> <http://ec.europa.eu/transparencyregister/public/homePage.do>

Among all the respondents, 362 had previous experience with EU Health Programme, followed by COSME (336), EU Food and Feed Programme (71), Digital Single Market support programme (62) and European statistical programme (51).

## 2.2. Analysis of responses

Respondents were asked to identify and assess the importance of the key challenges for the Commission spending programmes. Almost all participants (97%) considered at least one challenge covered by the Single Market Programme<sup>103</sup> as very or rather important.

The most important challenges were access to finance, especially for SMEs and digital transition of economy (82%), promotion of public health (79%)<sup>104</sup>, support to industrial development (78%), fair competition and safe food (75%).

Citizens and NGOs considered health and safe food as top priorities. SMEs rated as second industrial development and as fourth financial stability. For public authorities digitalisation of economy and industrial development were most important, as well as quality and digitization of public institutions.

All topics relevant to SMP score above 50% relevance in the groups interested in SMEs and Single Market (see Table A2.1.)

**Table A2.1. Stakeholders' perception of importance of challenges covered by the Single Market Programme, by respondent type.**

(Question 29. – answers: "very important" and "rather important")

Challenges:	Respondent type:		All		Citizens and NGOs*		SMEs		Public authorities	
	No.	%	No.	%	No.	%	No.	%	No.	%
• Facilitate access to finance, in particular to SMEs	1	82%	4	76%	1	92%	3	82%		
• Facilitate digital transition of the economy, industry, services and society	2	82%	3	79%	3	78%	1	92%		
• Promote and protect public health	3	79%	1	85%	5	75%	7	60%		
• Support industrial development	4	78%	6	72%	2	85%	2	83%		
• Ensure fair conditions of competition in the EU	5	75%	5	75%	6	74%	5	71%		
• Promote a safe and sustainable food chain	6	75%	2	82%	7	67%	6	63%		
• Improve quality of public institutions (including digitalisation)	7	71%	7	72%	8	66%	4	76%		
• Ensure that existing rules are applied and enforced consistently across the EU	8	69%	8	70%	9	64%	8	57%		
• Promote financial stability	8	69%	9	68%	4	76%	13	49%		
• Ensure smooth circulation of goods both within EU and at EU borders	10	61%	11	61%	11	59%	9	55%		
• Ensure a high level of consumer protection and effective redress	11	60%	10	63%	12	55%	11	51%		
• Support capital flows and investment	12	58%	13	54%	10	64%	11	51%		

<sup>103</sup> For challenges covered by the IMP see table A2.1.

<sup>104</sup> When all 4052 answers are considered, health is the highest ranked IMP relevant challenge (80% of all replies), followed by digital transition of economy (73%), safe food chain (73%) and support to industrial development (69%). Next are: improvements to public institutions (68%), fair competition (67%), consistent application and enforcement of EU rules (61%), financial stability (60%), access to finance (58%), consumer protection (55%), reliable statistics (53%), smooth circulation of goods (50%) and support to capital flows and investments (44%).

• Provide reliable and comparable statistics	13	55%	12	58%	13	53%	10	52%
	No. of answers		1122	589	238	89		

Note: Refers only to those selecting EU support for SME and entrepreneurship and/or support for the single market.

Rank and percentages based on answers: “very important” and “rather important”. Not shown answers include “neither important nor unimportant”, “rather not important”, “not important at all”, “no opinion”.

\* includes also “research and academia” and “churches and religious communities”

Subsequently respondents were asked to judge how successful current policies are in addressing these challenges. Generally, between 20 and 50% of respondents considered SMP related policies as fully or fairly well contributing to the challenges. Smooth circulation of goods both within EU and at EU borders was judged highest (around 50% of all replies by all stakeholder groups except public authorities who judged highest the support to capital flows), followed by support to industrial development (42%) and provision of EU statistics (40%). Support to capital flows and investments (39%) was fourth. Third of respondents judged the remaining policies as at least fairly well addressing the challenges. Only one in five respondents thought that EU policies help to improve quality of public institutions (See table A2.2).

On the other hand, respondents considered that policies to improve public institutions (including digitalisation)(12%), ensure correct application and enforcement of EU rules (11%) and fair competition or access to finance (10%) are not successful at all. Citizens and NGOs were most unsatisfied with policies towards correct application and enforcement of EU rules (14%), SMEs with access to finance (14%) and public authorities with the quality of institutions (18%). Policies towards smooth circulation of goods and support to industrial development received the least negative responses (4%).

**Table A2.2. To what extent do the current policies successfully address these challenges? By type of respondent.**

(Question31 –answers “fully” and “fairly well addressed”)

EU Policies:	Respondent type:		All *		Citizens and NGOs*		SMEs		Public authorities	
	No.	%	No.	%	No.	%	No.	%	No.	%
• Ensure smooth circulation of goods both within EU and at EU borders	1	49%	1	50%	1	52%	6	30%		
• Support industrial development	2	42%	2	46%	4	38%	3	38%		
• Provide reliable and comparable statistics	3	40%	3	41%	2	40%	2	39%		
• Support capital flows and investment	4	39%	4	40%	2	40%	1	40%		
• Ensure fair conditions of competition in the EU	5	34%	5	35%	12	31%	10	26%		
• Facilitate digital transition of the economy, industry, services and society	6	34%	6	35%	6	35%	5	34%		
• Promote and protect public health	7	34%	9	34%	7	35%	11	24%		
• Promote a safe and sustainable food chain	8	34%	8	34%	10	32%	6	30%		
• Ensure a high level of consumer protection and effective redress	8	34%	7	34%	5	36%	12	21%		
• Promote financial stability	10	34%	10	33%	9	34%	9	29%		
• Ensure that existing rules are applied and enforced consistently across the EU	11	32%	11	32%	7	35%	4	37%		
• Facilitate access to finance, in particular to SMEs	12	31%	12	30%	11	32%	6	30%		
• Improve quality of public institutions (including digitalisation)	13	21%	13	22%	13	20%	12	21%		
	No. of answers		1122	589	238	89				

Note: Refers only to those selecting EU support for SME and entrepreneurship and/or support for the single market. Rank and percentages based on answers: “fully” and “fairly well addressed”. Not shown answers include “addressed to some extent only”, “not addressed at all”, “no opinion”.

\* includes also “research and academia” and “churches and religious communities”

Nevertheless around 75% of stakeholders considered that EU programmes and funds add more value than could have been done at national level. With only 1% saying that Member States would do better. These views were shared among all stakeholder groups<sup>105</sup> (see Table A2.3).

**Table A2.3. To what extent do the current programmes/funds add value, compared to what Member States could achieve at national, regional and/or local levels? By topic of reply. (Question 33)**

Respondent type:	All answers	Citizens and NGOs*	SMEs	Public authorities
To large/fairly good extent	76%	74%	80%	76%
To some extent only	20%	22%	17%	21%
Not at all	1%	1%	1%	1%
No. of answers	1122	589	238	89

Note: Refers only to those selecting EU support for SME and entrepreneurship and/or support for the single market.

Don't know" answers not included

\* includes also “research and academia” and “churches and religious communities”

Too complex procedures leading to high administrative burden and delays were considered as the most important obstacles reducing benefits of EU programmes (around 75% of answers of all respondent types). To a lesser extent (50%-60%), no flexibility in case of unforeseen events or no synergies between programmes as well as difficulties in combining EU with other public or private funds or insufficient administrative capacity were cited. Followed by insufficient involvement of citizens and lack of communication featured in around 40% of replies.

On the other hand, lack of EU standards was seen as the least of a problem and was quoted by only around 20% of respondents (see table A2.4).

**Table A2.4. To what extent the obstacles below prevent the current programme/funds from achieving their objectives. By respondent type.**

(Question 36 –answers “To a large extent” and “To a fairly large extent”)

Obstacles:	Respondent type:		Citizens and NGOs*		SMEs		Public authorities	
	No.	%	No.	%	No.	%	No.	%
• Too complex procedures leading to high administrative burden and delays	1	75%	1	73%	1	68%	1	85%
• Lack of flexibility to react to unforeseen circumstances	2	57%	2	59%	2	48%	3	67%
• Insufficient synergies between the EU programmes/funds	3	56%	3	55%	5	42%	2	76%
• Difficulty of combining EU action with other public interventions and private finance	4	53%	4	52%	3	47%	4	64%
• Insufficient administrative capacity to manage programmes	5	48%	6	49%	4	45%	5	46%
• Insufficient involvement of citizens	6	44%	5	52%	7	34%	7	39%
• Lack of information/communication	7	41%	7	42%	6	35%	7	39%
• Insufficient use of financial instruments	8	36%	10	34%	8	33%	6	44%
• Inadequate facilities to support enhanced cooperation	9	34%	8	38%	9	32%	11	26%
• Insufficient scope	10	34%	9	35%	11	28%	9	38%
• Insufficient critical mass	11	30%	11	32%	10	29%	13	22%

<sup>105</sup> Almost identical results occur are observed when all 4052 replies are considered: to large/fairly good extent (78%), not at all (1%).



• Out of date and inadequate IT capabilities	12	27%	12	28%	12	25%	12	24%
• Lack of EU standards and EU rules	13	21%	13	23%	13	20%	14	18%
• Other	14	13%	1	73%	14	3%	10	27%
	No. of answers		1122	589	238	89		

Note: Refers only to those selecting EU support for SME and entrepreneurship and/or support for the single market.

Rank and percentages based on answers: “to a large extent” and “to a fairly large extent”. Not shown answers include “to some extent only”, “not at all”, “don’t know”.

\* includes also “research and academia” and “churches and religious communities”

Stakeholders almost unanimously considered that changes to the future MFF should result in fewer, clearer and shorter rules (88% of answers), as well as better alignment between different funds (75%). Better feedback to applicants, stability between programming periods and user-friendly IT tools featured in third to fifth place (60% - 70%). Such ranking was similar to all respondents except for public authorities which considered stability between programming periods and user-friendly IT tools among the top three most desired improvements (see table A2.5). The last on the list of all respondents was increased reliance on national rules, supported by less than a quarter of SMEs, 30% of all and citizens and as much as 40% of public authorities.

**Table A2.5. To what extent would the steps below help to further simplify and reduce administrative burdens for beneficiaries under current programmes/funds? By respondents type.**

(Question 38 –answers “To a large extent” and “To a fairly large extent”)

Simplification measures:	Respondent type:		All		Citizens and NGOs*		SMEs		Public authorities	
	No.	%	No.	%	No.	%	No.	%	No.	%
• Fewer, clearer, shorter rules	1	88%	1	87%	1	87%	1	87%	1	96%
• Alignment of rules between EU funds	2	75%	2	76%	2	73%	4	76%	4	76%
• Better feedback to applicants	3	71%	3	70%	3	72%	5	74%	5	74%
• A stable but flexible framework between programming periods	4	68%	4	66%	4	63%	2	87%	2	87%
• User-friendly IT tools	5	67%	5	66%	5	58%	3	80%	3	80%
• Adequate administrative capacity	6	59%	6	58%	6	53%	7	66%	7	66%
• E-governance	7	54%	7	55%	9	45%	8	65%	8	65%
• Extension of the single audit principle	8	51%	8	50%	8	45%	6	69%	6	69%
• More structured reporting	9	49%	9	46%	7	47%	8	65%	8	65%
• More reliance on national rules	10	29%	10	29%	10	23%	10	40%	10	40%
	No. of answers		1122	589	238	89				

Note: Refers only to those selecting EU support for SME and entrepreneurship and/or support for the single market.

Rank and percentages based on answers: “to a large extent” and “to a fairly large extent”. Answers not shown include “to some extent only”, “not at all”, “don’t know”.

\* includes also “research and academia” and “churches and religious communities”

### 3. RECEIVED POSITION PAPERS

Stakeholders replying to the consultation sent 157 position papers explaining further their views. The key messages of these papers are presented below.

In general, most of the participating stakeholders consider EU action as appropriate when two criteria are filled. On the one hand, they are now convinced that the EU should focus on **added-value** sectors and actions (This is something that came up a very high number

of times. For example : *IBEC, Confederation of Danish industry, Business Europe, Confederation of Finish industries, Emilia-Romagna Region, AECB Bulgaria...* ). It seems that stakeholders now consider this criterion as crucial. On the other hand, EU actions are successful when **they bring the EU closer to citizens**.

Keeping in mind this and the specific objectives of the two policies assessed – SMEs / Single Market, one can sum up the contributions of stakeholders, in the following terms.

### **General remarks on funds**

Regarding funds, several limits are very often raised. Those are mainly:

- unpredictability,
- complex rules
- lack of rationalisation with all other EU funds/ financial instruments with overlapping objectives especially in the context of their proliferation.

Therefore, there is a high demand for synergies and rationalisations of EU funds among themselves but also with national and local authorities (*EUROCITIES, Osterreich, European Cyclist Federation, NECS TOUR, Emilia-Romagna Region, Flanders Investment and Trade...*). One can also observe a strong call for simplification and a better balance predictability of means and flexibility to react to unforeseen events (*AECB Bulgaria, Business Europe, RUP, Investitionsbank, and European Network of Credit Unions*).

### **SMEs**

The participating stakeholders unanimously praise EU programmes supporting SMEs, especially the COSME programme. Indeed, SMEs face specific and structural difficulties justifying a dedicated policy. They consider that this policy respects the added-value criterion and acknowledged their concrete results for both financial instruments and specific policies such as the EEN. They are all in favour of maintaining a SME policy in the next MFF and even endowing this policy with a higher budget (*Business Europe, Wirtschaftskammer Osterreich, Confederation of Finnish industries and Flanders Investment and Trade insisting on the EEN, Association of German Guarantee Banks, TURBO*). According to the *Wirtschaftskammer Osterreich*, the three priorities - access to finance, access to (export) markets, better competitive environment for entrepreneurship - of the programme should be maintained.

However, some limits have been identified.

(1) Nature of SMEs financial support: available types of financial instruments are still too restricted; modern financing should be used involving notably more private investment (*Business Europe, EBAN, Start up Cyprus, Confederation of Danish industry, EARSC*), or other kinds of alternative source such as the crowdfunding (*EUROCITIES*). This would allow more risky investments and a better access to finance for start-ups and scale ups (*EBAN*).

(2) Accompanying measures: support is considered by some stakeholders as too restricted in terms of timing; according to them, concrete examples tend to prove that helping SMEs/ start-ups for 2 to 3 years and not only 1 year, is more efficient. In the case of the Loan Guarantee Facility (LGF), shifting from 10 to 15 years maximum for loan guarantees would open LGF to more SMEs because many investments need a longer-term visibility.

(3) Insufficient communication: for some of the contributing stakeholders information about access to funds and/or support (EEN) is not sufficient, some did not even know about all the existing programmes. It is in particular the case for the outermost regions, which face multiple structural difficulties – lower attractiveness of the markets, low level of training and information, low visibility of the EEN network. However, it is also the case for some regions of continental Europe and for some specific sectors (Tourism for *European Cyclist Federation* and *NECS for example Tour*) according to the responses. Therefore, respondents proposed to increase the general awareness of this programme. In that regard they suggested a great number of different options, including: creation of a network of local SME envoys, involving cities in the EEN because they know best which companies could need help, European start up cities programme that will promote best practice exchange on how cities can support start-ups, creating local information desks or contact points, offering technical guidance to SMEs to access public procurement, communication plan focusing on stories of successful SMEs which were supported by COSME in order to inspire potential entrepreneurs, translation of all COSME administrative documents in every European language.

(4) Include more types of SMEs in more sectors: This item covers different situations. First is the issue of the criteria for choosing SMEs eligible for support. According to *AECB Bulgaria*, as the European support is targeted at SMEs and start-ups boosting research and innovation, only a small proportion of SMEs can benefit. They therefore suggest more diversified instruments addressing all types of enterprises. In addition, different respondents ask for improving the integration of SMEs in specific sector (such as space for *EARSC*) or in specific context (collaborative projects according to the *Ile de France* region). Finally, the *Women Entrepreneurship platform* recommends adapting SMEs policy rules to the specific issue of gender, by promoting female entrepreneurship, creating adequate indicators and providing sufficient resources.

(4) Lack of assessment. According to some stakeholders, SMEs actions should be further assessed with appropriate indicators. Some of them ask for integrating this criterion into the European Semester (*AECB Bulgaria*)

## **Single Market**

Single Market is considered the best illustration of EU added value action, as it is a public good delivering real and tangible benefits (Confederation of Danish Industry/ Business Europe). However, the Single Market is a never-fully-achieved project as new

barriers continuously appear. Therefore, some respondents ask for further standardization (EAPFP), and for strengthened market surveillance with sufficient budget allocation (Business Europe). For the next MFF, and also in order to ensure a proper functioning of the Single Market, the *Confederation of Danish industry* suggests that intra EU infrastructure should be the top priority as this enables a better cross-border connectivity (energy, transport, data).

Regarding digital transition, relevant stakeholders praise the perspective of a genuine digital single market and they feel the need for trans-European digital services

## **Health**

More than half of the replies to the open consultation came from stakeholder groups consisting of non-governmental organisations (NGOs) active at EU-level in the field of public health (e.g. the European Patient Forum – EPF, the European Public Health Alliance – EPHA, EuroHealthNet, European Innovation Partnership on Active and Healthy Ageing – EIP-AHA, Social Impact of Pain – SIP, Rare Disease Europe – EURORDIS,... ). The remaining replies were received by EU-wide or national organisations of health professionals (e.g. The Standing Committee of European Doctors, the European Network of Medical Residents in Public Health – EUR NET MRPH, Malta Dental Technologists Association,...), which were complemented by contributions from two national trade associations of the healthcare industry (Med Tech Europe and the German Federal Association of the Pharmaceutical Industry – BPI).

Most respondents agree that there is a need for an ambitious health agenda beyond 2020 with a stand-alone PH programme, and would welcome additional financing which would be justified by the return on investment and economy of scales. They also consider that the EU should continue to pursue the achievement of its Treaty objectives (Art 168 TEU) and SDGs with a strong programme for public health complemented by other financial instruments. Some respondents point to the fact that while citizens expect the EU to do more on health this is not reflected in the Commission Communication for the next MFF.

Respondents also consider that health is above all a public good, a fundamental right and a major European value which should remain at the core of EU policy making; that Internal Market and competitiveness considerations should not take precedence over health considerations; that social values should not be subjugated to "marketization", and that merging some EU programmes to improve cost-efficiency and effectiveness of EU level actions should always consider the health and social equity impact prior to cost-saving.

As to "how" the Treaty's objectives should be pursued, respondents consider that current public health issues could only be effectively dealt with through collaboration at EU level; that there is an obvious added value of EU action to address challenges such as tackling health threats, health inequalities, migration, ageing population, patient safety,

high quality health care, non-communicable diseases (incl. major risk factors such as obesity), infectious diseases and AMR.

The consultation results also point to the EU's crucial role in addressing the transformative developments of multiple emerging technologies on populations and societies across Europe, including the transformation of health systems, data gathering and exchanges, and EU research programmes

Achievements of EU action in the field of fight against cross border threats, quality and safety of medicines, rare diseases and cooperation on HTA were praised by respondents and EU initiatives on vaccines, tobacco control and ERNS welcome. Some respondents indicated the need to do more to improve transparency in the pharmaceutical sector and to develop patient-centred initiatives, and to foster innovation and digital health.

## **Food Chain**

Core needs expressed in the context of the open public consultation focused on the two major issues below:

- Consumers' interests:
  - The agri-food sector to become consumer centric and win back the consumers' trust.
  - Consumers' dietary needs and food preferences related to lifestyle and life stage to be focused on for healthy and sustainable nutrition.
  - Importance of food information to prevent major threats such as obesity, diabetes, AMR.
  - Prevention of food frauds.
  - Exchange of best practices among Member States.
- Sustainability of farming and food production and distribution:
  - Increased competitiveness of the sector.
  - Prevention of food waste.
  - Circularity.
  - Digitalisation.
  - Innovation.
  - Animal welfare.
  - Resource efficiency to ensure adequate response to threats like climate change and land erosion.

There is a strong support that the EU should play a leading role at global level to drive a change.

In view of the next MFF, the idea of public-private partnership to join and combine efforts in view of best addressing the issues above was put forward. More specifically:

1. One respondent invited the European Commission and Member States to support an integrated programme coordinating both long-term research and short-term implementation, education, technology transfer and dissemination - thus contributing to

achieving the SDGs and the Paris Agreement - through a comprehensive programme in FP9, targeting technological solutions in food security, sustainable farming, food safety and healthy nutrition. It stressed the need for this action to be inclusive, gathering all the necessary actors from all relevant sectors, from start-ups and SMEs to large multinationals, from industry to academia, from farmers and manufacturers to consumers and societal organizations, from east to west, north to south.

2. A second respondent proposed a pan-European approach in which the major stakeholders, including farmers, industry, academia, government, investors and societal and consumer organisations join forces in a cooperative effort to find the solutions to the challenges of providing nutrient security to a growing world population in a circular and resource-efficient way. This could take the form of an Agri-Food Joint Undertaking combining private research investments and public funds from the next Framework Programme.

#### **4. HOW THE RESULTS OF CONSULTATIONS WERE USED**

The results of the consultation were used in writing the SMP impact assessment and programme specific annexes. They were used to underpin lessons learnt from the current programmes as well as the need for synergies, simplifications and flexibility of the new one.

### **Annex 3: Evaluation results**

The key cross cutting lessons learned from the evaluations of different programme components are presented in section 1.2 of the impact assessment report.

The detailed findings of different programme components are provided in section 1.2 of programme specific annexes (annex 4 to annex 18).

## **Annex 4: Programme specific annex on *An Ambitious Competition policy for a stronger Union in the digital age ('THE COMPETITION PROGRAMME')***

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1 Scope and context**

##### **1.1.1 Legal and political context**

EU competition law has an essential role to play in ensuring the proper functioning of the EU's the Internal Market, as is recognised explicitly in the Treaties on the EU and on the Functioning of the EU. Under Article 3(3) TEU, the Union shall establish an internal market. Protocol No 27 to both the TEU/TFEU on the Internal Market and Competition states that "*the internal market as set out in Article 3 of the Treaty on European Union includes a system ensuring that competition is not distorted*"<sup>106</sup>. Indeed, EU competition policy has constituted a *sine qua non* for the founding and development of the internal market since its inception in 1958.<sup>107</sup>

##### **1.1.2 Broad description of the Competition programme**

The broad scope of the Competition Programme corresponds to the **main challenges of the Single Market Programme (SMP)**<sup>108</sup> (for more detail on the challenges in the competition field, the eligible actions and specific objectives see sections 2-4 below):

<ul style="list-style-type: none"> <li>• <b>Wider Outreach to Stakeholders</b> falls under the first SMP challenge (Empower citizens/consumers and businesses in particular SMEs at different stages of their development).</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Boosting Internal Partnerships with Member State authorities and courts</b> is grouped under the second IMP pillar (Administrative cooperation, capacity building and integration among Member States).</li> </ul>
<ul style="list-style-type: none"> <li>• <b>State-of-the-Art Enforcement and Guidance</b> as well as <b>Boosting External Partnerships</b> with third country competition authorities can be attributed to the third SMP pillar (EU level rule-making, standard setting, support to implementation and enforcement of Single Market rules).</li> </ul>

##### **1.1.3 Reflection paper on the future of EU finances**

EU value added is a key principle that should drive the design of the next MFF<sup>109</sup> EU competition policy, reinforced by the Competition Programme, would generate considerable added value in support of the Single Mmarket (see section 3.3 below).

##### **1.1.4 Relevant European Parliament resolutions and European Council conclusions**

<sup>106</sup> This is reinforced by Article 3(1)(b) TFEU which states that the EU shall have exclusive competence in respect of "establishing of the competition rules necessary for the functioning of the internal market". See judgment of the Court (First Chamber) of 17 February 2011. In *Konkurrensverket v TeliaSonera Sverige AB* (Case C-52/09) at para 20 ("... Article 3(3) TEU states that the European Union is to establish an internal market, which, in accordance with Protocol No 27 on the internal market and competition, annexed to the Treaty of Lisbon (OJ 2010 C 83, p. 309), is to include a system ensuring that competition is not distorted ...) and para 21 ("Article 102 TFEU is one of the competition rules referred to in Article 3(1)(b) TFEU which are necessary for the functioning of that internal market.").

<sup>107</sup> COM(2011) 328 final. "Report on Competition Policy 2010"

<sup>108</sup> See section 2.1 below.

<sup>109</sup> See p. 25 of the Reflection Paper.



The multiple linkages between competition policy and the internal market run like a red thread through the European Parliament Resolution of 14 February 2017 on the annual report on EU competition policy<sup>110</sup>. The Resolution also makes numerous statements on the external dimension of the internal market and competition policy<sup>111</sup>. The Resolution specifically called on "*the Commission to reallocate sufficient financial and human resources to DG Competition*" and requested "*that the Commission have sufficient technically skilled engineers available when investigating high-tech companies*".

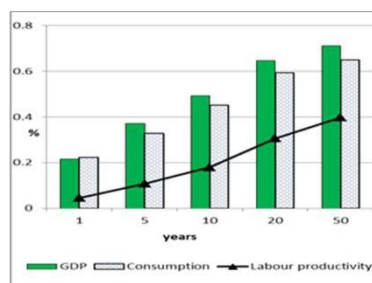
In its conclusions of 21 March 2014, the European Council welcomed the Commission's plans to modernise the State aid rules, in particular the extension of the scope of the General Block Exemption Regulation (meanwhile implemented), while stressing the need for maintaining a level playing field among the Member States. In its conclusions on the Single Market of 23 June 2017, the European Council stressed that "*timely implementation and better enforcement of existing legislation are also key to reaping the benefits of Europe's Single Market*".

## 1.1. Lessons learnt from previous programmes

### 1.2.1 Lessons learnt

As the Competition programme is a new programme, there is by definition no evaluation of previous programmes. Nevertheless, evaluations have been carried out of key parts and aspects of EU competition policy.

Notably, studies have shown the macroeconomic impacts of EU competition enforcement to be significant. For example, a paper published in 2015 ("Distributional macroeconomic effects of EU competition policy – A general equilibrium analysis") by DG COMP and DG ECFIN staff<sup>112</sup>, found that EU competition policy enforcement in the cartel and merger areas supported growth (see impact in graph below (left)), employment, while reducing inequalities between rich and poor households. The magnitude of the inclusive impact on growth and employment could be stressed. Indeed, the impact of the enforcement action was similar to that estimated for the Services Directive<sup>113</sup>. The OECD reached similar conclusions in 2014, finding robust evidence in support of the relationships set out in the graph below (right)<sup>114</sup>.



In terms of leverage and EU value added, the internal market – the EU's principal asset – has so far generated enormous benefits and value added for EU citizens and businesses compared to limited budgetary expenditure. As appears from the foregoing, the same holds true for EU competition policy

<sup>110</sup> See eg: " ... whereas a strong and effective EU competition policy has always been a cornerstone of the internal market ... "; "stresses that without an effective EU competition policy the internal market cannot attain its full potential ... " (emphasis added).

<sup>111</sup> See eg: " ... the European Union, under the leadership of the Commission, should promote a 'competition culture' in the EU and worldwide" (emphasis added).

<sup>112</sup> Adriaan Dierx, Fabienne Ilzkovitz, Beatrice Pataracchia, Marco Ratto, Anna Thum-Thysen, Janos Varga (2017), "Does EU competition policy support inclusive growth?" , Journal of Competition Law & Economics, Volume 13, Issue 2, 1 June 2017, Pages 225–260, Oxford Journal of Competition Law & Economics, Volume 13, Issue 2, 1 June 2017, Pages 225–260, (<https://academic.oup.com/jcle/article/13/2/225/3920779> ; see also Ex-post economic evaluation of competition policy enforcement: A review of the literature (June 2015) ([http://ec.europa.eu/competition/publications/reports/expost\\_evaluation\\_competition\\_policy\\_en.pdf](http://ec.europa.eu/competition/publications/reports/expost_evaluation_competition_policy_en.pdf) )

<sup>113</sup> Cartel and certain merger decisions in 2012-2014.

<sup>114</sup> OECD Factsheet on how competition policy affects macro-economic outcomes (October 2014), p. 2 at <http://www.oecd.org/daf/competition/2014-competition-factsheet-iv-en.pdf>

which is essential to deliver the internal market on the ground. EU competition policy<sup>115</sup> also collaterally impacts the budget through fines in cartel and antitrust decisions (over the last 10 years, annual revenues have averaged roughly EUR 1.7 billion, with annual amounts varying between EUR 0.4 billion and EUR 4.2 billion)<sup>116</sup>.

Other more specific and recent evaluations and studies have included among other things enforcement in the energy (antitrust), telecoms (mergers), the impact on competition of certain aid schemes under Member State control (State aid) and the passing-on of overcharges (cartels)<sup>117</sup>. The issues and findings covered are coherent with the Internal Market (and the envisaged Single Market Programme), as they are aimed at providing a better understanding of various aspects of the Internal Market relevant to the enforcement and formulation of competition law and guidance (see 1.1. above). A special case concerns the training of national judges in EU competition law (see second box below)<sup>118</sup>.

Major lessons in terms of identifying new and growing challenges have also been learnt in the day-to-day enforcement of EU competition policy. These challenges and the risks associated with not addressing them will be set out in more detail under section 2.1 below which "*should identify and explain the main challenges and problems to be addressed by the future programmes*". These include a more complex and demanding IT and data driven world (increasingly sophisticated IT tools used by firms, continuous increase in the volume of electronic communications and the use of artificial intelligence, big data and algorithms) as well as the need for a wider and deeper engagement with national authorities and courts (in part due to recent and impending legislative reforms). Tackling these challenges would be coherent with the envisaged Single Market Programme. In the absence of a support programme addressing those challenges, the enforcement of all branches of EU competition policy would gradually become less effective, less timely and less relevant to rapidly evolving market developments, thereby – by extension – weakening the internal market.

## 1.2.2 Key messages from stakeholders

Findings from a number of surveys demonstrate that there is scope for reaching out to a wider group of stakeholders impacted by EU competition policy. Indeed, Eurobarometer Citizen Surveys in 2010 and 2014 showed a lack of awareness of where to turn to in case of competition problems such as higher prices, fewer products, reduced supplier choice or lower quality. In addition, a 2016 Eurobarometer survey

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<sup>115</sup> With an administrative budget of EUR 7.5 million in 2016.

<sup>116</sup> Final report and recommendations of the High Level Group on Own Resources December 2016, p. 71

<sup>117</sup> See *inter alia* An Overview of Subsidy Disclosure Practices in EU Member States, 21 December 2017 (<http://ec.europa.eu/competition/publications/reports/kd0617273enn.pdf>); Ex post assessment of the impact of State aid on competition, 19 December 2017, (<http://ec.europa.eu/competition/publications/reports/kd0617275enn.pdf>); Economic impact of competition policy enforcement on the functioning of telecoms markets in the EU, 21 June 2017, (<http://ec.europa.eu/competition/publications/reports/kd0417233enn.pdf>); Improving Monitoring Indicators System to Support DG Competition's Future Policy Assessments, 14 June 2017 (<http://ec.europa.eu/competition/publications/reports/kd0117397enn.pdf>); Report on Zero-rating practices in broadband markets, 9 June 2017 (<http://ec.europa.eu/competition/publications/reports/kd0217687enn.pdf>); Study on the Passing-On of Overcharges, 25 October 2016 (<http://ec.europa.eu/competition/publications/reports/KD0216916ENN.pdf>); Support study for impact assessment concerning the review of Merger Regulation regarding minority shareholdings, 14 October 2016 (<http://ec.europa.eu/competition/publications/reports/KD0416839ENN.pdf>); Study on the financing models for public services in the EU and their impact on competition. Executive summary, 3 October 2016 (<http://ec.europa.eu/competition/publications/reports/kd021641enn.pdf>); Study on Geographic Market Definition in European Commission Merger Control, 16 February 2016 ([http://ec.europa.eu/competition/publications/reports/study\\_gmd.pdf](http://ec.europa.eu/competition/publications/reports/study_gmd.pdf)); Study on Ex-post evaluation of the impact of restructuring aid decisions on the viability of aided (non-financial) firms, 5 February 2016 (<http://ec.europa.eu/competition/publications/reports/kd0116104enn.pdf>); Study on The economic impact of enforcement of competition policies on the functioning of EU energy markets, 15 January 2016 (<http://ec.europa.eu/competition/publications/reports/kd0216007enn.pdf>); Ex-post evaluation analysis of two mobile telecom mergers: T-Mobile/tele.ring in Austria and T-Mobile/Orange in the Netherlands, 26 November 2015 (<http://ec.europa.eu/competition/publications/reports/kd0215836enn.pdf>); A review of merger decisions in the EU: What can we learn from ex-post evaluations? (October 2015) (<http://ec.europa.eu/competition/publications/reports/kd0115715enn.pdf>).

<sup>118</sup> Study on judges' training needs in the field of European competition law, 3 June 2016 (<http://ec.europa.eu/competition/publications/reports/kd0416407enn.pdf>).

showed only limited knowledge and awareness of issues related to State aid transparency<sup>119</sup>. In 2016, the Court of Auditors also pointed to the need to increase awareness of and ensure more effective compliance with State aid rules<sup>120</sup>. Such action would be coherent with the first broad Challenge of the Single Market Programme ("Empowering citizens, consumers and businesses").

Moreover, the public consultation on the Multiannual Financial Framework took place between 10 January 2018 and 9 March 2018. The questionnaire covered areas of investment, research and innovation, SMEs and Single Market. In total the Commission received 4052 replies. Around 28% of respondents (1122 replies) chose "EU support to the Single Market" (307 replies) and/or "EU support for SME and entrepreneurship" (1034) as the topics of their replies. There is a wide geographical coverage of responses. The replies came from all 28 EU Member States, from Norway and Iceland (EEA), Switzerland (EFTA) and 13 other countries.

Among challenges relevant to the Single Market Programme the most important were access to finance, especially for SMEs and digital transition of economy (82%), promotion of public health (79%), support to industrial development (78%) and fair competition and safe food (75%) (see table below).

### Stakeholders' perception of importance of challenges covered by the Single Market Programme, by respondent type.

(Question 29. – answers: "very important" and "rather important")

Challenges:	Respondent type:		Citizens and NGOs*		SMEs		Public authorities	
	No.	%	No.	%	No.	%	No.	%
• Facilitate access to finance, in particular to SMEs	1	82%	4	76%	1	92%	3	82%
• Facilitate digital transition of the economy, industry, services and society	2	82%	3	79%	3	78%	1	92%
• Promote and protect public health	3	79%	1	85%	5	75%	7	60%
• Support industrial development	4	78%	6	72%	2	85%	2	83%
• Ensure fair conditions of competition in the EU	5	75%	5	75%	6	74%	5	71%
• Promote a safe and sustainable food chain	6	75%	2	82%	7	67%	6	63%
• Improve quality of public institutions (including digitalisation)	7	71%	7	72%	8	66%	4	76%
• Ensure that existing rules are applied and enforced consistently across the EU	8	69%	8	70%	9	64%	8	57%
• Promote financial stability	8	69%	9	68%	4	76%	13	49%
• Ensure smooth circulation of goods both within EU and at EU borders	10	61%	11	61%	11	59%	9	55%
• Ensure a high level of consumer protection and effective redress	11	60%	10	63%	12	55%	11	51%
• Support capital flows and investment	12	58%	13	54%	10	64%	11	51%

<sup>119</sup> For example only four in ten citizens in the EU had recently heard or read about a company receiving State aid, a figure similar the result of a previous Eurobarometer survey where about 40% of the respondents said they heard about EU competition policy. At the same time, fewer than one in five respondents (17%) feel well informed about State aid in their country while 81% of respondents agree that citizens should have full access to information about State aid given to companies.

<sup>120</sup> In the specific area of cohesion (see Special Report No 24/2016 by the European Court of Auditors). As a follow-up of this report, DG COMP together with DG REGIO has set-up an action plan on how to raise awareness of national granting authorities as regards the interaction between State aid rules and structural funds. Thematic workshops have been organised (e.g. State aid rules regarding RDI and risk finance) and specific training sessions have been organised for those Member States that considered that they lack administrative capacity and knowledge regarding State aid rules.

**Real life example of success story of synergies, with other SMP programmes/activities:**

To carry out its enforcement action in support of the internal market, DG COMP has built specific IT tools allowing it to interact effectively with market participants, citizens and national authorities, while manage information efficiently.

First, DG COMP is adapting its IT tools to handle ever bigger case files and to support integrated, secure and efficient case and document management applications. Given the corporate rationalisation effort of the Commission, DG COMP has been named as domain leader for the CASE@EC project, collaborating with DGs AGRI, BUDG, MARE, TRADE and OLAF who have similar needs.

Second, in order to keep pace with the adoption by companies of the latest communication technologies including mobile devices and cloud-based applications, DG COMP has invested in state-of-the-art forensic IT tools and investigation and analysis capability with a view to inspections on the premises of undertakings and the subsequent analysis of very large numbers of documents and amounts of data.

Third, DG COMP has developed IT systems in the area of State aid control that strengthen enforcement of EU State aid rules. For instance, national administrations can notify State aid for approval by the Commission in a fully electronic and secure manner.

Fourth, DG COMP has put in place IT systems that are crucial for allowing the Commission and the national competition authorities (NCAs) to enforce EU antitrust and cartel rules more effectively. In particular, the NCAs and DG COMP can communicate and cooperate electronically and securely in the context of the European Competition Network, inform each other of new cases and envisaged enforcement decisions, coordinate investigations and joint enforcement actions, exchange evidence and confidential information in individual competition cases and share information on topical antitrust and cartel policy.

Last but not least, DG COMP has established IT systems that permit the Commission to conduct market enquiries and consultations with relevant stakeholders in order to evaluate, for instance, the effects of mergers or of potentially abusive practices. This has allowed the Commission to prevent harmful effects on competition (eg through higher prices, reduced choice or less innovation) in support of the internal market.

As will be made clear below these efforts and achievements provide a platform for addressing ever increasing challenges in the IT and data field which are especially relevant in for the Competition programme (see in particular section 3)

**Real life example of problems due to lack of flexibility, coherence, separation from other programmes dealing with similar or complementary issues?**

Since 2002, DG COMP has operated a grant-based programme dedicated to the training of national judges in EU competition law and judicial cooperation between national judges. This programme is co-delegated to DG COMP by DG JUST as part of a larger Justice Programme adopted for the period 2014 to 2020.

While the programme has produced benefits, a more coherent and flexible arrangement would be to subsume it under the envisaged Single Market Programme; in addition, given Denmark's and the UK's Treaty opt-outs the current training activities do not cover judges from those Member States. More flexibility in terms of delivery mechanisms – e.g. use of service contracts rather than grants – would also be desirable. A Competition programme would help addressing the varied training needs of judges more effectively, while reaching out to Member States not covered by the existing grants program.

There is a clear and unambiguous synergy between competition rules and internal market, and a coherent and consistent application of EU competition law is vital for the functioning of the internal market. Training of judges could therefore benefit from joint training actions. For example, there are cases covering behaviour of state owned undertakings, where both internal market rules and EU competition law may be concerned.

## 2. THE OBJECTIVES

### 2.1 Challenges for the programmes of the next MFF

#### 2.1.1 Baseline scenario: no spending programme

There is currently no spending operational programme supporting EU competition policy. The baseline scenario is thus a zero dedicated budget in the area of EU competition policy.

#### 2.1.2 Expected impacts with an unchanged policy (Baseline scenario)

With an unchanged policy, i.e. in the absence of an adequate support programme in the next MFF period, EU competition policy would not maintain its capacity to address a number of IT and data driven transformational challenges affecting virtually the entire economy. EU competition enforcers – including the Commission – are confronted with increasingly sophisticated and numerous IT tools used by economic operators; an exponential increase in electronic communications; a rapidly growing use of algorithms, Big Data, Big Analytics and artificial intelligence (AI<sup>121</sup>); increasing difficulties in detecting infringements (as digital tools may help conceal anticompetitive conduct) and collecting evidence and managing case files; a growing need to procure data from independent third parties; a rising need to have recourse to tailor-made tools for investigations (such as state of the art software and hardware for in-depth analysis of documents and datasets); as well as tools for economic simulations and knowledge management (see 2.1.3).

Case handlers and teams across all branches of EU competition law would benefit significantly from common, faster, more powerful and efficient case management and document systems (see box on success stories in section 1 above). Likewise, they would potentially benefit considerably from AI in connection with (i) the classification and review<sup>122</sup> of documents; ii) investigative and data analysis; iii) the assessment and drafting of decisions as well as iv) reviews of replies to large information requests and sector enquiries<sup>123</sup>.

Those needs in terms of technology and the need for skilled operators are particularly acute against a background of exponentially growing electronic casefile sizes (requiring ever larger amounts of storage and processing capacity)<sup>124</sup> coupled with the increasing complexity of competition cases (see section 2.1.3 below)<sup>125</sup>.

State-of-the art IT tools (including skilled operators) would also help tackle the mounting administrative burden associated with legal requirements to ensure due process in competition cases (eg access to file and the obligation for the Commission to make a full record of parties' statements)<sup>126</sup>.

Many competition decisions are appealed to the General Court which verifies that the Commission has accurately stated the facts in the contested decisions<sup>127</sup>. Thus, ensuring the integrity of digital evidence

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<sup>121</sup> Artificial intelligence is the ability of a computer or other machine to perform actions thought to require intelligence, including, among other things, logical deduction and inferences, creativity, the ability to make decisions based on past experience and the ability to understand spoken language.

<sup>122</sup> Such as predictive coding (reducing the number of irrelevant and non-responsive documents requiring manual review) and natural language processing (a branch of artificial intelligence that helps computers understand, interpret and manipulate human language).

<sup>123</sup> To this end DG COMP has signed a service contract to receive a consultancy report on “Artificial Intelligence Applied to Competition Enforcement” by June 2018, a project which may be relevant for other Internal Market Programme services. DG COMP will also launch a “Knowledge Base” prototype in Q1 2018, aimed at helping case handlers to find relevant information from various sources faster and in a unified interface.

<sup>124</sup> “Impacts of increasing volume of digital forensic data: A survey and future research challenges” - Volume 11, Issue 4, December 2014, Pages 273-294 (<https://www.sciencedirect.com/science/article/pii/S1742287614001066>).

<sup>125</sup> The complexity in casework also results from the more economic approach flowing from recent reforms in all branches of EU competition law.

<sup>126</sup> This is particularly relevant in the antitrust and cartel area; in accordance with the Intel judgment on 6 September 2015 (Case C-413/14 P) case teams will have to pay considerable attention to the recording of meetings and other contacts.

brought before the EU Courts is another challenge<sup>128</sup>. The Commission's data strategy recognises that it "must continue to ensure full compliance with legal and other confidentiality considerations and to guarantee a high level of security for sensitive information"<sup>129</sup>.

Without access to state-of-the-art solutions and equipment (including artificial intelligence) to perform activities such as data analysis and forensic IT, EU competition enforcement would gradually become slower and less effective, less efficient and less relevant; under the Baseline scenario, the Commission's currently high success rate before the EU Courts would be put in jeopardy; the Commission would be less able to monitor market developments; in turn, the deterrent effect of EU competition policy would likely diminish, weakening and fragmenting the internal market. In the State aid field, suboptimal enforcement would involve State aid being granted later rather than sooner or, in the case of eg high-risk investments in sectors with fast innovation cycles, not granted at all<sup>130</sup>, affecting the competitiveness and costs of businesses operating in the internal market<sup>131</sup>. Under the Baseline scenario merger control could gradually become less effective and targeted resulting in errors<sup>132</sup>. A further risk is that the Commission can be exposed to significant damages actions in so far as its decisions are annulled and are shown to have caused unjustified harm to firms or other parties.

In antitrust and cartels, the baseline scenario could mean that many infringements will go undetected or escape with impunity, diminishing general deterrence. By way of illustration, cartel investigations have become almost entirely digital, requiring the use of state-of-the-art IT forensic tools (see 2.1.3 below). The magnitude of the potential impact of less effective cartel enforcement (as well as for mergers), in the absence of state-of-the-art tools, in terms of customer savings appears from the graph below (for potential macroeconomic impacts see the graph at 1.2.1 above).

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<sup>127</sup> See 'Evidence, Proof and Judicial Review in EU Competition Law' by Fernando Castillo de la Torre and Eric Gippini Fournier (2017), p. 286.

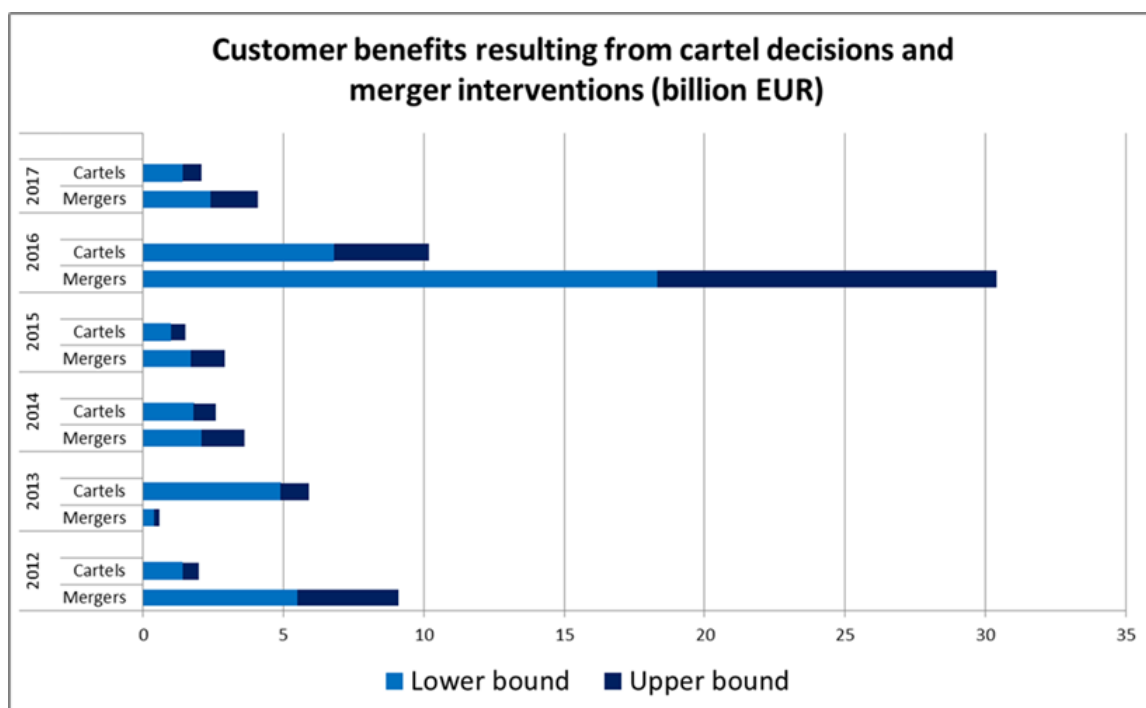
<sup>128</sup> Through the so-called chain of custody which must document the collection, storage, analysis, transfer and condition of the evidence.

<sup>129</sup> See Communication on Data, Information and Knowledge Management at the European Commission C(2016) 6626 final of 18 December 2016.

<sup>130</sup> These risks have been discussed at working group level in the Commission's multilateral Partnership with the Member States.

<sup>131</sup> Delays in State aid procedures may force businesses to have recourse to bridge-loan financing.

<sup>132</sup> In particular by approving mergers that entail a significant impediment to competition in the internal market or prohibiting mergers which are in fact procompetitive.



Investing in AI will therefore be of strategic importance if the Commission is to keep and increase its investigative capacity in competition enforcement in the broader context of constrained staff and budget resources in the Commission, as well as to keep up with other leading international law enforcement authorities and private law firms that are investing in AI (for more detail see 2.1.3 below).

Previous and upcoming legislative and regulatory reforms – in particular in the State aid, antitrust and cartel areas - require that EU competition rules are properly understood, interpreted and enforced at national and sub-national levels. Without being able to engage more deeply and widely in a secure manner with national authorities and courts, the enforcement of EU competition policy – and the internal market - would be further fragmented. Divergences in the way national authorities apply EU competition rules to economic operators damage the internal market, not least from the point of view of Member States and businesses as well as potential foreign investors. Such cooperation with national authorities – especially in the framework of the European Competition Network and the multilateral and bilateral State aid Partnerships – specifically require upgraded and secure IT solutions allowing for the exchange of confidential documents but also, which is equally important, frequent face-to-face meetings with national authorities and national courts for the purposes of training, peer review and the exchange of best practices and information. This is particularly so given that 85% of EU cartel and antitrust decisions have been adopted by national competition authorities since 2004 and that 97% of newly implemented State aid measures are not notified to the Commission as a result of the State Aid Modernisation reforms 2012-2014 (see 2.1.3 below).

It will also be increasingly difficult, under the Baseline scenario, for the Commission to continue to claim global intellectual leadership as the leading competition enforcer<sup>133</sup> in particular in the debate on the role of antitrust in the digital age<sup>134</sup>.

<sup>133</sup> President Juncker's mission letter to Commissioner Vestager of 1 November 2014 asks her to focus eg on "maintaining and strengthening the Commission's reputation world-wide" and "pursuing an effective enforcement of competition rules in the areas of antitrust and cartels, mergers and State aid, maintaining competition instruments aligned with market developments" during the Commission's mandate.



### 2.1.3 Challenges that need to be addressed by the Competition programme

In the following challenges specific to the four areas of the Competition Programme are discussed. Ensuring state-of-the-art EU level enforcement and policy guidance, boosting partnerships with national and third country authorities as well as widening stakeholder outreach under the Competition programme would generate benefits in terms of performance, flexibility, synergies, coherence and simplification within the Commission's competition DG, vis-à-vis other Single Market Programme services<sup>135</sup> and in relation to Member State authorities and courts.

#### 2.1.3.1 Challenges for EU level antitrust and cartel enforcement and policy guidance

Antitrust case files are becoming ever more challenging to manage. The file of a recent antitrust case amounted to more than 600,000 pages. In the Google comparison shopping case, the evidence on the Commission's file included *inter alia* 5.2 Terabytes of search results from Google (one Terabyte being equal to 85,899,345 pages)<sup>136</sup>. The Google case also illustrates that significant expenditure on expertise may also have to be incurred post-decision to assist the Commission in monitoring the implementation of decisions<sup>137</sup>. Needs for such expertise is likely grow in step with the increasing size and complexity of cases, not least considering that antitrust remedies increasingly require changes in companies' algorithms and data practices and the consequent monitoring of the effects of these changes.

In the detection of antitrust and cartel infringements – against an evolving technological landscape - digital investigations have become a *sine qua non* for modern competition authorities<sup>138</sup>; indeed, antitrust and cartel investigations are today virtually digital, requiring the application of AI both in the fact-finding phase and in conducting data analysis of large datasets through using machine learning, link analysis<sup>139</sup>, lexical analysis<sup>140</sup>, entity-relationship modelling<sup>141</sup>, text clustering<sup>142</sup> and targeted visualization analysis<sup>143</sup>; such methodologies require a combination of specialised hardware and software as well as investments in highly trained operators.

Forensic IT capacity will be increasingly crucial in gathering potential evidence during on the spot inspections whilst respecting the integrity of the inspected undertakings' systems and data (eg in retrieving deleted emails) as well as ensuring the integrity of the evidence. Proof of anticompetitive conduct is by now predominantly to be found in electronic format and kept in places and maintained in a form which may facilitate that the proof is concealed, withheld or destroyed. Effective action in this area requires state-of-the-art hardware and software which need to be continuously maintained, enhanced and upgraded as well as investments in highly trained operators.

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<sup>134</sup> See 'Virtual Competition' by Ariel Ezrachi (2016) which notes that major economic actors influence the debate through funding of articles, academic initiatives etc (pp. 246-247 on 'Intellectual Capture').

<sup>135</sup> For example in areas such as the collaborative economy and public procurement (which involve national expenditure as in the case of State aid).

<sup>136</sup> A1 page documents with 12 point Times New Roman saved in .docx format (see <https://aimblog.uoregon.edu/2014/07/08/a-terabyte-of-storage-space-how-much-is-too-much/#.WnCTbWdy5w>); for the Google case in question see [http://europa.eu/rapid/press-release\\_IP-17-1784\\_en.htm](http://europa.eu/rapid/press-release_IP-17-1784_en.htm).

<sup>137</sup> In 2017 the Commission procured technical expertise to advise it on technical and economic issues relating to the monitoring of Google's compliance with the decision.

<sup>138</sup> To take but one example, through the use of advanced intelligence gathering methods, computer forensic capabilities and sophisticated questioning techniques, the Israeli competition authority has been able to uncover cartels, even without the cooperation of any member of the undertaking (OECD Roundtable on Ex officio cartel investigations and the use of screens to detect cartels (2013)).

<sup>139</sup> A technique used to evaluate connections between network nodes (such as people, organisations and even transactions).

<sup>140</sup> Lexical analysis involves breaking whole chunks of text into paragraphs, sentences and words.

<sup>141</sup> A graphical representation of entities and their relationships to each other.

<sup>142</sup> The task of grouping a set of texts in such a way that texts in the same group (called a cluster) are more similar to each other than to those in other clusters.

<sup>143</sup> Data visualization helps to understand the significance of data by placing it in a visual context. Patterns, trends and correlations that might go undetected in text-based data can be exposed and recognized easier with data visualization software.



Beyond inspections, the detection of cases or potential cases in the future is expected to require a thorough technical and economic understanding of companies' behaviour with regard to data and algorithms and other emerging technologies such as the internet of things and blockchain technology.

At the same time, the roll-out of artificial intelligence in the legal sector ('legal tech') is accelerating; investments in start-ups since the financial crisis have increased rapidly<sup>144</sup>. Law firms are already using artificial intelligence for purposes such as due diligence and review of contracts<sup>145</sup>. An often cited author as regards the impact of AI on the legal profession predicts that "The 2020s will be the decade of disruption" (overlapping with the next MFF period); AI applications have also emerged in the area of competition law<sup>146</sup>. A current focus is on applications able to infer meanings from data, answer natural language legal research questions as well as predict outcomes<sup>147</sup>.

Another growing antitrust and cartel related challenge concerns the risks of anticompetitive conduct including collusion in the form of price coordination by competitors through algorithms<sup>148</sup>; or, in any case, enhanced risks of tacit collusion (currently not caught by antitrust and cartel rules) resulting in wealth transfers from customers<sup>149</sup>. A recent OECD paper draws attention to the need to carefully examine these new evolving markets (eg to consider possible changes in competition law as regards tacit collusion)<sup>150</sup>; according to the OECD "the economics of data favours market concentration and dominance"<sup>151</sup>.

### ***2.1.3.2 Challenges for EU level merger control and guidance***

Over the past four years, the number of merger notifications has increased by close to 40% (from 277 in 2013 to 380 in 2017), accompanied by a rise in transaction values. Some economic sectors and industries have become increasingly consolidated. These trends are compounded by ever more voluminous case files, a development which is projected to persist into the future. Case files in some complex investigations can reach up to hundreds of thousands of documents. Manifestly, sophisticated IT tools need to be deployed to review and assess such quantities of documents filed by the merger parties.

Artificial intelligence tools will likely become crucial in the process of ensuring efficient and exhaustive discovery as well as and treatment of large bodies of evidence, both of a qualitative and a quantitative nature, and notably in the assessment of internal documents of the notifying parties and third parties as well as the handling and processing of large quantitative datasets (including econometric modelling). This is particularly so given the short legal deadlines of the EU Merger Regulation (one month since notification in normal cases, five months in case of in-depth, phase II investigations). Clearly, the process of review and assessment of evidence will – as in the case of antitrust and cartels - increasingly need to be supported and augmented by appropriate methodologies as described above in relation to antitrust and cartels.

Since the introduction of a legal test more firmly grounded on an effects-based approach in the reform of the Merger Regulation in 2004, the complexity of merger assessment has also increased considerably. Two sources of evidence have by now become an integral part of complex merger assessments: quantitative data

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<sup>144</sup> 'Tech revolution in law' post by Amy Stoomer dated 19 January 2018 on at the LegalNews.com website; the post reports that

<sup>145</sup> See 'Artificial intelligence closes in on the work of junior lawyers', Financial Times, 4 May 2017; December 20, 2016; see post 'The 10 Most Important Legal Technology Developments of 2016 by Robert Ambrogi dated 20 December 2016 which lists a number of large law firms using services by ROSS Intelligence, a startup that uses IBM's Watson platform to answer lawyers' natural-language legal research questions.

<sup>146</sup> Professor Richard Susskind, *ibid*.

<sup>147</sup> For developments in the use of AI in the legal sector see eg Financial Times, 12 December 2017 ('Law firms streamlining work with standardised system') and 6 December 2017 ('the super-intelligent attorney').

<sup>148</sup> The Commission's Final Report on the e-commerce sector of 10 May 2017 found that 53% of responding retailers track online prices of competitors, of which 67% with software and 78% subsequently adjust prices.

<sup>149</sup> See 'Virtual Competition' by Ariel Ezrachi (2016), Chapter 7 ('Tacit Collusion on Steroids'), pp. 70, 71, 80 ("conscious parallelism will likely become more common"); Michal S. Gal, 2017, "Algorithmic-Facilitated Coordination: Market And Legal Solutions; "Should We Be Concerned That Data And Algorithms Will Soften Competition?" (May 2017) by Paul A. Johnson.

<sup>150</sup> See OECD publication entitled 'Algorithms and Collusion: Competition Policy in the Digital Age' [www.oecd.org/competition/algorithms-collusion-competition-policy-in-the-digital-age.htm](http://www.oecd.org/competition/algorithms-collusion-competition-policy-in-the-digital-age.htm).

<sup>151</sup> See OECD publication entitled "Data-driven Innovation for Growth and Well-being" (October 2014) (<http://www.oecd.org/sti/inno/data-driven-innovation-interim-synthesis.pdf>), p. 7; see also 'Big Data and Competition Policy' by Maurice Stucke and Allen Grunes (2016).

and internal documents. The increasing complexity of merger cases - both in terms of the concerns investigated and the remedies considered - is reflected in rising legal and consultancy bills<sup>152</sup>. In turn, certain of those developments oblige the Commission to rely to a greater extent on external technical expertise, market information and studies<sup>153</sup> (which given the short merger deadlines typically cannot be procured through a normal tender). But obtaining external expertise can also generate significant synergies and positive spillovers<sup>154</sup>. Similarly, the Commission experience from recent merger cases has shown that information from commercial information providers' proprietary databases (eg sector-specific data) may be required at short notice.

### **2.1.3.3 Challenges for EU State aid control and guidance**

While State aid control (Articles 107-108 TFEU) is an exclusive power of the Commission, Member States play a crucial role in ensuring effective compliance on the ground<sup>155</sup>. This role has become even more important after the State Aid Modernisation (SAM) concluded in 2014, which led to a widening of the scope of the General Block Exemption Regulation (GBER). As a result, 97% of all new aid measures today are being implemented without prior Commission prior approval, a dramatic increase compared to the pre-SAM era<sup>156</sup>. The reform will only be completely successful if Member States implement such aid measures in full compliance with State aid rules. To address this challenge, the Commission must intensify cooperation with the Member States and ensure full State aid transparency, allowing interested stakeholders (the Commission, competitors and the wider public) to verify the conformity of the aid with the rules<sup>157</sup>. That is why the Commission has established bilateral and multilateral Partnerships with the Member States (see below under 'Boosting internal partnerships'). Also, to assist Member States in complying with the transparency requirements, the Commission has developed the Transparency Award Module (TAM).

The expiry of numerous hard and soft law instruments forming part of SAM in the coming years gives rise to significant additional challenges. As a key input for the post-SAM related evaluation work ahead, the Commission will rely on evaluations to be made by the Member States on the direct and indirect effects of large (above EUR 150 million) aid schemes which will be received in the next few years (the process having started by end-2017). To this end, the Commission will be required to contract additional technical expertise. Meanwhile, the Member States are requesting related assistance and training from the Commission. At the time of writing, the Commission had already approved 37 evaluation plans covering 13 Member States, with a total annual budget of EUR 48 billion (with additional plans in the pipeline)<sup>158</sup>, corresponding to about 45% of total State aid annual spending in the EU. A trend towards larger schemes points towards a potential rise in the number of such evaluations. If the Commission were not able to properly analyse the Member States' evaluations as they are delivered, adverse effects on the internal market could follow<sup>159</sup>.

Like antitrust, cartel and merger enforcement, State aid control needs more sophisticated IT-tools as well as AI in order to analyse data, evidence and the lawfulness of aid already granted and also to detect the

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<sup>152</sup> In one merger case the legal fees exceeded EUR 35 million; another discernible trend is the hiring of multiple economic consultancies (in a recent case five economic consultancies were enlisted).

<sup>153</sup> Recent cases have for example arisen in connection with particularly intricate remedies proposals which required the advice from engineering experts or from specialists in national law.

<sup>154</sup> For example, a report commissioned from a UK university assessed the Commission's approach to geographic market definition. That study ([http://ec.europa.eu/competition/publications/reports/study\\_gmd.pdf](http://ec.europa.eu/competition/publications/reports/study_gmd.pdf)) has become a point of reference for national competition authorities and other stakeholders.

<sup>155</sup> Recital 15 of Commission Regulation (EU) No 651/2014 of ('General Block Exemption Regulation) provides that "State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under block-exempted schemes".

<sup>156</sup> See State aid Scoreboard for 2016.

<sup>157</sup> See [http://ec.europa.eu/competition/state\\_aid/overview/transparency\\_and\\_evaluation.html](http://ec.europa.eu/competition/state_aid/overview/transparency_and_evaluation.html)

<sup>158</sup> The majority concern large regional or RDI aid schemes under the GBER or notified broadband schemes.

<sup>159</sup> Such as undesirable firm location effects, distortions of dynamic incentives to innovate and the crowding-out of private investment. Lack of transparency could also prevent third parties from verifying whether State aid has been granted in line with EU State aid rules, thereby reducing per-review in a situation where the Commission has withdrawn from ex ante scrutiny.

presence of aid in public interventions and anticipate developments in the economic nature of public activities and services. The relevant challenges include *inter alia*:

- Analysis of files: There is currently no IT-tool at hand to search data across individual cases for purposes of comparison; nor is there any AI-driven analytical tool that would detect certain patterns in the Member State's approach to a public financing in similar cases, predict future trends or point to relevant cases and jurisprudence<sup>160</sup>.
- Monitoring of compliance with the General Block Exemption Regulation (GBER): The Commission has so far monitored compliance with the GBER *ex-post* without IT tools. Given resource constraints, this exercise can only cover a small fraction of block-exempted aid measures. AI could support monitoring by detecting deviations between the GBER's provisions and national aid schemes, as well as between individual aid awarded under a scheme on the one hand and the GBER and the scheme's provisions on the other hand.
- Conformity of public commercial economic operations with the 'Market Economy Operator Principle': Where the State provides its resources on market conditions, EU State aid rules do not apply. AI could be used to compare market operator behaviour in similar large projects<sup>161</sup>.
- Existence of a market; question of the economic nature of public activities and services: EU State aid rules only apply if public funding is for activities in a market environment. Pursuant to Court jurisprudence, the question whether a market exists for public services may depend on the way those services are organised in the Member State concerned. That situation is not static and to a large extent dependent on political choices or economic developments. AI may help detect regulatory and economic developments in public services<sup>162</sup>.
- The material selectivity of public funding: One constitutive element of State aid is the selectivity of a public measure, ie that it only favours certain undertakings and not others who are in the same factual and legal situation as the beneficiary/ies of the measure. This also applies to fiscal measures. State aid may be at hand in case a fiscal measure deviates from the reference system and its intrinsic objectives in the Member State concerned. AI tools could help in assessing the intrinsic objective of complex tax measures, detect deviations from these objectives in individual cases and also identify amendments to the reference system over time.

#### **2.1.3.4 Boosting internal partnerships: challenges for European Competition Network**

Since 2004, the antitrust and cartel rules (enforcement of Articles 101 and 102 TFEU) are enforced by the national competition authorities (NCAs) of the Member States in addition to the Commission. Together they make up the European Competition Network (ECN). Ensuring undistorted competition within the internal market depends significantly on the national competition authorities. For this model to work it is crucial that the Commission takes an active role in ensuring coherence and effectiveness of the application of the EU rules by NCAs. To that end, the Commission has set up and is coordinating horizontal working groups and sector-specific subgroups within the ECN<sup>163</sup>. Frequent and confidential meetings with the NCAs in these fora are required to promote a common competition culture and reduce inherent risks of divergent outcomes in the internal market due to incoherent enforcement. The continued proper functioning of the ECN also requires a secure, fully operational and interoperable IT infrastructure allowing for the exchange of confidential documents<sup>164</sup> in addition to meetings in person<sup>165</sup>.

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<sup>160</sup> The introduction of the new CASE@EC database could be an opportunity to introduce such tools.

<sup>161</sup> This could facilitate and shorten the assessment of such large public investment where the advancement of a project that is potentially in the common interest depends on the timely adoption of a Commission decision authorising the public investment.

<sup>162</sup> For example, depending on the nature of their activities, hospitals may either fall within or outside State aid rules.

<sup>163</sup> For example, joint working groups deal with horizontal topics (eg cartels), as well as with key sectors of the economy (eg energy, financial services).

<sup>164</sup> Under the current MFF, the ECN IT infrastructure expenditure is covered by the ISA programme.

<sup>165</sup> Meetings in the ECN are crucial for the exchange of intelligence, the development of best practices and for ensuring a coherent approach in cases and policy matters.

These two strands of the ECN need reinforcement in view of two factors. First, the proposal for a Directive to empower the national authorities to be more effective enforcers (ECN+) – expected to be adopted in 2018 – is very likely to translate into more enforcement of the EU competition rules, reinforcing the need for close coordination and cooperation in the ECN<sup>166</sup>. Second, the digital transformation of markets and operators and the challenges this generates for the application of EU competition rules policy as described above are equally applicable to the ECN. Increasingly complex cases will intensify the need for early and in-depth coordination, as well as more policy meetings to agree on new methods and tools to tackle novel anticompetitive practices across the internal market. The digitisation across sectors means that businesses increasingly operate beyond national borders which in turn increases the need to coordinate and align national and EU investigations within the ECN.

The EU antitrust and cartel rules – Articles 101 and 102 TFEU – are enforced not only by the European Commission and NCAs (public enforcement), but also by national courts<sup>167</sup>.

To ensure a coherent application of EU antitrust and cartel rules by national courts on the ground, the Commission operates a grants programme dedicated to the training of national judges in EU competition law and judicial cooperation between national judges<sup>168 169</sup>. It also funds regular meetings of the association of European Competition Law Judges, AECLJ, a group of supreme and appellate court judges who hear cases in their courts concerning the application of European competition law. All these measures promote knowledge and understanding of competition policy and law issues throughout the respective judiciaries in order to avoid divergent application of EU law in different Member States.

The need for the Commission to provide support to national courts and to train judges is very likely to escalate as a result of the following developments: first, increased enforcement by the NCAs as a result of powers that will be bestowed through ECN+ (and, thus, increased judicial review of NCA decisions); second, the implementation of the recent Directive 2014/104/EU on antitrust damages actions (Damages Directive), which makes it much easier for citizens and businesses to bring actions for damages before national courts for EU antitrust infringements.<sup>170</sup> Significant growth in new private enforcement cases across the internal market is expected, requiring the Commission to step up its engagement with national courts and its training of national judges to ensure a coherent application of EU law.<sup>171</sup>

#### ***2.1.3.5 Boosting internal partnerships: challenges for merger control***

The EU merger regime is based on a clear division of competences between the Commission and the national competition authorities, which act as partners in ensuring consistent, efficient and effective merger control throughout the EU; for example, in connection with the referral mechanisms which give the necessary flexibility to reallocate cases. Cooperation aimed at further exchange of best practices and convergence takes place within the EU Merger Working Group since January 2010, comprising the Commission and the national competition authorities. There is a need to further strengthen cooperation and convergence through the exchange of best practices and knowledge between the national competition authorities, building on the Best Practices on cooperation between EU National Competition Authorities in Merger Review which were adopted as a result of the work of the EU Merger Working Group in 2011.

#### ***2.1.3.6 Boosting internal partnerships: challenges for State aid control***

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<sup>166</sup> For example, the proposal will significantly extend the possibility of NCAs to provide each other with mutual assistance, requiring enhanced IT tools also at the EU level.

<sup>167</sup> National courts review decisions by the national authorities; they directly apply the EU antitrust rules in disputes between parties (e.g. in private litigation to declare a specific contractual clause null and void); and they award damages to consumers and companies harmed by competition law infringements (private enforcement). Over the last ten years, the Member States have notified to the Commission more than 600 judgments where EU competition law is applied by national courts.

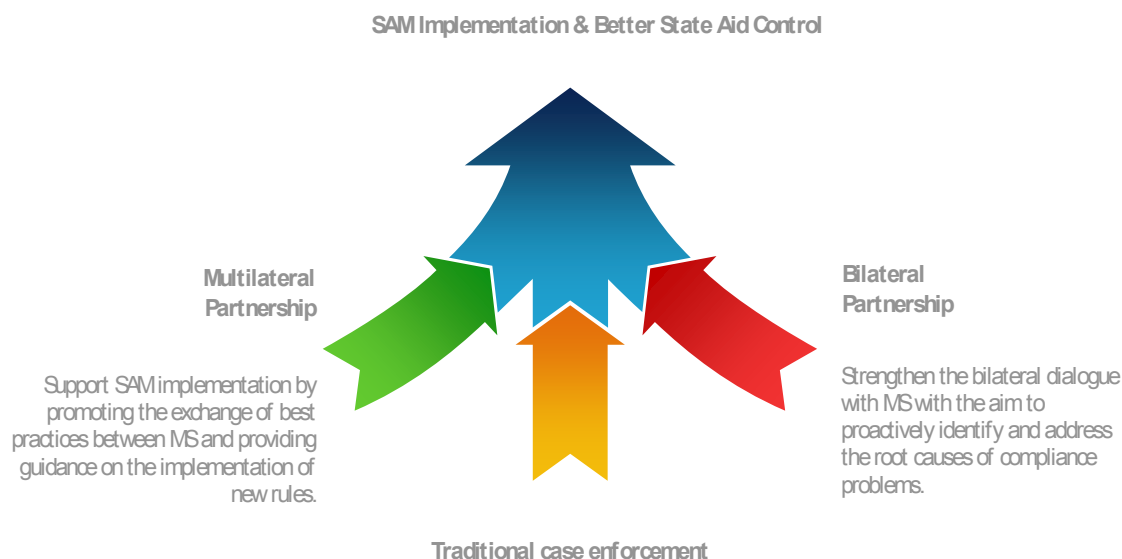
<sup>168</sup> The grant programme is co-delegated to DG Competition as part of the Justice Programme (as regards problems in this respect see box at the end of section 1 above).

<sup>169</sup> Since 2002 more than 150 projects for training of judges in EU competition law have been co-financed involving around 10 000 national judges from all Member States.

<sup>170</sup> The deadline to implement the Directive in Member States' legal systems expired on 27 December 2016.

<sup>171</sup> For example in the form increased requests by courts for disclosure of documents in the Commission's position; requests for the Commission, to provide information, opinions and observations in court proceedings etc.

A key challenge in the State aid area will be to deepen and widen the Multilateral Partnership with the Member States at all levels - the Working Group on the Implementation of the State Aid Modernisation (SAM-Working Group), the High Level Forum and thematic working groups - in order that State Aid Modernisation (SAM) can maximise its contribution to the internal market. Likewise, the Bilateral Partnerships with Member States also need to be deepened and extended. That bilateral engagement could take the form of country visits, setting up coordination and follow-up processes that facilitate informal exchanges and are thus complementary to formal State aid procedures, as well as training and other support to Member State authorities at all levels (including regional and local authorities as well as courts). A main challenge will be to engage in reflections with Member States on how to promote structures and procedures to enhance *ex ante* compliance and carry out effective *ex post* controls at national level.



A particular challenge will be to assist the Member States (e.g. through workshops) in connection with the Member States' evaluations of large aid schemes referred to above. Successful experiences and best practices from Member States should be shared and used to design future aid measures more effectively. Further development of IT tools will be needed (e.g. the Transparency Award Module platform<sup>172</sup> ensuring greater transparency of aid to individual beneficiaries as required by SAM as well as the SANI tool aimed at speeding up the treatment of State aid notifications).

Challenges Programme/line	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resource for society and the internal market
Competition programme	✓ Wider outreach to stakeholders concerned by EU competition policy beyond those parties most immediately interested (eg specialised lawyers)	✓ Boosting internal partnerships with national authorities (including national competition authorities) and courts to ensure the effective application of EU competition in the internal market.	✓ State-of-the-art enforcement and policy guidance at EU level (in particular through upgraded IT tools and recourse to external technical expertise).  Boosting external partnerships with third country authorities with a view to protecting the internal market from	N/A

<sup>172</sup> Currently 24 Member States have joined the TAM platform.

			anticompetitive conduct.	
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#### **2.1.3.7 Challenges in reinforcing and extending external partnerships**

EU competition policy has a direct role in protecting the internal market against anticompetitive conduct and activities, including when emanating from abroad. The EU Courts have ruled that the Commission has an extraterritorial jurisdiction to enforce the EU antitrust, cartel and merger rules to the extent that an anticompetitive conduct is implemented in or has effect in the internal market<sup>173</sup>.

The Commission thus has a strong interest in engaging closely with third country authorities and in particular competition authorities, with a view to promoting worldwide convergence of competition rules, while cooperating closely in individual cases<sup>174</sup>. Multilaterally, the International Competition Network, comprising some 130 authorities, serves as the main forum for promoting convergence. The Commission has also signed different forms of cooperation agreements with several of its major trading partners and neighbours (such as US, Canada, China, India, Brazil and Switzerland). The challenges in ensuring effective cooperation with third country competition authorities are likely to grow in the coming decade; in the period of 2014-2015 in 52 % competition decisions adopted by the European Commission there was some form of cooperation with the competition authority of a third country; in cartel investigations cooperation took place in 69 % of all cases. A particular focus for future cooperation could be emerging economic blocs such as ASEAN and MERCOSUR which face similar competition challenges as the EU during its early years and decades.

So far cooperation has mainly concerned antitrust, cartels and mergers but recently subsidies have become a particular focus of attention and debate<sup>175</sup>. Decisions by third countries to grant a subsidy to a company that operates globally may affect competition in the internal market. In the negotiations of Free Trade Agreements (FTAs), which include competition and State aid provisions, the Commission aims in particular to include strong commitments on subsidies, beyond what exists in WTO, extending transparency to subsidies to services, broader consultation possibilities and conditioning the most distortive subsidies. In June 2017 the Commission signed a Memorandum of Understanding with China aimed at dialogue on State aid control and State intervention in the economy<sup>176</sup>. There is considerable scope for investing more in such activities, not only in terms of direct face-to-face engagement with third country authorities but also as regards the gathering of intelligence, for example mapping the use and extent of subsidies in key third countries (including at sub-federal level which often are not identified under current disciplines). The Commission is also addressing subsidies in the multilateral context, such as in WTO and OECD. Several precedents under MFF 2014-2020 exist of cooperation with third countries within mainly internal market orientated programmes<sup>177</sup>.

#### **2.1.3.8 Challenges in achieving wider stakeholders outreach**

Surveys carried out in 2010, 2014 and 2016 demonstrate the need for wider stakeholder outreach, not least as regards State aid (see 1.2.2 above). Raising awareness among a wider group of citizens and businesses affected by EU competition rules (beyond those mostly concerned such as legal and economic advisers specialised in competition law) would increase the effectiveness of competition law through information on

<sup>173</sup> See in particular C-89/85 - Ahlström Osakeyhtiö and Others v Commission, ECLI:EU:C:1993:120 (concerning a cartel); C-413/14 P - Intel v Commission, ECLI:EU:C:2017:632 (concerning abuse of dominance) and T-102/96 - Gencor v Commission, ECLI:EU:T:1999:65 (concerning a merger).

<sup>174</sup> President Juncker's mission letter to Commissioner Vestager of 1 November 2014 asks her to focus eg on "promoting a competition culture in the EU and world-wide" during the Commission's mandate.

<sup>175</sup> A working group on international subsidies policy has recently been established within the multilateral State aid Partnership comprising the Commission and Member State representatives.

<sup>176</sup> See [http://europa.eu/rapid/press-release\\_IP-17-1520\\_en.htm](http://europa.eu/rapid/press-release_IP-17-1520_en.htm).

<sup>177</sup> See Regulation on a multiannual consumer programme for the years 2014-20, in particular Articles 5 and 8 as well as Annex I on types of action under Objective IV ("(d) administrative and enforcement cooperation with third countries which are not participating in the Programme and with international organisations"); in a similar vein, see Article 7 on eligibility of "working visits" within third countries as well as recital 10 on tax cooperation with third countries of Regulation (EU) No 1286/2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020).

types of behaviour which are not allowed under EU competition rules ('prevention is better than cure')<sup>178</sup>; the effectiveness of EU competition rules would also be served by apprising citizens and businesses of their legal rights under those rules (eg the right to redress and compensation if harmed by others' anti-competitive behaviour). Such awareness-raising events and activities could benefit from synergies with other activities under the Single Market Programme. More broadly, the contribution of EU competition policy to a fairer society and economy, ensuring equality of opportunity, could be conveyed under a Competition programme within the Single Market Programme, a central pillar of which is to empower citizens and businesses.

<b>Candidate for Programme/line</b>	<b>Flexibility</b> (moving funds from one SMP programme to other)	<b>Simplification</b>	With which other SMP programmes there are potential <b>synergies</b>
Competition programme	√ / N/A	√ / N/A	√ / N/A
State-of-the-art enforcement and guidance at EU level	√	√	√
Boosting internal partnerships	√	√	√
Boosting external partnerships	√	√	√
Wider stakeholder outreach	√	√	√

#### **2.1.4 New political priorities or emerging problems needing EU intervention (including legal commitments)**

Reference is made to section 1.1.4 above to European Parliament and European Council statements on the internal market and competition policy. A number of emerging challenges have been set out in sections 2.1.2 and 2.1.3 above including the digital transformation and the need to engage more closely and effectively with national authorities and courts across all areas of competition policy as well as the need to reach out to a wider group of stakeholders. In addition, the following more specific instruments and provisions are relevant.

Article 31 of the proposal for Proposal for a Directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market of 22 March 2017 (COM(2017) 142 final) (expected adoption in 2018) states that "The costs incurred by the Commission in connection with the maintenance and the development of the European Competition Network System and cooperation within the European Competition Network shall be borne by the general budget of the Union within the limit of the available appropriations".

## **2.2 Objectives of the programmes of the next MFF**

### **2.2.1 General objective linked to the challenges described above**

The general objective of the Competition programme is to support the Single Market Programme and thereby the functioning of the internal market.

### **2.2.2 Specific objectives linked to the challenges described above**

First specific objective: To ensure that the enforcement of EU competition policy as well as policy guidance is supported by state-of-the-art tools and infrastructure (including software and hardware) as well

<sup>178</sup> President Juncker's mission letter to Commissioner Vestager of 1 November 2014 asks her to focus eg on explaining and demonstrating the benefits of competition policy "to citizens and stakeholders at all levels" during the Commission's mandate.

as external technical expertise and information (falling within the "Support rule-making, standard setting and enforcement at EU institutions level" objective in the Single Market Programme).

Second specific objective: To strengthen, deepen and extend cooperation and partnerships with European public administrations (including national competition authorities and courts) in the form of direct contacts as well as interoperable IT infrastructures ensuring the exchange of confidential documents and information (falling within the "Administrative cooperation, capacity building and integration among Member States" objective under the Single Market Programme).

Third specific objective: To strengthen, deepen and extend cooperation and partnerships with third country authorities (including competition authorities) with a view to strengthening competition disciplines for the benefit of the internal market (falling within the "Support rule-making, standard setting and enforcement at EU institutions level" objective in the Single Market Programme).

Fourth specific objective: To raise awareness of EU competition policy among a wider group of stakeholders concerned by the enforcement of EU competition rules, thereby strengthening the effectiveness and legitimacy of those rules (falling within the "Empower citizens/consumers and businesses in particular SMEs at different stages of their development" objective under the Single Market Programme).

<b>Challenges</b> <b>Programme/line</b>	Empower citizens/consumers and businesses in particular SMEs at different stages of their development	Administrative cooperation, capacity building and integration among Member States	Support rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
Competition programme	To raise awareness of EU competition policy among a wider group of stakeholders concerned by the enforcement of EU competition rules, thereby strengthening the effectiveness and legitimacy of those rules.	To strengthen, deepen and extend cooperation and partnerships with European public administrations (including national competition authorities and courts) in the form of direct contacts as well as interoperable IT infrastructures ensuring the exchange of confidential documents and information.	To ensure that the enforcement of EU competition policy as well as policy guidance is supported by state-of-the-art tools and infrastructure (including software and hardware) as well as external technical expertise and information.  To raise awareness of EU competition policy among a wider group of stakeholders concerned by the enforcement of EU competition rules, thereby strengthening the effectiveness and legitimacy of those rules.	

<b>Potential for</b> <b>Programme/line</b>	<b>Simplification of your programme, and/or synergies and/or flexibility and/or performance</b>
Competition programme	√

### 2.3 Cross cutting objectives of the new MFF

Section 3.3 below in particular explains how the Competition programme would enhance performance in support of the internal market, in particular given the major leverage effect of competition enforcement in terms of macroeconomic benefits. Being included in the Single Market Programme would also lead to increased flexibility and simplification eg given the possibility to carry out multiannual projects. The Competition programme would provide ample scope for synergies (not least in terms of joint studies and



data collection) with other activities under the Single Market Programme. Possible synergies are outlined in section 4.3 below.

### **3. PROGRAMME STRUCTURE AND PRIORITIES**

#### **3.1 Prioritisation**

The prioritisation in terms of objectives broadly follows the order in which the four specific objectives are set out in section 2.2 above.

According to that logic, the most prioritised actions would involve state-of-the-art software and hardware tools (such as forensic IT, investigative and data analysis as well as artificial intelligence), accompanied by trained operators. It would also include other external technical expertise and information sources falling under the first specific objective of the Competition programme (see 2.2). Actions relating to interoperable IT infrastructures ensuring the exchange of confidential documents and information as referred to in the second specific objective of the Competition programme should enjoy the same level of priority.

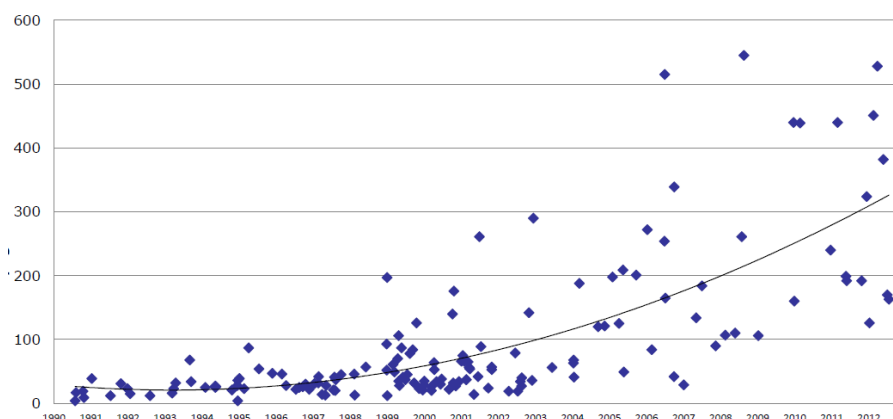
Next, as a second category, priority status should be afforded to the strengthening, deepening and extension of cooperation and partnerships with European public administrations (including national competition authorities and courts) in the form of direct contacts (seminars, trainings, workshops, meetings etc.).

Finally, a third priority would comprise the strengthening, deepening and extension of cooperation and partnerships with third country authorities (including competition authorities) (see third specific objective at 2.2) as well as actions aimed at raising awareness of EU competition policy among a wider group of stakeholders concerned by the enforcement of EU competition rules (fourth specific objective at 2.2).

#### **3.2 Critical mass of funding and projects**

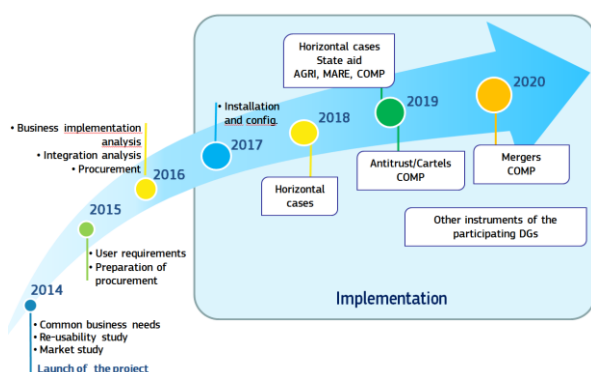
The projects and funding required to support the specific objectives in the Competition programme satisfy the critical mass criterion for several reasons. First, the scale and scope of DG Competition's activities is (similar to the internal market) economy-wide. The numerous studies and evaluations referred to under 'Lessons learnt' above (see section 1.2.1) testify to the varied nature of DG Competition's enforcement – eg in terms of sectors - in the internal market. Second, DG Competition's enforcement concerns both the private sector as a whole (antitrust, cartels and merger control) as well as all tiers of the public sector (State aid) and to the extent that public undertakings engage in economic activity (antitrust, cartels and merger control). A key task of EU competition policy is also to engage in so-called competition advocacy aimed at making other policies and regulation more competition friendly; such advocacy is directed at many stakeholders groups as well as to the Member States and third countries (see the OECD's findings on the importance of advocacy at section 1.2.1).

As regards the first specific objective of the Competition programme (state-of-the-art enforcement and guidance), the transformational IT-driven challenges outlined above (see sections 2.1.2 and 2.1.3) will necessitate projects in step with fast-moving technological developments, likely resulting in significant costs (eg in the follow-up of complex decisions) (see section 2.1.3). State-of-the-art hardware and software acquisitions also need to be accompanied by highly skilled and trained operators. In the case of possible algorithmic collusion, firms continuously modify their algorithms, requiring continuous alertness and agility (including in terms of deployment of technology) on the part of competition authorities. The increasing complexity of cases referred to in sections 2.1.2 and 2.1.3 (eg evidentiary requirements and the more economic approach) is one of the drivers of this challenge (see graph below which reflects the considerable increase in the numbers of pages in merger decisions necessitated by the more complex category of merger cases (so-called phase-two cases) (x-axis denoting number of pages in the decision):



Deep engagement with the Member States will be needed to evaluate large State aid schemes (a process which already encompasses half of all aid reported in the EU and which will extend well beyond 2020); technical expertise will also be needed in connection with remaining cases in the banking sector involving impaired assets and asset relief.

IT projects play a key role under the Competition programme; such projects are launched by DG Competition during a test phase after which synergies are found with other activities under the Single Market Programme along the lines of the current CASE@EC case management system (see graph below):



Sector inquiries (both in the antitrust and State aid areas) aimed at supporting the Commission's key priorities also generate the need for expertise and studies; the Energy union and the Single Digital Market were the focus of two of the most recent sector inquiries, which are particularly resource intensive undertakings. Deepening and broadening the analysis of the various impacts of EU competition policy (eg the impact of deterrence and on innovation) will also generate demand for studies, workshops etc. A promising novel area of research concerns the extent to which effective competition policy reduces inequalities.

Likewise, the second specific objective (Boosting internal partnerships) is likely, by itself, to generate a critical mass of funding and projects (not least joint projects conducted with the Member States). First, the confidential nature of ongoing competition and State aid proceedings requires not only the maintenance and upgrading of secure and stable IT systems which are interoperable vis-à-vis the Member States. Already in 2017, the first full year of implementation of ECN2 (the new exchange platform for the ECN), more than 16,000 documents were exchanged and this number is only expected to increase as NCAs become better acquainted with this new tool; confidential face-to-face meetings go hand in hand with day-to-day antitrust and cartel enforcement and are indispensable for sustaining a well-functioning network with the national authorities and for agreeing on a coordinated approach in applying competition rules in the internal market. Looking at the period from 2010 to 2017, a total of 202 meetings of the various ECN working groups and sectoral subgroups took place. In 2017 27 ECN meetings took place per year within 22 groups.

Second, the need for actions under this specific objective is particularly pressing if the fruits of recent (State Aid Modernisation and the Antitrust Damages Directive) and planned (ECN+) legislation are to be

harvested; for example, in the area of the Commission's multilateral partnership with the Member States, this need is illustrated by the number of multilateral working group meetings with Member States<sup>179</sup> as well as the range of key State aid issues discussed at these events at the request of the Member States or the Commission<sup>180</sup>.

Third, there is a need for a rapid, informal and confidential process whereby Member State authorities can seek clarification on material and procedural questions, eg in the area of EU State aid rules<sup>181</sup>. Reaching out to the sub-national level presents a special challenge for State aid control.

The increased enforcement activity of national authorities and courts due to the above-mentioned initiatives means that there will be an even greater need to train national judges to deal with competition law issues. Looking at the period 2007-2016 a total of 8,020 judges received such training. To illustrate the scope for actions in this wide field, reference can be made to a recent evaluation of the need for training of judges in EU competition law<sup>182</sup>. Few judges deal with all aspects of EU competition law; the evaluation revealed that most judges with experience of EU competition law had dealt with only one type of enforcement action. The table shows the large number of judges that may have to deal with public enforcement (review of decisions by national authorities) and with private enforcement (ie actions for damages caused by antitrust or cartel infringements) where harm to victims in foregone compensation has been estimated to amount to several billions a year<sup>183</sup>. An even greater number of national judges are potentially concerned by the enforcement of State aid rules (national judges have the power, among other things, to order the recovery of illegal aid.)

***Number of judges in the competent courts (EU total)*** (A denotes the number of judges who may potentially have to deal with competition cases; B denotes the number of judges specifically assigned to deal with competition cases)

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<sup>179</sup> 19 State Aid Modernisation working groups have been held since 1 February 2014 while five High Level Forums took place between 10 June 2014 and 28 June 2017; the next High Level Forum takes place on 19 June 2018.

<sup>180</sup> The following ten overarching topics were addressed: 1) the introduction of the State Aid Modernisation at national level and awareness raising; 2) the annual prioritisation, at Member States' request, of pending State aid cases in their respective 'portfolios' with the objective of managing priority cases more efficiently, in line with national priorities; 3) the Commission's decision-making process; 4) follow-up of implementation of the so-called Timonen report (on best practices, training, networks, portfolio reviews, case management and maximising the use of the GBER); 5) maximisation of the use of the GBER; 6) ensuring compliance with GBER and general State aid requirements; 7) State aid and international competition; 8) State aid evaluation; 9) transparency; and 10) updates on further developments or additional actions taken by the Commission to support SAM implementation.

<sup>181</sup> Since February 2016, all Member States have used the Commission's IT-tool 'eState aid WIKI'. They have thus far submitted over than 600 queries on all major State aid rules, both as regards the notion of State aid and as regards the compatibility of aid with the internal market; by far the most queries concerned the General Block Exemption Regulation. 'eState aid WIKI' is a platform for informal exchanges on general State aid matters (thus not case-specific) between the Commission's services and the Member States and EFTA countries (including the EFTA Surveillance Authority).

<sup>182</sup> See 'Study on judges' training needs in the field of European competition law - Final report' by ERA (Academy of European Law), EJTN (European Judicial Training Network) and Ecorys (January 2016).

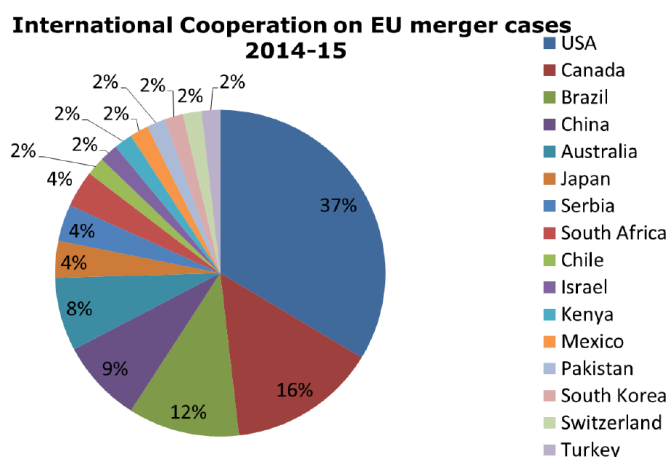
<sup>183</sup> The impact assessment report accompanying the antitrust damages directive estimated the compensation foregone to be as high as €5.7 to €23.3 billion per year (see SWD(2013) 203 final, 11 June 2013).

Source: ERA		First instance	Intermediate instance (if app)	Final instance
<b>Public enforcement: (a) judicial review</b>	A <sup>1</sup>	<b>330</b>	<b>90</b>	<b>471</b>
	B <sup>2</sup>	<b>305</b>	<b>26</b>	<b>104</b>
<b>Public enforcement: (b) criminal sanctions</b>	A	<b>3 335</b>	<b>1 045</b>	<b>378</b>
	B	<b>0</b>	<b>0</b>	<b>0</b>
<b>Private enforcement</b>	A	<b>14 563</b>	<b>4 777</b>	<b>697</b>
	B	<b>459</b>	<b>270</b>	<b>56</b>
<b>Enforcement of EU State aid rules</b>	A	<b>16 192</b>	<b>5 058</b>	<b>1 258</b>
	B	<b>71</b>	<b>251</b>	<b>68</b>

Actions within the third ('Boosting external partnerships') and fourth ('Wider stakeholder outreach') specific objectives would add to the overall critical mass of funding.

The number of EU and Commission competition cooperation agreements and free trade agreements containing competition and State aid clauses serves as a useful benchmark to assess the level of convergence with third countries' competition regimes. There were 21 such agreements in 2016, necessitating continued follow-up, while leaving scope for further expansion. During the next MFF period, the number of completed agreements is expected to almost double, with an estimated 39 agreements to be concluded by end-2019<sup>184</sup>. Bilaterally, cooperation also takes place not only with partners with whom the Commission has signed a cooperation agreement (such as the US, Canada, Japan, Korea, China, Brazil and Switzerland), but also with new and emerging agencies in countries such as Mexico. Similarly, there is room for expanding the number of technical workshops organised with third country authorities as only three such events were organised in 2016 (two with China and one with India).

The scope of the Commission's cooperation with third country competition authorities with the aim of protecting the internal market in individual cases does not only include cartel and antitrust enforcement area but also extends to merger control (see graph illustrating the range of jurisdictions involved<sup>185</sup>).



On the enlargement front, some of the candidate countries (eg Serbia and Montenegro) will require more assistance from the Commission to build a proper legislative framework in the area of EU competition policy. In the same vein, the European Neighbourhood Policy countries will require continued support from the Commission in the area of EU competition policy, in particular as regards State aid.

<sup>184</sup> [https://ec.europa.eu/info/sites/info/files/file\\_import/management-plan-comp-2018\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/management-plan-comp-2018_en.pdf)

<sup>185</sup> Cooperation with third country agencies took place in 41 of 546 formal merger decisions adopted in 2014 and 2015, representing 7% of all merger decisions.

Similarly, at the multilateral level, the number of Commission contributions to relevant international bodies and fora can be used as a proxy for action in support towards international convergence of competition policy. The Commission provided 15 such contributions in 2016: eight to the OECD; five to the ICN (International Competition Network) and two to UNCAD. There is scope for greater contributions at the multilateral level not least as regards subsidy policy. The Commission is contributing to the discussions in WTO, and has set up a working group on international subsidies with the Member States. The Commission also continues to engage in sectoral initiatives to address subsidies in the international context, such as for steel (G20 Global Forum on steel excess capacity), for semiconductors (Regional support guidelines for the semiconductor industry) as well as for shipbuilding (OECD).

In addition, the Brexit negotiations on the withdrawal agreement and a future trade agreement will also require input on EU competition policy beyond the start of the next MFF period.

Finally, in relation to the fourth specific objective of the Competition programme, there is considerable scope for additional actions when expanding outreach beyond expert groups to categories of audiences affected by EU competition policy on the ground (such as businesses of all types, consumer organisations and regional and local authorities); indeed, the fact that in 2017 alone, officials of DG Competition were invited to give 173 lectures on EU antitrust, merger and State aid rules<sup>186</sup> mostly before expert audiences, illustrates the need for widening the outreach action.

### 3.3 Added value

In macroeconomic terms, the very significant leverage effect of EU competition policy (financed by a modest administrative budget) is incontestable as already explained in "Lessons learnt" in section 1.2.1. That finding is supported by a large body of studies<sup>187</sup>. For example, as regards the value added of competition policy enforcement, a study<sup>188</sup> from 2017 demonstrated that the Commission's cartel and merger decisions taken over the period 2012-2014 boosted GDP by 0.3% and employment by 0.2% after five years, similar to various estimates of the impact of the Services Directive<sup>189</sup>. The competition enforcement action – which only covered part of EU level competition enforcement – was also found to reduce inequalities between rich and poor households.

As these positive macroeconomic impacts in terms of GDP, employment and inequality reduction (see also section 1.2.1) are based on conservative assumptions and only rely on cartel and aspects of merger enforcement, they likely understate the real effects which, moreover, do not take into account the well-attested positive impacts on innovation or the effects of sanctioning and deterring abuses of a dominant position. Nor do they account for the considerable enforcement activity of the national competition authorities. While difficult to quantify, State aid control, which is focused on minimising distortions of competition in the internal market, also likely contributes considerably in macroeconomic terms<sup>190</sup>. There is consensus that competition as a driver of efficiencies is particularly important in knowledge intensive sectors, close to the technological frontier<sup>191</sup>. The order of magnitude of the contribution of State aid control, not least to fair competition in knowledge intensive sectors, is illustrated by the sheer size of large R&D&I-State aid schemes subject to mandatory State aid evaluation (see section 2.1.3 above). At the time of writing, eight approved R&D&I-aid schemes are subject to such valuation requirements aimed at

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<sup>186</sup> Number of requests for permission to speak at external events registered by DG Competition.

<sup>187</sup> See 'Ex-post economic evaluation of competition policy enforcement: A review of the literature' by Fabienne Ilzkovitz and Adriaan Dierx, DG Competition (June 2015); OECD Factsheet on how competition policy affects macro-economic outcomes (October 2014).

<sup>188</sup> Dierx, Adriaan, Fabienne Ilzkovitz, Beatrice Pataracchia, Marco Ratto, Anna Thum-Thysen and Janos Varga (2017), "Does EU competition policy support inclusive growth?", *Journal of Competition Law & Economics*, Vol. 13, No. 2, pp. 225-260.

<sup>189</sup> See Copenhagen Economics (2005a): "Economic assessment of the barriers to the internal market for services"; Final report. 'The economic impact of the Services Directive: A first assessment following implementation', EUROPEAN ECONOMY, Economic Papers 456 (June 2012).

<sup>190</sup> The OECD's literature review (ibid) found that to the extent to which competition enforcement or advocacy increases the level of competition, the greater the contribution to efficiencies which in turn translate into productivity and growth; see also 'Ex-post economic evaluation of competition policy enforcement: A review of the literature' by Fabienne Ilzkovitz and Adriaan Dierx, pp. 21-22.

<sup>191</sup> See 'Ex-post economic evaluation of competition policy enforcement: A review of the literature' by Fabienne Ilzkovitz and Adriaan Dierx, p. 26.

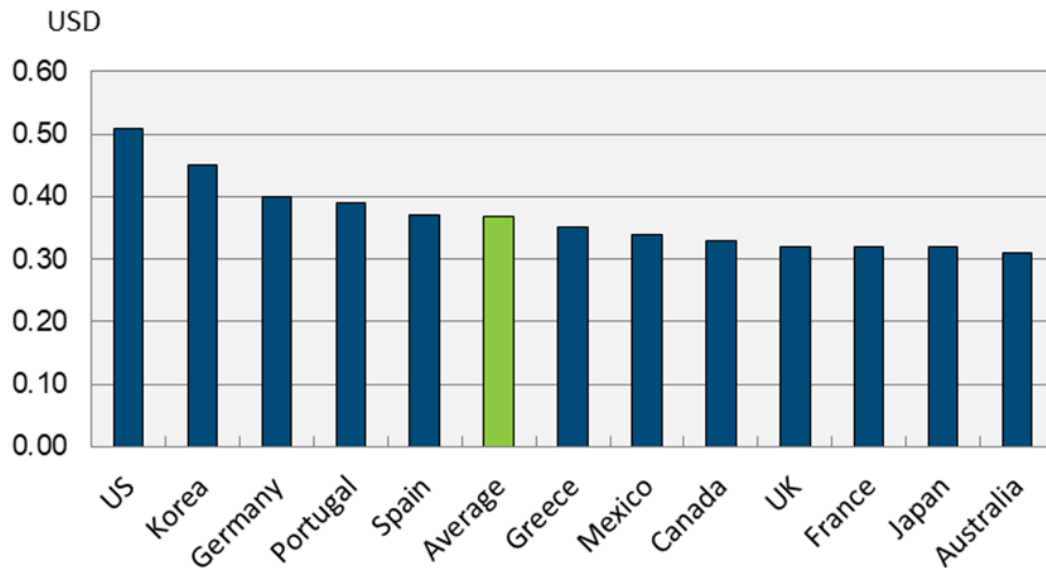
assessing these schemes' direct impact on beneficiaries as well as their indirect impacts, both positive and negative; the evaluations also covers the well as proportionality and appropriateness of the schemes. The average annual budgets of these eight schemes together amount to around EUR 5.2 billion (corresponding to 5% of total State aid spending in the EU).

State aid No	Member State	Working title	Annual budget (EUR million)	Entry into force/adoption of the decision	Final evaluation report due on
40761	UK	<i>Innovate UK (Technology Strategy Board)</i>	796	01/01/2015	30/09/2019
40098	FI	<i>TEKES aid for R&amp;D</i>	400	01/01/2015	30/06/2020
40266	FR	<i>Régime ADEME Investissements d'Avenir</i>	300	01/01/2015	30/06/2020
40324	ES	<i>CDTI R&amp;D aid scheme</i>	800	01/01/2015	30/06/2020
40391	FR	<i>Régime cadre aides RDI 2014-2020</i>	850	01/01/2015	30/06/2020
41471	PL	<i>National Research and Development Centre</i>	907	05/03/2015	30/06/2020
41386	UK	<i>SME R&amp;D Tax Credits</i>	648	01/04/2015	30/09/2019
41884	DE	<i>Central Innovation Programme for SMEs (ZIM)</i>	543	15/04/2015	30/06/2019

Further work is needed to establish the full macroeconomic contribution of an effective competition policy, for example the impact on inequality reduction (a current focus of the OECD: see graph below which shows how much for each dollar of monopoly profits, a total of USD is estimated to be transferred from the 90 percent poorest to the 10 percent richest in twelve OECD countries, half of which are EU Member States)<sup>192</sup>. Thus, although difficult to quantify, there are also strong grounds for arguing that EU competition policy reinforces the social dimension of the internal market (see also additional sources cited in section 1.2.1).

***For each dollar of monopoly profits, how much money is distributed from the bottom 90 percent to the top 10 percent?***

<sup>192</sup> See 'The Effects of Market Power on Inequality' by Sean F. Ennis (Senior Economist, OECD Competition Division; Chris Pike, Competition Expert, OECD Competition Division) and Pedro Gonzaga (Policy Analyst, OECD Competition Division). The authors' views do not necessarily reflect the official views of the OECD or the governments of OECD member countries.



As noted at the outset (section 1.1), EU competition is *de jure* and *de facto* an integral pillar of the internal market. A suboptimal competition policy accordingly detracts from the potential of the internal market. This is particularly so in terms of the remaining gaps of the internal market on which EU competition policy has focused in recent years, including network industries such as financial services, electricity, gas transport, telecoms as well as the digital single market<sup>193</sup>; indeed, the literature supports the existence of significant positive gains in terms of innovation and productivity to be made downstream by stimulating competition in such network sectors upstream, such as transport, energy and telecommunications<sup>194</sup>. Moreover, the Commission's competition advocacy and surveillance activities vis-à-vis the Member States (eg within the European Semester) pursues the same goals the internal market legislation, i.e. the removal of unnecessary or disproportionate restrictions on competition<sup>195</sup>. Cartel enforcement in connection with public procurement can make public procurement in the internal market more efficient<sup>196</sup>; in the EU, the public purchase of goods and services has been estimated to be worth 16% of GDP<sup>197</sup>.

In view of the macroeconomic benefits outlined above, strengthening the enforcement of and compliance with EU competition law would generate significant added value at EU level; likewise, reinforcing the networks, partnerships and other cooperation structures – especially with the Member States – would produce additional added value.

As regards State aid control, the room for Member States to give aid without prior authorisation from the Commission has – as part of the State Aid Modernisation – been greatly expanded over the last four years, in order to make the procedure simpler and more focused, thereby facilitating public investment. Continuing to facilitate such efficiency-enhancing investment (which strengthens the internal market

<sup>193</sup> See the annual reports on competition policy in recent years.

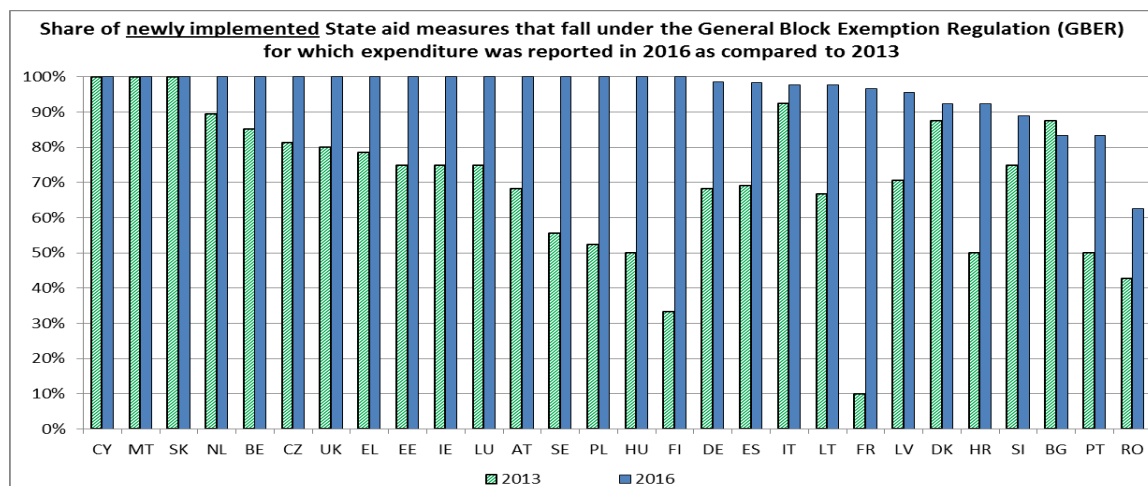
<sup>194</sup> See 'Ex-post economic evaluation of competition policy enforcement: A review of the literature' by Fabienne Ilzkovitz and Adriaan Dierx, p. 26; See also Bourlès et al. (2013) (covering 15 OECD countries during 1984-2007) finding that by increasing competition in upstream sectors by completely eliminating anti-competitive regulations would increase multi-factor productivity growth by 1 to 1.5% per year in the observed OECD countries.

<sup>195</sup> See recital 69 ("Where such requirements are discriminatory or not objectively justified by an overriding reason relating to the public interest, or where they are disproportionate, they must be abolished or amended") as well as Article 15(3) of Directive 2006/123/EC on services in the internal market.

<sup>196</sup> Studies appear to agree on the conclusion that the stronger enforcement and increased scope of cartel policies in the US and the EU in particular has contributed to the observed decline in overcharges (with the notable exception of overcharges resulting from bid rigging cartels) (see 'Ex-post economic evaluation of competition policy enforcement: A review of the literature' by Fabienne Ilzkovitz and Adriaan Dierx, p. 19).

<sup>197</sup> See <http://ec.europa.eu/trade/policy/accessing-markets/public-procurement/>.

overall) would generate considerable value added. For instance, the number of RDI aid notifications dropped markedly after the SAM reform; at the same time, total spending for RDI under the reformed 2014 General Block Exemption Regulation (GBER) – ie the cornerstone of SAM – more than doubled from EUR 3.3 billion in 2015 to EUR 7 billion in 2016. To reap the benefits of the new State aid architecture, investments in the multilateral and bilateral partnerships would need to be stepped up (see section 2.1.3). The overall impact of SAM on newly implemented aid measures appears from the graph below:



As a result of the sharing of work with national competition authorities (NCAs) within the European Competition Network (ECN), the enforcement of the EU antitrust and cartel rules is now taking place on a scale which the Commission could never have achieved on its own. Since the empowerment of the NCAs to apply the Treaty rules on antitrust and cartels in 2004, the Commission and the NCAs have adopted over 1,000 enforcement decisions, of which 85% by the NCAs. Thus scaling up the investment in the ECN is likely to further increase the added value of the Competition programme, especially after the planned strengthening of the powers and independence of the NCAs (ECN+ directive), which is expected to lead to increased enforcement by the NCAs and, as a result, increased judicial review of NCA decisions, ultimately leading to an increased need for the Commission to provide support to NCAs and national courts and to train judges. In the digital economy, increasingly complex cases will intensify the need for early and in-depth coordination in cases, as well as more policy meetings to agree on new methods and tools to tackle novel anticompetitive practices across the internal market. To take but one example demonstrating the added value of cooperation within the ECN: during 2016 a coordinated monitoring of the online hotel booking sector was carried out by the Belgian, Czech, French, German, Hungarian, Irish, Italian, Dutch, Swedish and UK competition authorities and the Commission<sup>198</sup>. The pie chart below demonstrates the considerable extent to which enforcement within the ECN – ie the Commission and the NCAs – during its first ten years focused on sectors where the internal market is incomplete<sup>199</sup>.

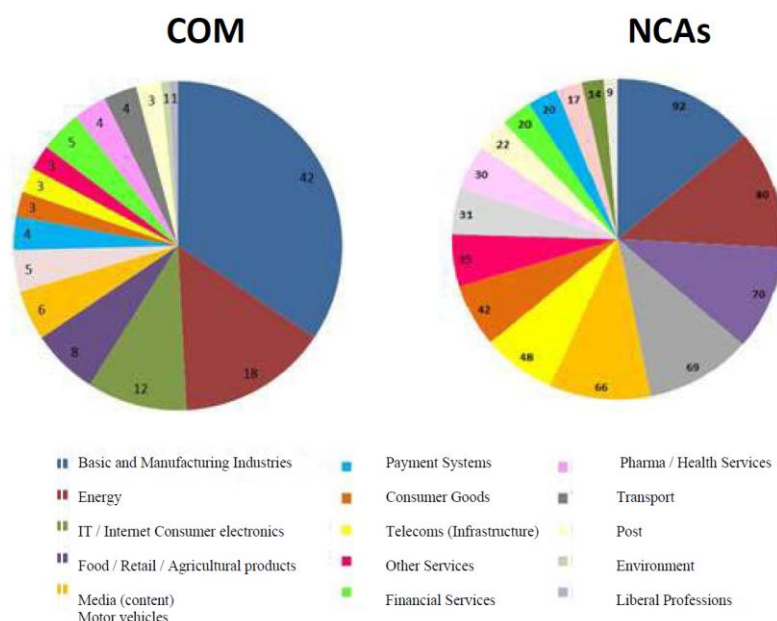
The need for training of national judges increases also due to the very recent entry into effect of the antitrust damages directive, which aims to help citizens and companies claim compensation if they are victims of infringements of EU antitrust rules. Ensuring a coherent and consistent application of the rules to compensation by national judges is crucial for ensuring that citizens and businesses harmed by anticompetitive practices can receive adequate compensation independent of the Member State they are located in. It is noted that the amounts of foregone compensations by victims of cartels and other antitrust infringements have been considerable so far<sup>200</sup>.

<sup>198</sup> The monitoring resulted in a report dated 6 April 2017 assessing the impact of enforcement in the online hotel booking sector in recent years.

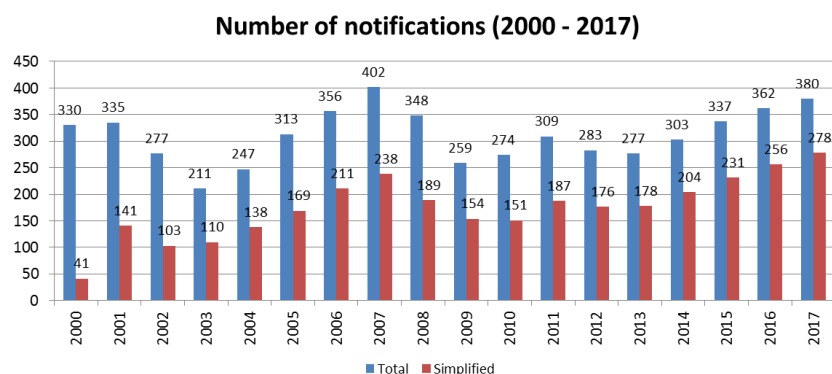
<sup>199</sup> See [http://ec.europa.eu/competition/antitrust/antitrust\\_enforcement\\_10\\_years\\_en.pdf](http://ec.europa.eu/competition/antitrust/antitrust_enforcement_10_years_en.pdf).

<sup>200</sup> Estimated to amount to billions per year; the very highest estimate – around EUR 23 billion per year – is macroeconomically significant (corresponding to 0.18 percent of EU GDP in 2013) (see impact assessment accompanying the damages directive).





Investment in cooperation between the Commission and the National Competition Authorities would also be required to increase the added value from the EU's one-stop-shop merger control. Since 1990 EU merger control has helped to enable the corporate restructuring associated with the development of the internal market, EMU and globalisation, while ensuring that such restructuring - mostly in the form of concentrations - preserves and strengthens competition in the internal market. The obligation to cooperate is legal in nature ("The Commission should act in close and constant liaison with the competent authorities of the Member States from which it obtains comments and information")<sup>201</sup>. As an example of added value and synergies of investment by the Commission, reference is made to the study on the definition of geographic markets in Commission merger cases which became a point of reference among EU competition authorities (see section 2.1.3). Moreover, as the number of notifications increases (ie the current trajectory: see graph), the need to closely and constantly cooperate with NCAs rises.



<sup>201</sup> See recital 13 – and also recitals (3), (4), (5) and (14) - of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation). The Commission transmits to them copies of notifications and of the most important documents lodged in a case. Member States may express their views throughout the procedure. In particular, in cases where in-depth proceedings have been opened or may lead to the imposition of a fine for a procedural infringement, Member States are formally consulted in the Advisory Committee. Over the last months, the Working Arrangements for the functioning of the Advisory Committee have been revised, strengthening the close and constant liaison between the Commission and the Member States' Authorities. A referral system also allows for a reallocation of specific cases, under certain conditions, between the Commission and Member States' authorities (notably if an agency other than the one initially competent appears as better placed to review the deal).

It is well established that successful advocacy in favour of competition friendly rules and regulation ultimately makes the economy more productive<sup>202</sup>. To this end, increased investment in boosting external partnerships (eg pushing for convergence and cooperating on concrete cases) will continue to add value (whilst protecting the internal market against anticompetitive conduct abroad).

Expanding outreach activities to encompass more categories of audiences affected by EU competition policy is also likely to add value: the better the rights and obligations under those rules are known and understood, the better they are enforced; a greater understanding of the rules and their rationale among wider groups of stakeholders would also be likely to add political support and legitimacy to EU competition policy, in particular among the Member States, increasing strengthening their resistance to lobbying efforts by vested interests and incumbent firms facing competitive threats.

From a strict legal standpoint, the issue of added value (which forms part of an assessment according to the principle of subsidiarity), does not arise in the case of competition policy which is an exclusive competence (see section 1.1). According to Article 5(3) TEU the principle of subsidiarity does not – legally speaking - apply in areas of exclusive competence. But, as appears throughout this report, a political choice has been made to enable and to share work with Member States in State aid control, antitrust and merger enforcement through numerous mechanisms and arrangements. Doing less at the centralised level, and more at the national level – within the scope of the EU exclusive competences - has helped increase the effectiveness of the enforcement of EU competition rules. The envisaged Competition programme would further entrench that political choice.

Also, the preceding added value assessment (although not strictly speaking legally required) can be considered justified from a Better Regulation perspective, in particular given that no spending programme has so far been considered to support EU competition policy. In view of the very significant leverage effect of EU competition policy in terms of consumer and customer welfare, unlocking the potential of the internal market and macroeconomic benefits, the Competition programme is also proportionate to the specific objectives set out in section 2.2; the principle of proportionality is also served by the actions envisaged under the second specific objective involving partnerships at the national level (ie without undue centralisation).

Finally, as mentioned in section 1.2.1, EU competition policy financed by an administrative budget of EUR 7.5 million (figures for 2016), impacts the overall EU budget collaterally through fines mainly in cartel and antitrust decisions (over the past decade, annual fines have averaged EUR 1.7 billion, varying between EUR 0.4 billion and EUR 4.2 billion)<sup>203</sup>.

#### **4.1 Consequences of a baseline scenario (ie no Competition programme) versus a Competition Programme scenario**

The Competition programme would constitute a new element in the MFF context. As it has not been evaluated previously, the likely impacts of a 'no change' scenario (see in particular section 2 above) are worth reiterating briefly. If EU competition policy would remain unsupported by a programme (and continue to be financed by a modest small administrative budget) it would soon become less effective, less efficient and less relevant. It would be less coherent with the Commission's and the EU's obligation to complete and strengthen the internal market; the Commission would probably lose its current international leadership in competition policy, and thereby diminish its possibilities to shape global economic governance; thus, stakeholders' awareness of, and support for, EU competition policy would dwindle over time, resulting in a gradual loss of legitimacy across the Union.

Conversely, as outlined in section 3, in view of the very significant leverage effect of EU competition policy in terms of consumer and customer welfare, unlocking the potential of the internal market and macroeconomic benefits, an adequately funded programme would generate considerable value added in terms of an effective, efficient and relevant enforcement and development of EU competition policy, including through the strengthening of partnerships with national authorities and courts. The Commission

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<sup>202</sup> See the graph at section 1.2.1 ("Lessons learnt") derived from the OECD publication on the impact of competition policy on macroeconomic outcomes; all relationships set out in the graph (including those relating to advocacy) are underpinned by robust evidence according to the OECD.

<sup>203</sup> Final report and recommendations of the High Level Group on Own Resources (December 2016), p. 71.

would also be able to maintain and reinforce its current global leadership in this important area of economic governance. Greater awareness and understanding of EU competition policy on the part of stakeholders would further reinforce such positive feedback loops.

#### **4.2 Broad categories of actions under the Competition programme**

Before addressing the specific mechanisms by which the Competition programme could be funded and delivered on the ground such as procurement and grants, it is appropriate to set out certain broad categories of actions which cover all four specific objectives of the Competition programme as defined in section 2.2 above.<sup>204</sup>

The broad categories of actions below have been inspired by the definition of actions under current programmes (2014-2020) in the consumer, customs and taxation as well as justice areas, adapted where appropriate to the specificities of the envisaged competition programme.

##### ***Actions in the area of IT tools and related expertise to protect competition in support of the internal market, in particular:***

- establishment, maintenance, development and, modernisation of IT tools such as databases, information and communication systems, specific software (eg eDiscovery software and proof of concept of software), forensic IT, investigative data (including Big Data) and economic analysis, artificial intelligence<sup>205</sup> as well as IT tools for the monitoring of markets and sectors relevant to competition policy;
- enlisting skilled experts necessary in connection with the use of IT tools;
- acquisition of IT equipment necessary in connection with the use of IT tools and expert work.

##### ***Actions in the form acquisition of other expertise and information sources, including through expert meetings, to protect competition in support of the internal market:***

- Acquisition of expertise, studies, consultations, market intelligence, databases and other information sources (eg procurement of external technical expertise in complex and time-sensitive investigations)<sup>206</sup>;
- organisation and procurement of and participation in expert events (such as seminars, workshops and conferences);
- monitoring of markets and sectors relevant to EU competition policy.

##### ***Human competency actions, including the development and strengthening of networks with the Member States and third countries, to protect competition in support of the internal market:***

- strengthening cooperation and cooperation structures with and between national enforcement bodies, national courts and other relevant Member State or third country authorities (especially the

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<sup>204</sup> For that reason reference to competition enforcement and competition policy is made where appropriate (in line with the approach used in the current Consumer programme (2014-2020)).

<sup>205</sup> For example, in order to enable the treatment of large bodies of evidence both of a qualitative and a quantitative nature

<sup>206</sup> Acquisition of the Joint Research Centre's expertise through administrative arrangements could provide additional support.

multilateral and bilateral State aid partnerships, the European Competition Network, the Association of European Competition Law judges and the merger network);

- supporting Member State authorities (especially within the State aid partnerships, the European Competition Network and the merger network) and courts as well as third country authorities through capacity building, training, increasing transparency and stepping up exchanges of best practices and expertise as well as exchanges of enforcement officials and training (for example through the organisation of and participation in working visits, seminars, conferences, workshops and meetings of stakeholders and experts).

***Outreach actions to protection competition in support of the internal market, in particular:***

- Organisation of and participation in seminars, conferences, workshops, meetings and working visits involving stakeholders, in particular those affected by EU competition policy, to improve their knowledge and awareness of EU competition policy (including their rights and obligations under EU competition policy) as well as to increase political support for, and therefore the effectiveness of, EU competition policy.
- Surveys (such as Eurobarometer surveys) to measure the knowledge of and views on EU competition policy.
- Support for events concerning EU competition policy organised by the Member State holding the Council Presidencies.

**4.3 Synergies with other activities covered by the Single Market Programme**

It is envisaged that synergies be pursued across the Single Market Programme through joint activities (data gathering and processing, IT tools etc.). This also applies to the Competition programme; in addition, a result of closer cooperation between Commission services it would be expected that additional synergies are discovered and developed during the implementation of the Single Market Programme.

Therefore, before addressing the more detailed issue of delivery mechanisms it is appropriate to outline possible areas of synergies with actions under the other activities <sup>207</sup> envisaged to be brought under the Single Market Programme (see table below). The possible areas and examples of synergies below are not intended to be exhaustive.

Existing programmes/activities
Interoperability solutions and common frameworks for European public administrations, businesses and citizens as a means for modernising the public sector (ISA programme)
Implementation and Development of Single Market for Financial Services
European Statistical Programme (ESP)
Standards in the field of reporting and auditing
Enhancing the involvement of consumers and other end-users in Union policy-making in financial services (ICFS)

<sup>207</sup> Working assumption at the time of writing.

Company Law prerogative	<p><i><b>Some areas of potential synergies with the Competition programme</b></i></p> <p>Actions in the IT area (for example Artificial Intelligence to analyse and process Big Data as well as large volumes of documents and information more efficiently) could be a fertile terrain for synergies across the Single Market Programme. Synergies in the IT area would also cover enforcement and other networks which exist in the competition, consumer and customs areas (see below).</p>
Consumer Programme and the consumer and contract law part of the Rights Equality and Citizenship programme (REC)	
Internal market: Governance tools	
Internal market: Support to Standardisation activities	
Internal market: operation and development of the internal market for Goods, Services and Public Procurement	
COSME	
Health programme	
CFF for food chain (the Food Chain Programme)	
Customs and tax policy development support budget line	
Health programme	
CFF for food chain	<p>Expertise<sup>208</sup>, studies and events could also be procured jointly; for example focusing on gaps in the internal market that may require both enforcement and regulatory action under the Treaties, such as – to name but two examples - the Digital Single Market and the Single Market for Financial Services.</p> <p>Outreach events could also be broadened to encompass a wider range of internal market policies.</p>
Customs and tax policy development support budget line	
<b>New commitments by the Commission from 2014-2020</b>	
Health Technology Assessment	
Goods package	
Procurement strategy and Ex-ante assessment mechanism	
Single digital gateway	
Type approval and market surveillance of motor vehicles	
New Deal for consumers	
Action Plan: Financing sustainable Growth	
Proposed directive to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market	<p>Synergies could also exist in the area of standardisation and intellectual property rights, including before international fora.</p>
<b>New programmes</b>	
An Ambitious Competition policy for a stronger Union in the digital age	
COSME+ Scaling-up instrument	

***Potential areas of synergies in respect of other activities under the Single Market Programme***

***Potential areas of synergies in respect of other activities under the Single Market Programme***

<sup>208</sup> Administrative arrangements with the JRC could be agreed to this effect

### **Synergies with 'Digital Single Market Support Programme'**

Competition enforcement supports many dimensions of the Digital Single Market (DSM), for example by facilitating the use of e-commerce across borders (eg by tackling geoblocking where possible under the Treaty's competition rules<sup>209</sup>). A potentially wide area of synergies appears to exist, in particular in terms of acquiring and exchanging expertise and market intelligence.

### **Synergies with 'Digital Public Administrations for Businesses and Services (ISA2)'**

Potentially significant synergies exist notably in the areas of data exchange with Member State authorities and the implementation of transparency obligations where the aim could be to boost and extend interoperability<sup>210</sup> both between the Commission and Member States as well as between the Member States' IT systems, whilst ensuring trust and confidentiality according to the Commission's European interoperability policy<sup>211</sup>.

### **Synergies with 'Internal market – Support to Standardisation activities'**

The issue of FRAND commitments by holders of standard-essential patents (ie undertakings to license such standard-essential patents (SEPs) on fair reasonable and non-discriminatory terms) within the EU's governance structures for standard-setting (eg ETSI) is central both from the point of view of view of effective standardisation as well as competition policy. In order to establish the extent to which actual licensing terms agreed by holders of SEPs are in line with their actual FRAND commitments and the specific requirements of EU competition law (as interpreted by the EU Courts), the relevant services falling within the Single Market Programme could undertake a more comprehensive study of licensing practices. Such a study could also cover national court practice in dealing with SEPs and FRAND related disputes, eg through interim measures. This would go hand in hand with the follow-up work in relation to the Commission Communication on Standardisation of November 2017, which inter alia related to FRAND and SEPs enforcement<sup>212</sup>.

### **Synergies with 'COSME'**

SMEs in the EU are faced with significant challenges in securing the necessary financing throughout their critical phases from seed to start-up to early expansion, and even later in their growth phase. As a rule, this is due to asymmetric information about SMEs' credit-worthiness or the soundness of their business plans. This failure in business finance markets translates into a 'funding gap'. EU State aid rules allow public support that covers the funding gap in various stages of SMEs' growth and product development. Cooperation exploiting the synergies between State aid policy and SME policy could help target public SME support – both State aid and EU financial instruments – more precisely at market failures throughout the development phases of SMEs, thereby increasing the efficiency of public funding. Synergies can be generated through joint studies and joint outreach actions combining the Commission's COSME structures with its multilateral and bilateral partnerships with the Member States. Moreover, prior to setting up financial instruments under COSME (eg a fund), joint studies could probe the market failures and the potential to generate additional (growth) activities in the common interest, the potential to crowd in or crowd out private investors, or generate additional lending. This may lead to a more coherent definition of 'market failure' across policies and thus to a more efficient use of public funding (State aid and EU funds).

### **Synergies with 'Consumer programme' and 'New deal for consumers'**

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<sup>209</sup> <https://ec.europa.eu/digital-single-market/en/policies/ecommerce>

<sup>210</sup> [https://ec.europa.eu/isa2/home\\_en](https://ec.europa.eu/isa2/home_en)

<sup>211</sup> Communication on a European Interoperability Framework – Implementation Strategy, section 2.9, in particular underlying principle 8 on security and privacy and Recommendation 15.

<sup>212</sup> Communication on a balanced IP enforcement system responding to today's societal challenges (COM(2017) 707 final), 29 November 2017.

Synergies could exist by drawing on the experiences from enforcement within European Competition Network and from within the CPC (Consumer Protection Cooperation)<sup>213</sup>, a network of authorities responsible for enforcing EU consumer protection laws, for example as regards secure and interoperable IT systems. Market knowledge could be exchanged<sup>214</sup>. In the same vein, synergies may exist between the conduct of inspections and so-called sweeps under the CPC Regulation<sup>215</sup>. Joint training in for example the monitoring of online marketplaces could be envisaged<sup>216</sup>. Currently around half of all National Competition Authorities within the European Competition Network are also responsible for enforcing consumer protection legislation; lessons from the national level could thus be learnt on how to maximise synergies between these two policy areas.

In particular, online commerce continues its marked growth, raising issues not least from the of view of EU consumer protection and competition law raising issues for example in terms of misleading advertising, the role of e-commerce platforms as well as restrictions of competition at the distribution level. Data and the use of machine learning and algorithms play an increasingly significant role in online commerce. Against this background, the Commission services responsible for consumer, digital and competition policy could carry out joint studies of data-related issues in online commerce which would be more comprehensive for enforcement and policy-making purposes. Those services could also carry out joint surveys (Eurobarometer) of consumers, retailers and other stakeholders, including online platforms.

Synergies may exist in the area of the enforcement of consumers' rights, especially regarding ex-post evaluations, studies or monitoring exercises of the new means for private enforcement under the initiative 'New Deal For Consumers' and the Antitrust Damages Directive 2014/104.

#### **Internal Market - Governance tools<sup>217</sup>**

Synergies exist not least in the area of enforcement where Member State conduct may infringe internal market and competition rules at the same time, as well as in terms of sectoral focus; indeed, the Commission's Single Market Governance Communication identified single market sectors with the most growth potential, which require greater focus by Member States and the Commission (services, financial services, transport, the digital single market and energy)<sup>218</sup>. These priorities remain relevant today, while some additional ones have been identified in recent years the collaborative economy<sup>219</sup>. Also, the Internal Market Information system (IMI), an IT-based information network that links up national, regional and local authorities across borders, could involve synergies regarding the evolving multilateral and bilateral State aid partnerships. There is also a nexus between State aid policy and public procurement, in particular in the context of Services of General Economist Interest.

#### **Customs and tax policy development support budget line**

Synergies may exist in the area of training of national authorities given the existence of a decentralised network of national authorities aimed at ensuring a coherent application of EU law both in the area of customer and competition which constitute exclusive competences of the Treaty; in the customs area an extensive eLearning programme has been developed by the Commission's Taxation & Customs Union department in collaboration with a pool of customs experts from national authorities and the private sector

#### **Customs and tax policy development support budget line**

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<sup>213</sup> The CPC projects have used the CPC knowledge exchange platform, an IT tool developed in 2014-2015, to support collaborative work and share results with the wider CPC network.

<sup>214</sup> In 2016 the CPC authorities identified irregularities in 235 websites (66.8% of the total swept websites). Such exchanges would need to respect rules on confidentiality.

<sup>215</sup> A "sweep" is a set of checks carried out simultaneously by national enforcement authorities to identify breaches of EU consumer law in a particular sector.

<sup>216</sup> Such support is already provided under the auspices of the 'e-enforcement academy' aimed at developing and providing training in Internet investigations for the consumer protection cooperation (CPC) and consumer product safety networks (CSN) ('e-enforcement academy').

<sup>217</sup> [http://ec.europa.eu/internal\\_market/scoreboard/performance\\_by\\_governance\\_tool/index\\_en.htm](http://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/index_en.htm)  
[http://ec.europa.eu/internal\\_market/strategy/docs/governance/20120608-communication-2012-259-2\\_en.pdf](http://ec.europa.eu/internal_market/strategy/docs/governance/20120608-communication-2012-259-2_en.pdf)

<sup>219</sup> Commission Communication on 'A European agenda for the collaborative economy' (COM(2016) 356 final).

In the area of corporate taxation, a major challenge is to ensure that revenues from digital activities are attributed to the Member State where the value is generated. Corporate taxation is based on the principle that profits should be taxed where the value is created, but when it comes to the digital economy the link between value creation and taxation is not well captured by today's rules. Profits derived from digitalised business models are heavily driven by intangible assets, data and knowledge, which are difficult to identify and value. Moreover, intangible assets can be easily shifted around. Together, the current rules and the high mobility of intangible assets push down the tax contribution of more digitalised businesses, creating competitive distortions. This was already outlined in the Commission Communication on a fair and efficient tax system in the EU for the digital economy, which was adopted on 21 September 2017<sup>220</sup>. The Commission is currently working on a legislative package to tackle digital taxation and this initiative could be ideally complemented by joint studies and data collection by the Commission services responsible for taxation and State aid, in order to obtain a more comprehensive picture of the digital taxation landscape, supporting policy making and enforcement of tax and competition policy in this area.

#### **Cohesion Policy and EU Funds under shared management:**

The Managing Authorities of the EU Funds under shared management have to design their support schemes in line with EU state aid rules.

#### **4.4 Delivery mechanisms**

As the Competition programme is new, no experience exists in terms of previous assessments and evaluations of delivery mechanisms, for which reason that issue can only be addressed in rather summary form here.

Nevertheless, it is likely that procurement in various forms will be the predominant and most appropriate delivery mechanism under the Competition programme.

While IT related projects and expenditure (including proof of concept of software given the rapid developments in particular in artificial intelligence) will be particularly significant in this context<sup>221</sup>, other forms of expertise will also need to be procured. Given that DG Competition largely devotes its resources to enforcement, the need for specific expertise arises in connection with individual cases in the areas of antitrust, cartels, merger control and State aid control. For that reason technical expertise in the form of consultations (as defined in the table below) is likely to play a particularly significant role (see table).

Studies	Consultations
On a specific subject (often of general interest) supporting the institution's own policies or activities	Technical/economic/legal assistance/advice, often case-related
Published (if not confidential) and catalogued by the Publications Office (PO)	Not published, nor catalogued by the Publications Office (PO)
Included in list of studies – annex to AMP	Not included in list of studies – annex to AMP

<sup>220</sup> Communication on a Fair and Efficient Tax System in the European Union for the Digital Single Market (COM(2017) 547 final), 21.9.2017.

<sup>221</sup> To take but one example in the IT field, in order to link national State aid registries to the Commission's 'Transparency Award Module' (TAM) IT-platform, the Commission needs to overcome technical issues with the automatic import of technical parameters (such as the Granting Authorities) as well as the need for consistency checks as regards possible inconsistencies between the different IT systems.



Outside the enforcement of EU-competition rules, external expertise may become necessary in the area of multilateral and bilateral cooperation with Member States, in order to gain insight in technical or sector-specific issues and thus facilitate the coherent interpretation of applicable EU-rules, or in order to efficiently produce pedagogical material for bilateral training actions.

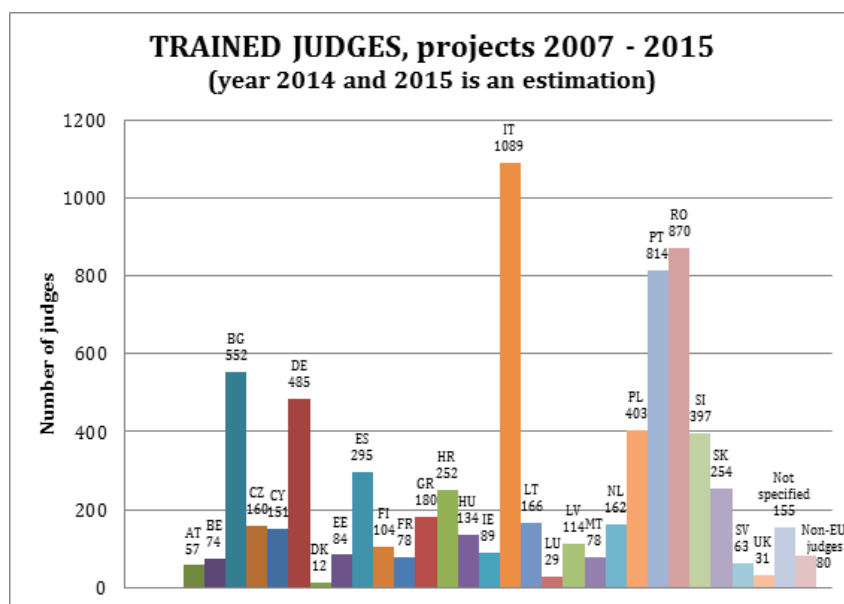
It is likely that a combination of specific contracts and framework contracts will be used. A framework contract could for example be appropriate in case several similar studies or consultations are required in a particular area (for example the evaluation of guidelines, frameworks etc adopted as part of the State Aid Modernisation which was concluded in 2014).

The most suitable type of procurement procedure for specific contracts will depend on the objective needs in each specific case (see table below).

#### **Procurement procedures – thresholds 2018**

Estimated contract value	Minimum applicable procedure	Estimated time
<b>≥144,000</b> <i>(New 2018)</i>	Open or restricted procedure - publication in OJ	6 months
<b>&gt;15,000 – &lt;144,000</b>	Negotiated procedure for middle value and low value contracts - ex-ante publicity on the internet  - > 60,000 - < 144,000 - at least 5 candidates invited  - >15,000 ≤ 60,000 - at least 3 candidates invited	2-4 months
<b>≤15,000</b>	- ≤15,000 - one single candidate	1-2 months
	Existing framework contract (FWC) (if available)	Terms of the FWC

It is not expected that extensive use will be made of grants; rather, based on experience, certain current grant-based activities may also, at least partially, be carried out under service contracts; for example, the training of judges in competition law (which has so far formed part of the Justice programme) has hitherto mainly been grant-based. In order to better target specific needs, audiences or to ensure a more even distribution of training across the Member States, service contracts could be used as an effective complementary tool.<sup>222</sup>



<sup>222</sup> Study on judges' training needs in the field of European competition law (June 2016), pp. 82, 96.

## 5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED

### 5.1 Preliminary remarks

As the Competition programme is new, no programme-specific lessons exist in terms of monitoring and evaluation<sup>223</sup>; nevertheless, extensive monitoring, reporting and evaluation activities which cover the envisaged specific objectives (section 2.2) are already in place and can be adapted to the new programme.

### 5.2 Monitoring

The performance of the Commission programme in delivering the specific objectives (see section 2.2) would be monitored according to a combination of output, result and impact indicators per specific objective<sup>224</sup>; a list of possible monitoring indicators is outlined below in table form in section 5.4. The indicators would be both quantitative and qualitative in nature.

The relevant data would be collected internally as well as externally (eg through surveys, studies and evaluations). The results of the post-SAM evaluations of large national aid schemes will constitute a new data source that will be built into the monitoring and evaluation activities in the course of the next MFF period.

As the bulk of competition policy consists in enforcement, this specificity needs to be taken into account for monitoring purposes. Each decision needs to be decided on the basis of established facts and applicable law<sup>225</sup>. While numerical targets for competition enforcement do not necessarily reflect its effectiveness in a meaningful way, the Commission, like most competition authorities, provides the number of decisions (or intervention rate) to indicate the level of activity and output. Competition decisions may impose fines and other conditions to produce a deterrent effect<sup>226</sup>; thus the greater the number of such decisions – all things being equal – the greater the deterrent effect, which in turn translates in customer savings and further down the line in macroeconomic benefits (see section 1.2.1).

Other monitoring under the SMP such as the consumer programme may also be relevant to assess the performance of the Competition programme.

### 5.3 Evaluation

Evaluations of EU competition policy, especially specific legal and guidance frameworks in the antitrust<sup>227</sup>, merger control and State aid areas, are carried out regularly in accordance with Better Regulation rules and principles.

Lately, evaluations of entire branches of enforcement activities (cartels and certain merger decisions) have been undertaken to measure impacts in terms of customer savings and macroeconomic variables (such as growth, employment and inequality reduction).

Specific evaluations have assessed the impact of competition interventions in particular sectors and in particular cases (especially in merger control) (see section 1.2). Such types of evaluations are envisaged to

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<sup>223</sup> With the exception of training of judges which form part of the 2014-2020 Justice programme.

<sup>224</sup> Outputs refer to those effects (most often tangible products) achieved immediately after implementing an activity, while the results look at the mid-term effects or the difference made on the ground thanks to the outputs. Impact indicators indicate the long-term effects of the programme by measuring its contribution to the broader policy areas.

<sup>225</sup> A specificity as regards antitrust and cartel enforcement is that a target would also depend on factors beyond the Commission's control (decisions of the parties or other market players to disclose infringements through the leniency programme, whistleblowing, complaints or the availability of information to the Commission to detect infringements ex officio). In each and every case, the Commission must fully respect the rights of defence of the parties.

<sup>226</sup> See section 1.2.

<sup>227</sup> For example a number of Block Exemption Regulations and related guidelines such as those concerning vertical and horizontal agreements.

be pursued into and throughout the next MFF period. Some evaluations could be performed in-house<sup>228</sup> whereas others may be outsourced<sup>229</sup>.

Regular stakeholder surveys could be undertaken to assess impact under the relevant specific objectives of the Competition programme<sup>230</sup>. In previous years stakeholders' and citizens' views on competition and competition policy have been surveyed (a type of survey particularly relevant for the fourth specific objective of the Competition programme); as an example of type of survey relevant for the first and second specific objectives reference can be made to a Eurobarometer Qualitative Study on the perceived quality of DG Competition's actions<sup>231</sup>. Such Eurobarometer surveys could also take place under framework contracts covering other subprogrammes of the Single Market Programme.

A significant source of new data will be available in the course of the next MFF period in the area of State aid; as described in section 2 - under the State Aid Modernisation reform – the Member State must carry out evaluations of large aid schemes in order to assess to what extent the schemes in fact achieved the stated objectives (ie the positive effect) and to what extent they produced negative effects on competition and trade between the Member States<sup>232</sup>.

Mandatory reports on aid schemes, produced by the Member States<sup>233</sup> and the Commission's State Aid Scoreboard<sup>234</sup> constitute further significant sources for evaluation purposes.

#### 5.4 List of possible monitoring indicators

Specific Objective	Indicator	Definition	Unit of Measurement	Source of Data	Frequency	Baseline	Target
<b>First specific objective: State-of-the-art enforcement and policy guidance</b>							
State-of-the-art enforcement and policy guidance	Estimate of customer benefits resulting from cartel prohibition decisions.	Impact Indicator	EUR	Inhouse	Annual	To be defined in 2020	No target for 2021-2027

<sup>228</sup> See evaluation on the effects of temporary State aid rules adopted in the context of the financial and economic crisis at ([http://ec.europa.eu/competition/publications/reports/temporary\\_stateaid\\_rules\\_en.html](http://ec.europa.eu/competition/publications/reports/temporary_stateaid_rules_en.html)).

<sup>229</sup> See for example an ex-post evaluation of the regional aid guidelines ([http://ec.europa.eu/competition/consultations/2013\\_regional\\_aid\\_guidelines/study\\_rag\\_evaluation\\_en.pdf](http://ec.europa.eu/competition/consultations/2013_regional_aid_guidelines/study_rag_evaluation_en.pdf)); Ex post assessment of the impact of state aid on competition, <http://ec.europa.eu/competition/publications/reports/kd0617275enn.pdf>.

<sup>230</sup> See [http://ec.europa.eu/competition/publications/reports/surveys\\_en.html](http://ec.europa.eu/competition/publications/reports/surveys_en.html).

<sup>231</sup> This survey was based on in-depth interviews, carried out in May-July 2014 by TNS Qual + among lawyers, companies, economic consultants, business and consumer associations, Member States' ministries as well as national competition authorities who directly contributed to the work of DG Competition in 2010-2013. The results consist of six individual reports reflecting each stakeholder group's specific views, as well as an aggregate report summarizing the results of the individual reports.

<sup>232</sup> In particular, evaluation is required for some categories of large schemes under the 2014 GBER (when their average annual State aid budget exceeds EUR 150 million). Evaluation provisions are also included in a number of Commission guidelines (Broadband, Regional aid, Risk finance, Aviation, R&D&I, Environment and energy, Rescue and restructuring). The significance of Member States' evaluation reports as an information source can be illustrated by the current and expected number of evaluation plans and the corresponding State aid budget: At the time of writing, the Commission had already approved 37 evaluation plans of 13 Member States, with a total annual budget of EUR 48 billion; corresponding to about 45% of total State aid annual spending in the EU; if the additional three evaluation plans that are currently under assessment are approved, even 15 Member States would be covered. The current trend towards larger aid schemes implies a potential rise in the number of evaluations and thus a rising significance of this data source.

<sup>233</sup> Article 21(1) of Council Regulation No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 (now Article 88) of the EC Treaty<sup>106</sup> provide that 'Member States shall submit to the Commission annual reports on all existing aid schemes with regard to which no specific reporting obligations have been imposed in a conditional decision [...]'.<sup>106</sup>

<sup>234</sup> The State Aid Scoreboard contains data on explicitly authorised or block-exempted State aid expenditure; it is based on annual reporting by Member States pursuant to Article 6(1) of Commission Regulation (EC) 794/2004 (see [http://ec.europa.eu/competition/state\\_aid/scoreboard/index\\_en.html](http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html)).

State-of-the-art enforcement and policy guidance	Estimate of customer benefits resulting from merger interventions.	Impact Indicator	EUR	Inhouse	Annual	To be defined in 2020	No target for 2021-2027
State-of-the-art enforcement and policy guidance	Macroeconomic benefits modelling using customer benefits as an input.	Impact Indicator	EUR	Inhouse	Regular	To be defined in 2020	No target for 2021-2027
State-of-the-art enforcement and policy guidance	Stakeholder surveys on the perception of enforcement and policy guidance.	Result Indicator	Percentage	Survey	Regular	To be defined in 2020	Increasing trend for 2021-2027
State-of-the-art enforcement and policy guidance	Number of published policy guidance texts with the purpose of interpreting antitrust, merger and State aid rules in light of market realities, contemporary economic and legal thinking as well as developments in the EU Courts' case-law.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	No target for 2021-2027
State-of-the-art enforcement and policy guidance	Amount of fines imposed in antitrust, cartel and, merger decisions.	Output Indicator	EUR	Inhouse	Annual	To be defined in 2020	No target for 2021-2027
State-of-the-art enforcement and policy guidance	Amount of unlawful State aid to be recovered pursuant to a Commission decision.	Output Indicator	EUR	Inhouse	Annual	To be defined in 2020	No target for 2021-2027
State-of-the-art enforcement and policy guidance	'Additionality': Amount of private investment leveraged by individual State aid measures, according to the counterfactual assessment made in a Commission decision (this may either be 'input' additionality (i.e. the beneficiary invests more own resources as a result of the aid) or 'output' additionality (i.e. the beneficiary generates higher output of eligible activities as a result of the aid)).	Result Indicator	EUR	Inhouse; Member State reports; Member State evaluations	Regular	To be defined in 2020	Increasing trend for 2021-2027
State-of-the-art enforcement and policy guidance	Number of Commission decisions in the field of antitrust and cartels.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027 <sup>235</sup>
State-of-the-art enforcement and policy guidance	Number of Commission statements of objections in the field of antitrust and cartels.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	No target for 2021-2027

<sup>235</sup> It is not meaningful to set numerical targets for competition policy enforcement. Most of the indicators used to measure the Commission's performance include trends as targets (stable, increase, decrease, no target). On-going investigation by the Commission is always without prejudice to the final decision to be taken by the Commission in the case. However, DG Competition, like most competition authorities, provides the number of decisions (or intervention rate) to indicate the level of activity and output for the preceding year, also for deterrence purposes. As regards antitrust and cartel enforcement, a target would also depend on factors beyond the Commission's control (decisions of the parties or other market players to disclose infringements through the leniency programme, whistleblowing, complaints or the availability of information to the Commission to detect infringements ex officio). In each and every case, the Commission must fully respect the rights of defence of the parties. These considerations are also relevant for the following indicators: Amount of fines imposed in antitrust, cartel and, merger decisions; Number of Commission statements of objections in the field of antitrust and cartels; Number of Initiation of Proceedings in antitrust cases; Number of antitrust cases with ongoing monitoring of remedies or commitments.

State-of-the-art enforcement and policy guidance	Number of leniency applications in cartel procedures.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	No target for 2021-2027 <sup>236</sup>
State-of-the-art enforcement and policy guidance	Number of Commission simplified and non-simplified decisions in the field of merger control.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	No target for 2021-2027 <sup>237</sup>
State-of-the-art enforcement and policy guidance	Number of Commission merger decisions subject to commitments, withdrawals in phase two, or prohibitions (i.e. intervention decisions).	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	No target for 2021-2027
State-of-the-art enforcement and policy guidance	Number of merger referral requests and decisions.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	No target for 2021-2027
State-of-the-art enforcement and policy guidance	The share of GBER expenditure over total expenditure on State aid.	Result Indicator	Percentage	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027 <sup>238</sup>
State-of-the-art enforcement and policy guidance	The percentage of horizontal State aid of all aid in the EU.	Result Indicator	Percentage	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
State-of-the-art enforcement and policy guidance	Number of Commission decisions in the field of State aid.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	No target for 2021-2027 <sup>239</sup>
State-of-the-art enforcement and policy guidance	Amounts of State aid recovered under Commission decisions in the field of State aid.	Output Indicator	EUR	Inhouse	Annual	To be defined in 2020	No target for 2021-2027
State-of-the-art enforcement and policy guidance	Number of aids awards above EUR 500,000 published in accordance with the State Aid Modernisation transparency requirements.	Output Indicator	Number	Member State reporting	Annual	To be defined in 2020	Increasing trend for 2021-2027 <sup>240</sup>
State-of-the-art enforcement and policy guidance	Number of State aid measures subject to ex-post monitoring.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027 <sup>241</sup>

<sup>236</sup> DG Competition's leniency applications in cartel procedures are driven by the willingness of the cartels' participants to cooperate and the time they chose to do so. As this is a factor beyond the control of the Commission, no output target can be set.

<sup>237</sup> DG Competition's enforcement activities in the merger area are driven by merger activity on the markets and notifications by companies. As this is a factor beyond the control of the Commission, no output target can be set.

<sup>238</sup> The trend may reach a plateau before 2027, as the share of GBER expenditure over total State aid expenditure was already high at the time of writing (97% of all new aid measures being implemented under the GBER, representing ; about 46 % of total spending (based on average country specific shares to reflect equally differences in Member States practice).

<sup>239</sup> Excluding aid in the field of agriculture. DG Competition's enforcement activities in the State aid area are also driven by notifications by Member States. As this is a factor beyond the control of the Commission, no output target can be set.

<sup>240</sup> As a cornerstone of its State Aid Modernisation (SAM) initiative, the European Commission has introduced new transparency requirements concerning state aid granted by Member States to undertakings. For each state aid award above €500,000, Member States will be required to publish the identity of the beneficiary, the amount and objective of the aid and the legal basis. State aid transparency builds on the practice already existing under European Structural and Investment Funds or the Common Agricultural Policy.

<sup>241</sup> The Commission continuously monitors the implementation of state aid measures by Member States. This ex-post monitoring exercise involves a check of the legal basis and the list of beneficiaries and an evaluation of each beneficiary, the region in which the beneficiary is located and the principal economic sector in which the beneficiary has its activities. These requirements also apply mutatis mutandis to ad hoc aid. Such information must be kept for at least 10 years and must be available to the general public without restrictions.

State-of-the-art enforcement and policy guidance	Number of State aid schemes and their annual budget subject to the evaluation obligation.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
<b>Second specific objective: Boosting internal partnerships</b>							
Boosting internal partnerships	Number of national judges trained in EU competition law for national judges.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting internal partnerships	Regular meetings of Directors General, the ECN Plenary, ECN working groups and sectorial subgroups.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting internal partnerships	Opinions and amicus curiae briefs provided to national courts concerning the application of the EU antitrust and cartel rules and replies to requests for information from courts.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting internal partnerships	Number of national court judgments reported to the Commission by the Member States.	Output Indicator	Number	Reports by Member States	Annual	To be defined in 2020	Increasing trend for 2021-2027 <sup>242</sup>
Boosting internal partnerships	Regular meetings with the national competition authorities in the Merger working group.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting internal partnerships	Number of envisaged decisions signalled to the Commission under Article 11(4) of Regulation 1/2003.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027 <sup>243</sup>
Boosting internal partnerships	Number of State aid High-level fora and SAM-working group meetings under the multilateral partnership.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting internal partnerships	Number of sectoral and thematic working group meetings under the State aid multilateral partnership.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting internal	Number of country visits	Output	Number	Inhouse	Annual	To be	Increasing

<sup>242</sup> Under Article 15(2) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty the "Member States shall forward to the Commission a copy of any written judgment of national courts deciding on the application of Article 81 or Article 82 of the Treaty. Such copy shall be forwarded without delay after the full written judgment is notified to the parties."

<sup>243</sup> Article 11(4) states that "No later than 30 days before the adoption of a decision requiring that an infringement be brought to an end, accepting commitments or withdrawing the benefit of a block exemption Regulation, the competition authorities of the Member States shall inform the Commission". To that effect, the national competition authorities shall provide the Commission with inter alia a summary of the case.

partnerships	under the bilateral State aid cooperation.	Indicator				defined in 2020	trend for 2021-2027
<b>Third specific objective: Boosting external partnerships</b>							
Boosting external partnerships	Number of contributions by the Commission to increased international convergence of competition policy to multilateral fora (International Competition Network (ICN), OECD and UNCTAD).	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting external partnerships	Number of technical assistance workshops organised by the Commission with third countries with a view to increased international convergence of competition policy.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting external partnerships	Number of cooperation cases where the Commission cooperates with other third country competition authorities in merger and antitrust cases.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting external partnerships	Number of third country competition authorities the Commission cooperates with on average per case.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Boosting external partnerships	Number of working visits to third country authorities with a view to increased international convergence of competition policy.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
<b>Fourth specific objective: Wider stakeholder outreach</b>							
Wider stakeholder outreach	Number of outreach actions to raise awareness of EU competition policy.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Wider stakeholder outreach	Number of people/organisations reached with outreach actions aimed at raising awareness of EU competition policy.	Output Indicator	Number	Inhouse	Annual	To be defined in 2020	Increasing trend for 2021-2027
Wider stakeholder outreach	Percentage of positive replies in opinion surveys agreeing that effective competition has a positive impact on consumers.	Result Indicator	Percentage	Survey	Regular	To be defined in 2020	Increasing trend for 2021-2027





## **Annex 5: Programme specific annex on *IT and business solutions for the Single Market***

### **1. Introduction: Political and legal context**

#### **1.1. Scope and context**

The Commission's reflection paper on the EU's finances considers “digital transnational networks” as a major area of EU “added value”, which complements actions already existing at national level. As stated in the paper, *“the EU of 27 will face a wide range of challenges in the period leading up to 2025 and beyond.”*. Among them, the “digital transformation will undoubtedly evolve and continue for decades to come.

The programme described in this annex and which accompanies the master impact assessment relating to a new “Internal Market” Programme for the new multi-annual financial framework aims at ensuring that digital is harnessed and enables a faster and efficient achievement of the envisaged policy goals and its associated impact while promoting operational mutual recognition between involved entities at different levels. .

In a global context where connectedness is the norm, the cross-border aspects are on the rise. A functioning Single Market significantly relies on information exchanges between authorities. Whether, for academic qualifications recognition when going abroad to study, or for transparent electronic identification for setting up a business online, the data dimension is a crucial element that enables, in practice, the smooth free movement of data, goods, services and capital.

The Tallinn declaration<sup>244</sup>, adopted by the members of the Council in 2017, also underlines the importance of both implementing the Digital Single Market by 2020 and adopting the main eGovernment principles, such as “interoperability by design”.

Against that background, the new programme should build on the results achieved by both the ISA Programme for 2010-2015, and the current programme ISA<sup>2</sup>, and be coherent with both the Tallinn Declaration and the Council conclusions on the eGovernment Action Plan<sup>245</sup>. It should be in line with the recommendations made by the previous evaluations of these programmes and take into account the aforementioned “digital transformation” and the associated data ecosystem as an important exogenous factor.

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<sup>244</sup> <https://ec.europa.eu/digital-single-market/en/news/ministerial-declaration-egovernment-tallinn-declaration>

<sup>245</sup> <http://data.consilium.europa.eu/doc/document/ST-12359-2016-INIT/en/pdf>

## 1.2. Lessons learned from previous programmes

The relevant findings can be tracked back to the IDABC<sup>246</sup> and the ISA programme<sup>247</sup>. These programmes and its successor (ISA<sup>2</sup>) are the main spending instruments through which DIGIT supports EU Member States.

The final evaluation of the ISA programme<sup>248,249</sup> confirmed that ISA tied in with other EU initiatives in the areas of internal market, competition law, geo-spatial data (INSPIRE<sup>250</sup>), maritime domain (CISE<sup>251</sup>), and open data (Pan European Open Data Portal<sup>252</sup>). However, the strategy taken by ISA to ensure coherence with other EU initiatives is not apparent to its stakeholders.

The final evaluation of the previous ISA Programme<sup>253</sup> was largely positive, describing the ISA programme as aligned with the policy priorities of the European Commission and the needs of Member States were implemented efficiently and coherently, delivering results that are reused by both Commission services and Member States.

Nevertheless, the evaluation report also highlights some shortcomings and makes recommendations to:

- put more emphasis on legal and organisational interoperability, while continuing the current ISA activities;
- support the implementation of the European Interoperability Strategy and Framework;
- update and implement a communication strategy for the programme, with a focus on targeted engagement including sector-specific stakeholders;
- develop a more systematic business-case approach;

Those points have been definitely improved in the current ISA2 programme. However, it can be pointed out as lessons learned from the current programme,

- a) The need to further engage the stakeholders, mainly policy domain owners and major national Member States administrations, in the very beginning once a proposal is conceptualised. Those stakeholders should then be involved during the whole lifecycle of the definition and implementation of solutions; starting from the capturing and definition of the business requirements, to the testing, adoption and integration of the solutions in the IT systems of the concerned MS.

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<sup>246</sup> IDABC stands for Interoperable Delivery of European eGovernment Services to public Administrations, Businesses and Citizens.

<sup>247</sup> [Decision 2004/387/EC of the European Parliament and of the Council of 21 April 2004 on interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens \(IDABC\), OJ L 144, 30.4.2004 \(See OJ L 181, 18.5.2004, p. 25.](#)

<sup>248</sup> COM(2016) 550 final, Final evaluation of the ISA Programme Annexes

<sup>249</sup> COM(2016) 550 final, Report from the Commission to the European Parliament and the Council Results of the final evaluation of the ISA programme, Brussels, 1.9.2016

<sup>250</sup> <https://inspire.ec.europa.eu/>

<sup>251</sup> <https://www.efca.europa.eu/en/content/common-information-sharing-environment-cise>

<sup>252</sup> <https://www.europeandataportal.eu/>

<sup>253</sup> SWD(2016) 279 - Final evaluation of the ISA programme

- b) The use of pilots with the MS where they can tailor and test in the field how to integrate and benefit from the adoption ISA2 funded solutions has proved to be quite successful for both sides (the solution owner and the user Member State).
- c) Data interoperability appears to be a key unlocking factor for effective cross-border exchanges. Although technical considerations need to be addressed, the main challenges seem to revolve around semantic, legal and organisational alignment between exchanging entities and their authoritative sources of data.
- d) Furthermore, technical support and consultancy services in the field could be given to selected national administrations to better understand what are the main business needs of the MS towards to implement an efficient Internal Market.

More recently, the European Commission commissioned a study<sup>254</sup> to examine how interoperability and eGovernment are tackled in the European Semester Process. The study, that took a deeper look at 2016 Country Specific Recommendations (CSRs), National Reform Programmes (NRPs), as well as national Operational Programmes (OPs), highlighted some recommendations that are relevant for the context at stake:

- DIGIT shall take into account the main challenges of Member States in implementing specific EU legislation.
- DIGIT shall continue complementing the work done under the European Semester process, and in particular, the CSRs produced by the Commission, with the results of the ISA2 programmes.
- A portfolio of solutions ready-to-use based on the European Semester's priorities should be proposed to Member States' administrations through ISA2 accompanying measures.

**Messages received from various stakeholders confirm the above statements:**

- In the Tallinn declaration<sup>255</sup>, Member States call upon the Commission “to fully integrate digital considerations into existing and future policy and regulatory initiatives”. (See lesson b) above)
- During Interim evaluation of the ISA Programme (2013), the majority of stakeholders perceived synergies as generally not well established and sometimes overlapping, which some stakeholders attribute to the lack of information communicated to stakeholders, the lack of synergies identified in the programme and the lack of a control mechanism to ensure the reuse of ISA solutions. The issue regarding duplication of efforts and overlaps among EU initiatives was also confirmed by the interim evaluation of the Competitiveness and Innovation Programme (CIP) - ICT Policy Support Programme (ICT-PSP)<sup>256</sup>. This evaluation mentioned that the possible overlap of the objectives of the ICT PSP Programme and the IDABC Programme (ISA predecessor) was a serious concern.

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<sup>254</sup> Study on the main actions, plans and funding priorities of Member States towards the modernisation of Public Administrations - ISA2 action 2016.21

<sup>255</sup> Ministerial Declaration on eGovernment - the Tallinn Declaration – signed on 6/10/2017

<sup>256</sup> [CIP ICT-PSP Interim Evaluation, ICT PSP, May 2009.](#)

- At the ISA2 Committee meeting of 24/01/2018, Member States called for practical use cases and pilots (See lesson b) above)
- Study "Outcomes and benefits of ISA<sup>2</sup> Action SEMIC", recommended:
  - Continue focusing on communication and awareness-raising;
  - Promote data standards;
  - Provide solutions for increased and sustainable data quality;
  - Support the tools and approaches that lead to high-quality public services;
  - Promote data governance and management practices in public administrations.

## 2. THE OBJECTIVES

### 2.1. Challenges for the programmes of the next MFF

In the light of new emerging technologies, the increasing abundance of open data and growing connectivity between citizens, businesses and governments in Europe, adopting interoperable ICT solutions and information processing dimensions is becoming increasingly important. Entities involved in smooth running of the Internal Market can no longer fulfil their mission properly if they do not harness ICT to streamline their internal processes, redesign service delivery and put citizens and businesses at the core of policy-making, whilst relying on interconnected, interoperable networks and systems where data flows are mutually understood. The successful implementation of ISA<sup>2</sup> should lead to the reduction of the administrative burden on citizens and businesses to enable their interactions with public authorities to be faster, more convenient and less costly and increase the overall efficiency and the quality of public services.

#### ISA<sup>2</sup> Programme

The ISA<sup>2</sup> programme, by expanding and consolidating the activities of the ISA programmes, aims to facilitate cross-border or cross-sector interactions between European public administrations, businesses and citizens and to contribute to the development of a more effective and efficient e-administration at different levels, i.e. national, local and regional<sup>257</sup>. To achieve this, the programme should promote the implementation of interoperability solutions and facilitate their uptake.. A financial envelope of EUR 131 million is available for the implementation of the ISA<sup>2</sup> programme between 2016 and 2020.

While the ISA<sup>2</sup> third annual work programme for 2018 is currently under preparation, its second work programme for 2017, with a budget of EUR 25.5 million, contains 36 actions grouped around nine different clusters. The nine clusters of action are: key and generic interoperability enablers (EUR 5.4 million), information interoperability (EUR 1.8 million), access to data (EUR 3.5 million), geospatial solutions (EUR 2.2 million), eProcurement (EUR 2.1 million), supporting

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<sup>257</sup> SWD(2016) 279 final Commission Staff Working Document Final evaluation of the ISA programme, Annexes, Brussels, 1.9.2016.

instruments for decision making and legislation (EUR 2.6 million), supporting instruments for EU policies (EUR 3.6 million), supporting instruments for public administrations (EUR 3.5 million), and accompanying measures (EUR 0.7 million)<sup>258</sup>. If successfully implemented, the actions of the ISA<sup>2</sup> programme should lead to:

- More efficient and effective access to information across borders when establishing European Public Services;
- Easier discovery and understanding of the available public services related to business or life events;
- Cost savings and improved efficiency thanks to sharing and reuse of available solutions and interoperability of information exchange at European, national, regional or local level;
- Reduction of the administrative burden imposed to legal persons for performing transactions with the governments
- Fostering of eParticipation;
- Easier access to and sharing of open government data.

### **Key Challenges & Priorities**

The European Union needs to address new political priorities and emerging challenges in order to ensure a secure, integrated and sustainable digital single market.

Even though the overall eGovernment<sup>259</sup> and interoperability performance<sup>260</sup> is moving in the right direction, additional efforts are required , in particular regarding the provision of effective IT solutions and information processing for the efficient implementation of EU policies and legislations, and the improvement of smooth cooperation between Internal Market players and authorities.

The European Commission (DIGIT) should work closely with Member States and other sectors contributing to the completion of the internal market..

1. Identify, develop, pilot, deploy, maintain and promote the enablers that would support the Internal Market programme objectives;

Member States confirmed their commitment to implementing the eGovernment principles in the Tallinn Declaration on eGovernment<sup>261</sup>. The implementation of eGovernment principles will facilitate Member States' ability to give high quality, digital public services to both citizens and businesses. The new programme should provide practical results when it comes to involving the needs of citizens and businesses in the co-creation of digital solutions.

2. facilitate sharing and re-use of solutions and best practices between Internal Market players;

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<sup>258</sup> [https://ec.europa.eu/isa2/actions\\_en](https://ec.europa.eu/isa2/actions_en)

<sup>259</sup> [eGovernment Benchmark 2017, Taking stock of user-centric design and delivery of digital public services in Europe, FINAL INSIGHT REPORT – VOLUME 1, DG Communications Networks, Content & Technology.](#)

<sup>260</sup> [State of Play of Interoperability – Report 2016, DIGIT.](#)

<sup>261</sup> Tallinn Declaration on eGovernment at the ministerial meeting during Estonian Presidency of the Council of the EU on 6 October 2017.

3. ensure the promotion and uptake of the digital elements and their associated communities that contribute to an efficient Internal Market programme;
4. undertake the necessary activities to ensure digital aspects are harnessed by design into Internal Market activities and optimally benefit citizens, businesses and administrations.

As confirmed by stakeholder consultations, it is important for public administrations to transform their internal processes and accelerate their ability to adopt digital transformation efficiently. ICT should be harnessed in order to improve the efficiency of processes and delivery of services in sectors such as, such as e-Procurement, eInvoicing<sup>262</sup>, eHealth<sup>263</sup>, eJustice<sup>264</sup> and digital transportation. For example, in order to fully enforce the EU competition law, it is essential to further intensify and deepen the cooperation between the Commission and the national competition authorities by adopting state-of-the-art, interoperable IT solutions allowing for the swift and secure exchange and processing of data. Regarding this “data” dimension, the ability to safely exchange, process and optimise the usage of the information flows supporting the Internal Market is a core element that spans across the whole Internal Market portfolio.

To this end, the new programme should build on the current achievements of ISA<sup>2</sup> and other initiatives under the current MFF, but also build more synergies<sup>265</sup> within the Internal Market in order to address the digital skills gaps<sup>266</sup>, to promote the use of open data<sup>267</sup> and to harness new technologies (artificial intelligence, blockchain and big data) that would ensure enhanced effectiveness in policy goals<sup>268</sup>.

<b>Challenges</b> <b>Programme/line</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
IT and business solutions for the Single Market	√	√	√	√
√ -relevant to the objective, N/A not relevant				

<sup>262</sup> Directive 2014/55/EU of the European Parliament and of the Council on electronic invoicing in public procurement, 06.05.2014.

<sup>263</sup> Draft Council Conclusions 14078/17 on Health in the Digital Society – making progress in data-driven innovation in the field of health, Brussels, 28 November 2017.

<sup>264</sup> Ares(2017)5947429 Inception Impact Assessment, Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, Directorate-General for Justice and Consumers.

<sup>265</sup> As several previous evaluations of ISA and IDABC, EU Council Conclusions, European Parliament Resolutions have shown and upcoming European Commission initiatives foresee.

<sup>266</sup> We refer to the Digital Single Market supporting programme that will be led by CNECT.

<sup>267</sup> COM(2017) 9 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Building a European Data Economy.

<sup>268</sup> Council Conclusions EUCO 14/17 European Council Meeting, Brussels 19 October 2017.

## 2.2. Objectives of the programmes of the next MFF

The general objectives of this initiative are

- To support the efforts of the Member States and European Institutions in modernising and digitising the public sector organisations at all levels<sup>269</sup>.
- To provide inclusive and user-friendly end-to-end digital public services and processes to all citizens and businesses in the Union<sup>270</sup>.
- To contribute to the reduction of administrative burden by promoting administrative cooperation, interoperability through digital means and user engagement to allow citizens and businesses to enjoy user-centred services that address their needs.
- To ensure that policy makers in the EU have the necessary capabilities for making more evidence-informed policies, deciding rapidly between alternative options and better monitoring implementation.

The specific objectives of this initiative are:

- To facilitate the engagement and participation of public, private and civil society stakeholders in policy-making and collaborative public service design, co-creation and delivery.
- To identify, develop, pilot, deploy, maintain and promote the digital enablers that would support the Internal Market programme objectives and facilitate information exchanges at all levels;
- To facilitate sharing and re-use of solutions and best practices between Internal Market players;
- To ensure the promotion and uptake of the digital elements and their associated communities that contribute to an efficient Internal Market programme;
- To undertake the necessary activities to ensure digital aspects are harnessed by design into Internal Market activities and optimally benefit citizens, businesses and administrations

<b>Challenges</b> <b>Programme/line</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
1. To support the efforts of the	The publication of open	The provision of IT tools to public		The digitisation, adoption of

<sup>269</sup> Public administrations and public institutions in the European Union.

<sup>270</sup> COM (2016) 179 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU eGovernment Action Plan 2016-2020, Brussels, 19.4.2016.

Challenges Programme/line	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
Member States and European Institutions in modernising and digitising the public sector organisations at all levels	government data will allow easier access to information.	authorities (building on the results of ISA <sup>2</sup> and other programmes) will strengthen administrative and judicial cooperation.		common standards and interoperability will affect all sectors, including healthcare. Health sector in particular, can benefit from more efficient internal processes, better information sharing, and communication with patients.
2. To provide inclusive and user-friendly end-to-end digital public services and processes to all citizens and businesses in the Union	eParticipation tools will support the representation of citizens' interests. eProcurement will facilitate the functioning of the internal market and the interactions with businesses.			
3. To contribute to the reduction of administrative burden by promoting administrative cooperation, interoperability through digital means and user engagement to allow citizens and businesses to enjoy user-centred services	Will lead to increased sharing and reuse of standardised open data, benefiting other public administrations, businesses and citizens.	The provision of IT tools to public authorities (building on the results of ISA2) will strengthen and simplify administrative and judicial cooperation.		



<b>Challenges</b> <b>Programme/line</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
that address their needs.				
4. To ensure that policy makers in the EU have the necessary capabilities for making more evidence-informed policies, deciding rapidly between alternative options and better monitoring implementation.	The abundance of open data and the use of data analytics will contribute to better policy making.		The assessment of ICT implications will ensure that policy making takes into account ICT and the latest technological developments.	

### 3. PROGRAMME STRUCTURE AND PRIORITIES

To accelerate the transformation of the European society, the deployment of cross-border, cross-domain digital solutions (e.g. for secure cross-border exchange of information between authorities, for the delivery of online public services to citizens and/or business, for information processing...) needs to be pursued and the take-up must be supported at all levels of public administrations.

From the business processes, to the data that need to be stored, exchanged and retrieved, or to the applications used to execute these processes, an effective Single Market entails unavoidably the development of new ICT solutions or the adaptation of existing ones.

In order to support such digital aspects of the Single Market Programme, the proposed programme therefore consists of a framework with three main structural elements ("strands")

Interoperability, sharing & reuse - Information Processing - Digital Solutions & Services

#### I. Interoperability, sharing & reuse

As stipulated in the Treaties of the European Union (EU), the EU's internal market guarantees four 'freedoms' - the free movement of goods, capital, services and people between the 28 Member States.

Common policies supported by interconnected, interoperable networks and systems ensure these freedoms. People are free to work and relocate and businesses are free to

trade and operate in all EU Member States. In doing so, they inevitably have to interact electronically with Member State public administrations and authorities who in turn need to cooperate. Public administrations themselves have to be able to exchange data. Ensuring such ability to interact towards mutually beneficial goals, involving the sharing of information and knowledge is at the core of interoperability at large.

The main activities under this strain will aim at establishing and promoting the use of common specifications, interoperability solutions, common frameworks and the necessary governance structures for sharing and reuse. Liaison with broader digital programmes that having a more ambitious and generic interoperability scope will be ensured and the necessary adaptation/specialisation for the Internal Market context will be implemented.

Establishing interoperability between different Member States and sectors within the scope of the Single Market initiatives will also contribute to productivity gains through the reuse of solutions and to reducing the digital heterogeneity that puts at risk the digital single market.

## **II. Information Processing**

Any Single Market initiative shares the Information Society traits where the creation, distribution, use, integration and manipulation of information are unavoidable activities.

For example, Industrial installations and aircraft operators have to report on CO<sub>2</sub> emissions under the Emissions Trading System. In the same vein, Airline companies have to report to law enforcement authorities on passengers' data to prevent terrorism and National authorities have to exchange information on criminal records. Contracting authorities have to publish notices and data on their public procurement activities. All these examples illustrate some information processing activities that most probably rely on digital means.

This strand will foster activities like collection, storage, retrieval, consultation, filtering, exchange, analysis or reporting, etc. of any kind of meaningful data (text, image or video) in the scope of the Single Market.

## **III. Business, citizens and public Administrations Solutions and Services**

Whenever "information is processed" under the Single Market, it is likely that some sort of business processes will have to be established or modified. The subsequent mixture of automated and non-automated (e.g. paper based) processes will undoubtedly rely on any sort of digital solution (a new surveillance system gathering seismic information from distributed sensors; the sectorial specialisation of existing generic digital building blocks; digital transformation of public procurement).

Against this background, the activities under this strain will ensure the sufficient design, piloting and uptake of digital solutions that are fit-for-purpose and reusable. It will ensure that generic digital services are adapted to the specific needs of the Internal Market while securing compliance with mainstream digital policies and IT corporate

standards. Generic digital building blocks might therefore be combined to offer fit-for-purpose Internal Market solutions.

Advisory capabilities, providing support services and technical assistance for effective implementation will further complement the envisaged package and facilitate the uptake of the solutions by the Member States.

Given that technology is constantly evolving and that it is unlocking innovative ways to efficiently tackle Single Market challenges (e.g. block-chain, Artificial Intelligence, Mixed reality, Big Data Analytics...), ensuring that such technological progress benefits the Single Market completion and smooth functioning will equally be an integral part of this strain.

### **Legal basis**

The legal basis for the new programme is Article 172<sup>271</sup> (ex Article 156 TEC) of the Treaty on the Functioning of the European Union (TFEU), as was the case for previous programmes. Under this article and Article 170, the EU can implement measures to ensure the interoperability of networks, in the field of technical standardisation for example, and may also allocate funding to projects of common interest supported by Member States.

### **Subsidiarity principle**

According to the principle of subsidiarity, as set out in Article 5(3) of the TFEU<sup>272</sup>, actions at EU level may only be taken if the envisaged aims cannot be achieved sufficiently by the Member States alone and can therefore, by reason of the scale or effects of the proposed actions, be better achieved by the EU.

Like the previous programmes (i.e. IDA, IDABC, ISA and ISA<sup>2</sup>), and given the trans-national character of the proposed action, the principle of subsidiarity applies as the programme falls under the shared competence of the European Union.

Member States are primarily responsible for modernising and digitising their administrations at national and sub-national levels. However, some countries are still lagging behind in terms of eGovernment, interoperability, and process & organisation maturity and performance. All these factors may adversely affect the establishment and functioning of the internal market. EU action is needed to support the Member States in improving their performance, as well as operational capabilities, within and across borders.

In particular, cross-border exchanges of information between administrative or law enforcement authorities, cannot by their very nature, be solely decided by Member States acting alone, since more than one Member State is involved. This can be only achieved through the creation of common or interconnected information systems, standards & specifications or services at Union level. Even if these are in place or in the process of established by ISA<sup>2</sup>, CEF and other Commission standardisation initiatives, there is a need for improved interoperability and efficiency, which calls for concerted action at EU level.

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<sup>271</sup> [C 326/13 Consolidated Version of the Treaty on the European Union, Part Three Union Policies and Internal Actions, 26.10.2012.](#)

<sup>272</sup> [C 326/13 Consolidated Version of the Treaty on the European Union, 26.10.2012.](#)

As the programme will also ensure EU coordination on collaborative public service design, co-creation and delivery, there is a clear scope for the application of the subsidiarity principle in this EU action.

### **Proportionality principle**

In accordance with the principle of proportionality, as set out in Article 5(4) of the TFEU<sup>273</sup>, the new programme will not go beyond what is necessary in order to support the Single Market through enhanced interoperability, standardisation and administrations' increased operational capabilities.

Given the legal basis of the ISA<sup>2</sup> programme<sup>274</sup> and the fact that the new programme does not deviate but builds upon and expands the priorities of the ISA<sup>2</sup> programme, this programme complies with the principle of proportionality.

## **4. DELIVERY MECHANISMS OF THE INTENDED FUNDING**

The current funding mechanism of the ISA<sup>2</sup> is direct procurement by the European Commission<sup>275</sup>. In practice, the Work Programme is agreed via comitology but the implementation of subsequent actions is distributed amongst Commission Services that rely on procurement for implementation. This procurement that relies on existing framework contracts or new call for tenders can take the shape of full outsourcing (complete delivery done outside) or co-sourcing (i.e.: via external consultants on premise for delivery).

For the activities that entail a policy dimension, the work is carried out internally by European Commission officials.

In addition to the above delivery modes, the current ISA2 programme is envisaging to partially rely on grants (possibly 1/3<sup>rd</sup> of its spending budget), given that lessons learnt have pointed to the lack of financial incentives for interoperability uptake and have suggested harnessing such financial incentives.

When it comes to the ambition of the future " - IT and business solutions for the Single Market " Programme, it is clear that the delivery mix highlighted below will be the most appropriated options as:

- Direct Procurement via Framework contracts only would hamper a close Policy drive and limit incentives for uptake;
- Regular Procurement only (i.e.: tendering) might not allow relying on the available expertise distributed amongst the European Commission services;
- Internal implementation only might take away the focus on the Policy Delivery goals and amount to a negative return on investment compared to partial outsourcing/procurement besides leaving untapped the market potential for innovative options, for instance;

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<sup>273</sup> [C 326/13 Consolidated Version of the Treaty on the European Union, 26.10.2012.](#)

<sup>274</sup> [C 326/13 Consolidated Version of the Treaty on the European Union, Part Three Union Policies and Internal Actions, 26.10.2012.](#)

<sup>275</sup> [https://ec.europa.eu/commission/publications/reflection-paper-future-eu-finances\\_en](https://ec.europa.eu/commission/publications/reflection-paper-future-eu-finances_en)

In addition to these aspects, relying on Executive agencies is a relevant consideration for some specific aspects:

- Provided that there is sufficient critical mass for a positive return, the "grants" management would benefit from being delegated to such an Agency while the programming component would remain at Directorate-General level to ensure a policy drive.
- Similarly, the procurement aspects might be positive candidates for Agency externalisation and might lead to positive economies of scales for bulk, mechanistic and mature activities;
- For internal "operational elements/functions" (IT tools, Audit Services ...) for which there are mature common approaches and sufficiently aligned rules with marginal business specificities, relying on a Common Support Centre is an approach that seems favourable and synergy/efficiency friendly.

In addition to the above options, and although the "shared management" mode has not been retained, it is worth noting that its contribution is crucial to ensure effective delivery of the envisaged objectives and associated policies. Against this background, strong cohesion with the EC Services and business portfolios relying on this shared delivery mode would need to be ensured at governance levels (for example via complementary ex-ante conditionality in the national operational programmes).

## **5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?**

It is important to regularly monitor and evaluate the new programme to assess whether its objectives continue to meet the identified stakeholder needs. The evaluation of the - IT and business solutions for the Single Market Programme should examine the relevance, effectiveness, efficiency, and utility, including stakeholder perceived quality and satisfaction with the programme, as well as sustainability and both internal and external coherence of the programme's actions.

The evaluations must examine the benefits of the actions for the identified stakeholders and their coherence with other EU initiatives and the European Commission's 10 major priorities<sup>276</sup>. When evaluating the impact and the involvement of stakeholders of the programme, it is important to take into account the standardisation organisations, researchers and the private sector, especially SMEs, where relevant.

The evaluations will also verify synergies with other EU programmes and initiatives, in particular with other synergetic programmes that complement the Digital landscape (e.g.: CEF2; Digital Europe Programme...). Both an interim and a final evaluation of the new programme will need to take place, respectively, 3 and 6 years following its inception. As was the case with the ISA programme, the interim evaluation of this proposed programme might not be able to capture all of the aforementioned dimensions, such as utility, as not all aspects of the programme might have had a significant impact on the programme stakeholders during this initial period of analysis.

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<sup>276</sup> [https://ec.europa.eu/commission/priorities\\_en](https://ec.europa.eu/commission/priorities_en)

Furthermore, the evaluations shall assess the performance of the - IT and business solutions for the Single Market for Citizens and Business Programme against its objectives as specified in the specific objectives section. The achievement and the impact of programme's objectives could be monitored through the many indicators such as:

- the level of awareness and reuse of the interoperability solutions in line with the priority on Interoperability, Sharing & Reuse;
- the level of awareness and implementation of the European Interoperability Framework in line with the priority on the Interoperability, Sharing & Reuse;
- the numbers of supporting instruments for public administrations delivered and used in line with the priority on the Interoperability, Sharing & Reuse;
- the amount of data collected and processed and the reuse of the data shared, where possible, in line with the priority of Information Processing;
- the number of times public administrations stated that they took into account the guidance on the sufficient design and uptake of digital solutions in line with the priority of Digital Solutions & Services.

Moreover, the evaluations shall contain, where applicable, information regarding the qualitative and quantitative assessment of the digital solutions offered by the programme.

More detailed indicators for measuring the result and impact of the specific actions of the programme shall be defined in the annual work programme. More specifically, the measures proposed for the evaluation of the programme's action might be structured in the following categories:

- Process metrics (e.g. cost, risks, time) – metrics specifically related to the efficiency of the management of the programme;
- Generic metrics (applicable to all actions, e.g. evaluation of the policy impact, stakeholder involvement)
- Action specific metrics – metrics specifically related to the effectiveness and impact of the programme actions.

The monitoring of the programme will take place on a quarterly basis and will aim to assess the following:

- Qualitative achievements of individual actions of the programme (e.g. publication of studies, update of solutions, etc.);
- Effectiveness monitoring of the individual actions of the programme (e.g. Number of downloads of core vocabularies, number of stakeholder communication activities, number of legal solutions assessed, etc.);
- Assessment of how the programme actions meet users' needs;
- Identification of any risks and issues associated with the execution of the programme.

It is suggested to mainly rely on the National Interoperability Framework Observatory (NIFO) community as a key and primary source of monitoring intelligence. The table below provides nonetheless an initial set of indicators mapped against the specific objectives of the programme.

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
To facilitate the engagement and participation of public, private and civil society stakeholders in policy-making and collaborative public service design, co-creation and delivery.	The number of users of IT Solutions under the Internal Market Programme that have a direct Public facing dimensions	Output	number	Internal -	Yearly	Tbd in 2020	Increasing trend for 2021-2027
To facilitate the engagement and participation of public, private and civil society stakeholders in policy-making and collaborative public service design, co-creation and delivery.	User centricity score of some public facing Digital Solutions	Output	Number/benchmarking	Externally conducted evaluation	Yearly	Tbd in 2020	Increasing trend for 2021-2027
To facilitate the engagement and	Number of data sets that have	Output	Number	tbd	Yearly	Tbd in 2020	Increasing trend for 2021-

participation of public, private and civil society stakeholders in policy-making and collaborative public service design, co-creation and delivery.	been produced/published in open standards						2027
To identify, develop, pilot, deploy, maintain and promote the digital enablers that would support the Internal Market programme objectives and facilitate information exchanges at all levels;	Number of digital assets/components that have been developed/reused/uptake		number	Ideally Join-up unless impossible for security purposes.	yearly	Tbd in 2020	Increase in reuse rate;
To identify, develop, pilot, deploy, maintain and promote the digital enablers that would support the Internal Market programme objectives and facilitate information exchanges at all levels;	Number of successful cross-border pilots launched	results	number	Participants Survey + internal	18 months	tbd	Success rate increase
To ensure the promotion and uptake of the digital	Number of conferences/enga	Output	Number	Internal -	Yearly	Tbd in 2020	Increasing trend for 2021-



elements and their associated communities that contribute to an efficient Internal Market programme;	gement initiatives around Single Market digital elements						2027
To ensure the promotion and uptake of the digital elements and their associated communities that contribute to an efficient Internal Market programme;	Reuse of Single Market digital assets (core vocabulary; building block, framework...)	Result	Number	NIFO survey combined with joined-up and possible results of technical assistance	Yearly	Tbd in 2020	Uptake increase
To facilitate sharing and re-use of solutions and best practices between Internal Market players;	Extent to which Member States include the principles of the European Sharing and Reuse Framework in their policies at national level	Result	Number – scale 0 to 12	NIFO Questionnaire, National Interoperability Framework Observatory	Every 18 months	Tbd in 2020	Increase in scale compared to previous baseline
To undertake the necessary activities to ensure digital	Extent to which ICT is taken	output	Number	NIFO Questionnaire,		TBD in 2020	100% at the end of the program

aspects are harnessed by design into Internal Market activities and optimally benefit citizens, businesses and administrations	into account when preparing new Internal Market related legislation			National Interoperability Framework Observatory			me
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## Sub-Annex 1: Evidence, sources and quality

### 6. EVIDENCE, SOURCES AND QUALITY

For the purpose of completing the Impact Assessment, various data sources, both primary and secondary were consulted. In order to piece together the legal and political context of the new initiative, to identify the main lessons learned from previous initiatives as well as the main challenges and priorities of the new programme, a long list of secondary sources was compiled. The secondary sources analysed for the impact assessment included relevant EU legislation, relevant non-binding European initiatives (including Communications, Strategies, Action Plans, etc.), upcoming EU initiatives (such as proposals for regulation and inception impact assessments), relevant Council Conclusions and European Parliament Resolutions, and interim and final evaluations of the relevant programmes, such as ISA, IDABC, and CEF. In order to obtain an overarching image of the state-of-play of digital government at the European level initiatives and legislations initiated by various DGs, including DIGIT, DG CONNECT, DG GROW, DG JUST, DG HOME, DG MOVE, were analysed. This helped to ensure that the identified political priorities and challenges of the programme were in coherence with the ongoing initiatives related to digital government at EU level.

Furthermore, in order to further assess Member States' needs in the area of digital government and to put forward the priorities of Digital Public Administrations for Citizens and Business, publications of the European Commission as well as internal studies shedding light on the topic of digital government in Europe were consulted<sup>277</sup>. This complemented the policy priorities and challenges identified in the analysed official EU texts.

In order to strengthen the reliability of the identified priorities and Member States' needs, primary data from identified digital government stakeholders was collected. Interviews were also conducted in the field of digital Public Administration. Interviewees included Bulgarian, Italian and French Member State representatives working in the digital government domain, Open Forum Europe, representing the civil society perspective, members of the academia and think tanks, digital government expert working in OECD as well as Digital Europe. The different perspectives and areas of expertise of the consulted stakeholders allowed to further refining programme priorities. More detailed information on the interviewees can be found in the Sub-Annex 2 of the Impact Assessment.

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<sup>277</sup> Such as Study on the main actions, plans and funding priorities of Member States towards the modernisation of Public Administrations - ISA2 action 2016.21, SC117 EIS Action Review Background Document, State of Play of Interoperability in Europe report 2016, eGovernment Benchmark Report, yearly eGovernment factsheets, Big Data Analytics for Policy Making report, Outcomes and benefits of ISA<sup>2</sup> Action SEMIC, among others.

## Sub-Annex 2: Stakeholder consultation

Besides the cluster Open Public Consultation of the Internal Market programme, takeholders in the digital government domain were consulted through interviews. The interviews focused on gathering interviewees' perspectives on the importance of digital government for Member States, Member States' existing challenges and future priorities to deliver digital government, lessons learnt from previous European Commission initiatives in the digital government domain and its future role to support Member States in this domain – most of them being relevant for the Internal Market purposes.

### Digital Government as a priority in the EU

All consulted stakeholders unanimously agreed that the role of digital technologies is crucial for the transformation of public administration. There was also widespread agreement that digital transformation is seen as a political priority across EU, as Member States increasingly recognise the magnitude and the importance of digital transformation.

### Member States' challenges

The interviewees identified multiple challenges that Member States face. The list below summarises the most recurring ones:

- Need to **overcome legacy processes and infrastructures**. According to the stakeholders, citizen-driven cross-border digital public service delivery can only be realised if public sector operations and decision-making processes are transformed to overcome constraints of legacy systems and analogue structures and systems. E.g. the Bulgarian digital infrastructure dates back to 1970s.
- Need to **ensure inclusiveness of digital services** and digital government more broadly by **improving the digital skills of both citizens and civil servants**. It is important to focus on the digital skills of civil servants, as they will be ultimately responsible for delivering and implementing digital government. It is equally important to improve digital skills of citizens to ensure that they can benefit from digital government;
- Need to **overcome the initial costs of digitisation**, especially for the Member States that are lagging behind when it comes to digitisation. Upgrading systems and infrastructures to ensure interoperability and to achieve the smooth exchange of data between public administrations is a costly process and several Member States require support in order to realise this.

In addition, the following Member States' challenges were mentioned, but on a less frequent scale:

- Inefficient or no use of public data – there is still a lack of sharing and reuse of open data across EU, despite the fact that data will be at the core of public sector transformation;
- Lack of implementation of digital government priorities at the local level;

- Continuous lack of legal and semantic interoperability, preventing cross border administrative cooperation and delivery of digital public services;
- Need for a broader mentality shift at the political level of what public sector will look like in the future. There is a need for a better understanding and more professionals in the digital government domain at the political level in order to drive the transformation forward.

### **Role that the EU could play**

The Commission should continue to focus on providing support to, and coordination of efforts among, Member States to strengthen back office and internal processes of the public sector and it should continue to work on achieving common standards in the EU. The Commission should continue to focus on providing support in areas where Member States cannot achieve success individually, such as promoting interoperability, standards and common infrastructure (common 'building blocks').

Furthermore, the interviewees mentioned that the EU could provide tailored advice to Member States helping them to tackle specific challenges related to digital government. The Commission could then provide dedicated training and support in order to help Member States reach a higher maturity of digital government. One way this could be done is to help a Member State to identify gaps in its maturity between what has been achieved in another Member State in a certain domain that it would like to succeed in (To-Be) and where it is (As-Is) thereby building a plan to achieve that goal.

Most interviewees agreed that prior to launching an initiative, it is important to have a common approach at the EU level of how and in which direction the public administration should change. It is important to ensure coordination, evaluation and monitoring of the numerous interconnected EU initiatives related to digital government.

### **Lessons learnt from EU initiatives**

Several interviewees stressed the fact that the implementation of the EU initiatives is lacking as most of them are not mandatory and that the European Commission mainly relies on soft law instruments in the digital government domain. It is also important to ensure that the design of the new initiatives take into account its long term sustainability.

The Commission should work towards developing and implementing better tools for the evaluation of impacts and better reporting practices of the results of different funding priorities. The interviewees stressed that, currently, there are not a lot of clear results from EU programmes in the digital government domain. There appears to be a lack of 'evaluation' culture with regard to measuring real impact of EU spending.

An exchange of best practices between Member States should be encouraged more and facilitated.

Other interviewees had fewer lessons learnt to share either due to lack of their experience with the EU initiatives or because they had a positive outlook on the success of the initiatives.

### **Future Priorities**

- Continued focus on standards, exchange of data between administrations, increasing interoperability;

- Harnessing big data, automation of services and AI;
- Universal adoption of e-Authentication;

Strengthening cyber security;

### **Sub-Annex 3: Evaluation results**

For the purpose of completing the Impact Assessment, and more specifically, for the completion of section 1.2 and 4 the following programme evaluations were taken into account:

- ISA Programme Interim<sup>278</sup> and Final Evaluation<sup>279</sup>;
- Results of the public consultation<sup>280</sup> of the European Interoperability Framework revision;
- IDABC Interim<sup>281</sup> and Final<sup>282</sup> evaluation;
- CIP ICT-PSP Interim Evaluation<sup>283</sup>.

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<sup>278</sup> [COM\(2013\) 5 final, Report from the Commission to the European Parliament and the Council, Interim evaluation of the ISA Programme, Brussels, 18.1.2013.](#)

<sup>279</sup> [COM\(2016\) 550 final, Final evaluation of the ISA Programme Annexes](#)

<sup>279</sup> [COM\(2016\) 550 final, Report from the Commission to the European Parliament and the Council Results of the final evaluation of the ISA programme, Brussels, 1.9.2016](#)

<sup>280</sup> <https://ec.europa.eu/isa2/sites/isa/files/eif-public-consultation-factual-summary-en.pdf>

<sup>281</sup> [Interim evaluation of the IDABC programme, final report](#)

<sup>282</sup> [COM\(2009\) 247 final COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Final evaluation of the implementation of the IDABC programme, Brussels, 25.9.2009](#)

<sup>283</sup> [CIP ICT PSP Second Interim Evaluation, Final Report, 2011.](#)

## **Annex 6: Programme specific annex on *European Statistical Programme'* (ESP)**

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1. Scope and context**

The European statistical programme, pursuant to Article 13 of Regulation (EC) 223/2009 on European statistics, shall provide the framework for the development, production and dissemination of European statistics, setting out the main fields and the objectives of the actions envisaged for a period corresponding to that of the multiannual financial framework. It shall be adopted by the European Parliament and the Council. The current European statistical programme is laid down in Regulation (EU) 99/2013. It has been extended by Regulation (EU) 2017/1951 but will expire at the end of the current multiannual financial framework in 2020. The post-2020 European statistical programme will therefore have to be established.

The general objective of the programme is to provide high-quality, comparable and reliable statistics on Europe which underpins the design, monitoring and evaluation of all the Union policies and helps policy makers, businesses, academia, citizens and media to make informed decisions and participate in the democratic process and debate about the present state and future of the Union. This will ensure the availability of the statistics required to underpin the Single Market and other key policies of the next multiannual financial framework, in particular those outlined in the Commission reflection papers. The statistics provided through the programme will also empower businesses and citizens to take informed decisions. EU added value will be realised by providing comparable and trustworthy statistics while maintaining the balance between the needs of a wide range of users and response burden on citizens and businesses.

In order to achieve its objectives, the programme will finance actions to improve data availability, as well as to enhance skills and to foster the uptake of new technologies by national statistical offices and Eurostat. In this regard, the ECOFIN Council in November 2017 has highlighted the need to ensure that human and financial resources are adequate for the investment in and maintenance of statistical infrastructure at European and national level in order for the European Statistical System to meet the need for regular, high quality, official statistics at Member State and EU level in the context of the challenges created by globalisation and advances in technology.

#### **1.2. Lessons learned from previous programmes**

The evaluations<sup>284</sup> of the ESP 2013-2017 programme have shown that it brought significant added value to the EU. It was run efficiently, delivering comparable and high quality statistics that were used for the design and monitoring of EU policies. It also formed a solid basis for informed decisions by governments, business and citizens.

This was made possible by the use of EU harmonised methodologies, quality criteria, and assurance mechanisms and also, by coordinating EU spending. In practice, this means that statistics need to be developed as official statistics, based on the European Statistical Programme, by Eurostat and the national statistical systems of Member States. This partnership, the European Statistical System (ESS), should be led by Eurostat.

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<sup>284</sup> A first mid-term evaluation of the ESP 2013-17 was completed in 2015:

[http://ec.europa.eu/eurostat/documents/64157/4375449/02-Final-evaluation-report-2008-2012-1\\_EN-ACT-part1-v5.pdf](http://ec.europa.eu/eurostat/documents/64157/4375449/02-Final-evaluation-report-2008-2012-1_EN-ACT-part1-v5.pdf).

A second one is being conducted back-to-back with the impact assessment of the post-2020 ESP.

In parallel, the evaluations indicated that further improvements of timeliness, relevance, coverage and a greater level of detail of European statistics are needed. A permanent capacity to respond faster to emerging new data needs has to be developed. Globalisation, digitalisation and rapid technological change challenge the foundations of measuring economic performance, i.e. GDP and key economic indicators. Therefore, substantial efforts also need to be invested in developing new methodologies. Data collections need to be adapted using all available data sources.

The current extension of the ESP for the period 2018-2020 contains first measures to close the most urgent data gaps and increase timeliness of European statistics. In particular, the extension of the programme contains measures for the production of new and better statistics in support of a more social Europe. For example, the programme will provide better data on income and inequalities as well as skills and equal opportunities on the labour market. Furthermore, the integration of migrants into the labour market will be better monitored. In addition, the ESP (2018-2020) includes the development of the 'proofs of concept' for smart statistics in a number of EC political priorities.

The analyses indicate that European statistics should continue to be produced within the context of the European Statistical System, under the leadership of Eurostat. In parallel, the current strong dependency on national statistical systems to produce European indicators sometimes results in a slower response to new emerging information needs. To this end, new approaches using all available data sources, not only data provided by the Member States' national statistical authorities, must be explored.

The European approach to statistics, as outlined in the Regulation (EC) No 223/2009 on European Statistics, has not yet been fully implemented. If the activities included in the Law were to be implemented, for instance using specifically designed survey schemes at Eurostat level, along with modelling techniques, and using all available sources (not only national), Eurostat could produce new indicators and statistics faster and more flexibly to meet the emerging needs.

The Commission Communication on Data, Information and Knowledge management has called for better recognition and use of the data held by the Commission as a strategic asset. As other DGs outside the programme also collect data for policy purposes, there is room for synergies and efficiencies in the collection and use of statistical data across the DGs in the Commission, in particular concerning impact assessments and performance measurement of various EU programmes. Preliminary findings from an ongoing IAS audit on the coordination and quality of statistics in the Commission point in the same direction.

Eurostat implements an ongoing dialogue with its main stakeholders, in particular through annual hearings with the Commissions DGs, frequent meetings with producers (national statistical institutes) at both technical and senior management levels, with the European Statistical Advisory Committee (ESAC), businesses and users of European statistics, including media, academia, researchers, etc. As part of this ongoing dialogue, a series of consultations and discussions have already been conducted on the needs and expectations for European statistics after 2020.

In order to collect stakeholders' views on their needs for statistics in the period after 2020, quality of statistical information, in particular timeliness and relevance, the ways European statistics is communicated, the planned consultation activities include:

- Open public consultation
- Consultation of the European Statistical Advisory Committee
- Consultation of the Commission Directorates General
- Targeted consultation of National Statistical Institutes



## **2. THE OBJECTIVES**

### **2.1. Challenges for the programmes of the next MFF**

The ongoing European statistical programme 2013-2020, financed from heading 1a of the current MFF (budget lines 29.02.01 and 29.01.04.01), is under central direct management by the Commission (Eurostat). The MFF envelope for the implementation of the programme was set to EUR 57,3 million for 2013, EUR 234,8 million for the period 2014 to 2017 and EUR 218,1 million for the period 2018-2020.

From a financial point of view, the programme is implemented by awarding contracts mainly in the domains of statistics and IT services, and by grants mainly to national statistical authorities. A specificity of the programme is that Regulation (EC) No 223/2009 on European statistics allows for direct awards of grants to national statistical authorities.

The baseline scenario used as a benchmark for the assessment of the policy options is the current European statistical programme laid down in Regulation (EC) 99/2013 (as amended by Regulation (EU) 2017/1951) with its statistical outputs and actions to improve the statistical production processes in Member States.

Despite progress in improving European statistics under the previous (2013-2017) and extended (2018-2020) European statistical programmes, the evaluation has shown that users highlight existing information gaps and demand further improvements of timeliness and relevance as well as a greater level of detail of European statistics. Therefore, continuing with the status quo of the current programme would imply that the European statistical programme cannot bring full added value to EU policies and that the relevance of European statistics will gradually decrease over time. For new EU policies in particular, Eurostat will not be able to produce in-time statistics with the required level of disaggregation across regions and population groups.

The challenges for the next programme can be defined as follows:

- Insufficient availability of high quality statistical information for the design and monitoring of new EU policies (e.g. on globalisation, digitalisation of the economy, security)
- Insufficient agility to address new demands and to provide faster evidence on emerging topics and deeper analysis of the effects of globalisation, new technological developments and socio-economic trends.
- Statistical reporting requirements on economic operators as well as citizens.
- Insufficient analysis provided by European statistics on today's complex realities and interlinkages, and for improved communication and engagement with users, especially EU citizens.

A main problem driver concerns the fast changing nature of the issues that EU policies need to address (e.g. globalisation, migration, security), which also means that official statistics must be able to react more rapidly without increasing the burden on respondents. As a result, the next European statistical programme needs to become more agile and innovative, going beyond established methods and data sources.

The second driver of the problem is the rapid technological change and spread of information via social media, which confront traditional producers of statistics with a new reality demanding urgent and bold responses for European statistics to remain a highly trusted information source. Today, European citizens are universally connected and digitally aware. They have a multitude of new data sources at their disposal, access to which could not be easier or more tempting. Providers of other, non-official data, increasingly compete with official statistics by producing more timely, but often less reliable information. In this 'post-truth' era, reliable and trustworthy official statistics are needed more than ever.

Consequently, the post-2020 European statistical programme will increase the relevance and value-added of European statistics by closing existing and emerging information gaps and by improving timeliness and coverage of the data. In order to do so, the programme will support Eurostat and national statistical authorities to make better use of multiple data sources, advanced data analytics methods and digital technologies.

## 2.2. Objectives of the programmes of the next MFF

European statistics, produced under Eurostat's leadership, are an indispensable part of the EU's sound and evidence-based policymaking under the current MFF, addressing all policy areas of the Union as stipulated in Article 338 of the Treaty. That Article also sets out requirements as regards the production of European statistics, stating that they must conform to standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

In order to ensure the continued provision and development of European statistics on all policy areas of the EU, thus going far beyond the scope of the Single Market, the European statistical programme needs to be continued under the next MFF.

In response to the challenges listed under 2.1, and the conclusions drawn from the evaluation and stakeholders consultations, the programme will put particular emphasis on the following areas:

- Underpinning key EU and national economic, social and environmental policies with the production of relevant, comprehensive and high quality European statistics tailored to policy needs.
- Providing more detailed regional statistics on topics relevant for EU policies and close to citizens.
- Using innovative data collection methods like 'Internet of Things' sources and smart systems, to produce data on smart cities, health, mobility and farming.
- Improving timeliness and agility by introducing specifically designed survey schemes and by producing statistics centrally at Eurostat using various data sources and modelling techniques and not only data provided by the Member States' national statistical authorities.
- Coordinating the production of statistics by other Commission services, and setting-up a data hub for the Commission in cooperation with other DGs (DIGIT, Connect, JRC).
- Delivering added-value for policy design and monitoring by providing new data analytics services in the framework of the Data, Information and Knowledge management and the Data4Policy initiative.
- Providing better statistical insights for EU citizens by communicating statistical information more pro-actively, in a simpler and more understandable way and by supporting fact-checking and myth-busting functions of the Commission.

### **General objective of the European statistical programme under the post-2020 MFF:**

To provide high-quality, comparable and reliable statistics on Europe which underpins the design, monitoring and evaluation of all the Union policies and helps policy makers, businesses, academia, citizens and media to make informed decisions and participate in the democratic process and debate about the present state and future of the Union.

The *specific objective* to realise the programme's general objective, which will be translated into success criteria for monitoring purposes, is the following:

To produce and communicate high quality statistics on Europe in a timely, impartial and cost-efficient manner, through enhanced partnerships within the European Statistical System and with all relevant external parties, using multiple data sources, advanced data analytics methods, smart systems and digital technologies.

## 3. PROGRAMME STRUCTURE AND PRIORITIES

The structure of the programme will underpin the Commission's political priorities in order to maximise the EU value added of European statistics.

The investments will ensure that new and improved statistics will be delivered in support of the political priorities under the new MFF. The implementing actions will be selected based on their potential to increase the relevance and use of European statistics for important policy areas and to close data gaps as regards newly emerging political priorities.

First priority will be given to actions needed to maintain the high quality and relevance of statistics which feed into the budgetary surveillance of the EU and which underpin the enhanced Stability and Growth Pact, European Semester exercise and the Investment Plan for Europe.

Secondly, the development of new statistics to close identified data gaps will be prioritised according to the political needs in the context of the next MFF, such as

- The digital economy with a special focus on the collaborative economy;
- The future of the Economic and Monetary Union;
- Single Market, SME creation and growth, including monitoring entrepreneurship from a gender perspective;
- Trade policy and globalisation;
- The European Agenda on Migration;
- Geospatial information for economic, social and territorial cohesion policy;
- Data on passenger mobility, multimodality, intelligent transport systems;
- Evidence in support of the European Defence Action Plan (EDAP) and the European Defence Fund.

Furthermore, timeliness and/or coverage of statistics for other key policy areas will be improved, such as the European Pillar of Social Rights, the Energy Union and Climate Action, the environment and the circular economy, and the future Common Agricultural Policy.

Under the specific objective, priority will also be given to actions that improve the communication and accessibility of statistics to a wider audience and promote user engagement with the aim to counter the spread of 'fake news'.

- In order to increase the agility and responsiveness of European statistics, the programme will include actions on 'Smart statistics', exploiting data sources like the 'Internet of Things' and smart systems to produce data on smart cities, health, mobility and farming;
- Big data sources like mobile phone and traffic data or web-scraping;
- Innovative survey schemes and modelling techniques to deliver faster statistical evidence;
- Data hubs and data analytics services to deliver added-value for policy design and monitoring in the Commission in line with the Data4Policy initiative;
- Solutions for better data sharing and matching across and with Member States;
- Fostering statistical literacy and developing new tools to consume and share European statistics and to support myth-busting initiatives of the Commission;
- Protection of data and statistical confidentiality.

Furthermore, the establishment of new partnerships with other, non- official data providers such as the private sector is of utmost importance in order to facilitate access to privately-held data that increasingly becomes relevant for statistical purposes. Priority will also be given to foster existing partnerships with administrative data holders as well as academia and media.

The evaluation of the ongoing and previous programmes has shown that the European statistical programme features a critical mass of projects which were efficiently managed by Eurostat.

The necessity for EU action and the EU added value is demonstrated for all funding priorities, as the European statistical programme directly supports all EU policy areas. Comparable and high quality European statistics are a precondition for effective, efficient and performance-oriented policies under the next MFF.

The objective of the programme cannot be sufficiently achieved by Member States alone. Only a coordinated approach at EU level on the basis of an EU legal act will ensure the necessary coherence, comparability and quality of statistical information at European level in all domains covered by the programme. Moreover, the challenges identified in section 2.1 apply to all Member States and the European Statistical System as a whole and can therefore be addressed effectively only with EU action. The development and re-use of common tools and technologies for statistics is also more efficient if coordinated at EU level.

Art. 338 TFEU, in Part seven related to General and Final Provisions, provides the legal basis for statistics. It stipulates that *the European Parliament and the Council may adopt measures for the production of statistics where necessary for the activities of the Union*. It also states that *European statistics must conform to standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality*. These provisions indicate that the scope of the European statistical programme goes beyond providing statistics for the Single Market, as it covers all activities of the EU that require statistical information. Moreover, the Treaty stipulates that special quality standards apply to European statistics.

Regulation (EC) 223/2009 on European statistics specifies in Art. 13 that the European statistical programme should be adopted by the Parliament and the Council and that the programme has to be implemented in accordance with Art. 14 and 17.

#### **4. DELIVERY MECHANISMS OF THE INTENDED FUNDING**

The programme will be designed to benefit from the delivery mechanisms that have proven to be efficient and effective in the implementation of the existing European statistical programme. The appropriations will support actions for the development, production and dissemination of European statistics needed for the purposes of achieving the general and specific objectives of the programme, focussed on actions with high EU added value. The operational appropriations will be used under direct management for procurement, grants and actions with international organisations when appropriate.

Grants to national statistical institutes and other national authorities will be used to foster a more agile development of statistics for policy-making through the use of new methods and technologies. Due to the specificity of national statistical institutes and the other national authorities responsible in each Member State for developing, producing and disseminating European statistics, they may receive grants without a call for proposals in accordance with the Financial Regulation and as stipulated in Art. 5(3) of Regulation (EC) 223/2009. In that context, Eurostat will resort to a standard co-financing rate of the grants up to 70% and up to 95% for collaborative networks. Collaborative networks within the European Statistical System, as foreseen under Art. 15 of Regulation (EC) 223/2009, allow sharing of expertise and fostering specialisation on specific tasks.

In the implementation of the specific objective, a greater share of procurement at EU level in relation to grants will be undertaken whenever it is more cost and time efficient for the collection of data. Areas where a higher share of procurement might be beneficial concern for example innovative survey schemes, private-sector data sources, or data analytics services.

Under the programme, new data needs will be increasingly met through multi-source data integration and 'smart statistics' rather than by means of traditional statistical surveys. While this will require additional up-front investments, it will reduce the burden on businesses and generate data that is more timely available for policy-making. This strategy will also imply a stronger use of public-private partnerships in areas such as data sharing, data science skills and data analytics methods. This involvement of public-private partnerships to complement the cooperation with national statistical systems to produce European indicators, in order to improve response time to new information needs, will entail an increased use of procurement procedures.

The programme's cost of control will be improved by substantially increasing the average size of transactions managed by Eurostat.

In terms of financial flexibility, and as put forward in the reflection paper on the future of EU finances, the programme could put aside a reserve for unexpected data collections and analytical services.

Unit costs for staff were introduced by Eurostat in 2015. The development of simplified cost options to be used generally by all DGs for common cost categories will be monitored and implemented as soon as possible.

While there is no overlap with other existing programmes, the statistical activities and data collections of Eurostat and other Directorates-General could be better coordinated and streamlined. To strengthen the

interaction and allow a better monitoring of those programmes, major spending programmes should refer specifically to resources allocated for European statistics.

It is expected that the current practice of supplementing the programme's budget with sub-delegated credits will be continued, in order to cover data collections specifically requested by policy DGs. As the implementation of sub-delegated credits in Eurostat relies on the availability of human resources, those limited resources would mainly be directed towards data production in policy areas where Eurostat can maximise added-value (e.g. through its quality assurance mechanisms).

## **5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?**

The specific objective of the programme defined in section 2.2 will be accompanied by an indicator designed to measure the performance of the programme. The indicator should be strongly tied to the objective and fulfil the other criteria elaborated by DG BUDG under the 'EU Budget Focussed on Results' initiative, namely that they should be result oriented, budget related, easy to monitor, and robust.

In order to measure the performance of the programme in delivering on the specific objective, it is proposed to use the indicator 'Impact of statistics published on the internet: number of web mentions and positive/negative opinions', based on in-house data collected by Eurostat.

It is proposed to carry out an interim evaluation of the programme by end of 2024, to ensure that enough data is available on the programme and to take into account the results of the final evaluation of the previous European statistical programme 2013-2020.

It is proposed to have the ex-post evaluation of the programme completed by end of 2029, when a sufficient level of data will be available. Both the interim and ex-post evaluations would cover at minimum the evaluation criteria deemed compulsory at Commission level at that time. As with previous programmes, both evaluation reports will be submitted to the European Parliament and to the Council after consulting the European Statistical System Committee and the European Statistical Advisory Committee.

## **Sub-Annex 1: Evidence, sources and quality**

### **1. EVIDENCE, SOURCES AND QUALITY**

The impact assessment had to be prepared in a very short period of time, starting at the end of 2017 to be concluded by March 2018. As a consequence Eurostat decided to prepare it without the support of external studies and based it almost entirely on existing documents, such as annual activity reports and monitoring of activities, results of user satisfaction surveys, results of Commission Directorates- General (DGs) hearings, reports of critical projects and reports on the cost of producing European statistics. The full list of documents includes also the results of several stakeholder consultations done in the past years. In addition some new targeted stakeholder consultations could be quickly organised and their results could be exploited. Such consultations concerned national statistical institutes, Commission DGs and the European Statistical Advisory Committee (ESAC).

List of external sources used for the impact assessment:

- European Statistical Governance Advisory Board (ESGAB) reports 2015-17
- European Statistical Advisory Committee opinions
- Report of the Internal Audit Service on the production process and the quality of statistics not produced by Eurostat
- Feedback of Commission DGs during the targeted consultation

List of internal sources (Eurostat) used for the impact assessment:

- Annual activities reports 2015, 2016 and 2017
- Master plans 2015-17
- Monitoring reports to EP and Council
- ESP previous impact assessments and evaluation reports
- Results of the User Satisfaction Surveys 2015-17
- Results of DGs hearings 2015-17
- Reports on cost of producing European statistics
- Survey on burden in business statistics
- Reports on ESS Vision 2020 projects
- Monitoring of activities per objectives
- Report from the Power from Statistics conference
- Reports on big data projects
- HR reports 2015-17
- Eurostat's impact on the web 2015-17
- Website reports 2015-17
- Inventory of statistics produced by other DGs than Eurostat
- Reports on antifraud prevention
- ABAC extractions, 2015-2017
- Microdata access reports
- Statistics on datasets published

## Sub-Annex 2: Stakeholder consultation

Eurostat implements an ongoing dialogue with its main stakeholders, in particular through annual hearings with the Commissions DGs, frequent meetings with producers (national statistical institutes) at both technical and senior management levels, with the European Statistical Advisory Committee (ESAC), businesses and users of European statistics, including media, academia, researchers, etc. As part of this ongoing dialogue, a series of consultations and discussions have been conducted on the needs and expectations for European statistics after 2020.

The following stakeholder categories were consulted on the evaluation of the current ESP and on the future ESP:

- **Users** of European statistics (DGs of the European Commission, public administrations, businesses, researchers, academia, public at large). Users of European statistics is the basic source providing feedback to Eurostat on the quality aspects of European statistics as well as their insights on new priorities which need to be taken into account in the future statistical programmes.

The key challenge for statistical data users is to choose and understand the available information in order to turn statistics into knowledge that serves as a basis for the decision making process. With this in view, it is therefore important to reinforce the dialogue with users and continue assessing from their point of view, what should be the priorities for European official statistics for the next programming period.

- **Producers** of European statistics. Producers of European statistics are mainly National statistical institutes (NSIs) and Other National authorities (ONAs) producing official statistics in the Member States as part of the European Statistical System (ESS).
- **Respondents** (providing data to producers). The Respondents' category includes all types of respondents who provide data to the NSIs and/or ONAs and Eurostat. They are businesses, households, public and private partnerships, institutions and bodies.

With the increased user demand and new priorities for European statistics more data need to be collected from the respondents which in turn increases the response burden on respondents and producers of statistical information.

Therefore, it is more important than ever to search for new data sources and to have close partnerships with stakeholders who own, collect, and process or store data sources, including public private partnerships. Relations with public and private partners, including expert communities may help bridge data, knowledge or expertise gaps. A digital transformation taking place across the globe provides for ever increasing availability of data. This trend is of strategic relevance for official statistics and offers a huge opportunity to improve the timeliness and relevance of official statistics as well as to lower response burden. Therefore, producers of European statistics as well as respondents providing data for the production of it is an important category of European statistics stakeholders and therefore their opinion and views, in particular as regards the response burden as well as possibility to use other data sources will be taken into account for the preparation of the ESP beyond 2020.

It should be noted that for the extension of the European statistical Programme 2018-2020, Eurostat initiated numerous activities, e.g. investigating the opinions of users of European statistics via web based user satisfaction surveys (USS), specific surveys for media representatives, and a series of user conferences. However, due to the tight deadlines of the preparation of the next MFF, Eurostat concentrated on feedback from a selected number of stakeholders for the post-2020 ESP:

- Consultation of the Commission Directorate-Generals
- Consultation of National statistical institutes
- The European Statistical Advisory Committee (ESAC)
- The statistical user/stakeholder conferences

*Consultation of the Commission Directorate-Generals*

In January 2018, as an integral part of the consultation process, Eurostat launched a consultation of all Commission Directorate-Generals (DGs) and services, which are the main users of statistical information. The objective of the consultation was to assess the high-level needs for the future ESP so that high relevance of European statistics in a longer-term perspective is ensured. An important aspect of such needs relates to those high-level indicators the DGs intend to use to monitor and evaluate the next generation of spending programmes under their responsibility. The consultation covered the following questions:

- In addition to the European statistics currently available, which statistical data would be needed and for which policy areas under the next MFF (e.g. as identified in the Commission reflection papers)? Please rank by order of priority.
- Which policy areas will require more complete and/or timely European statistics?
- In the context of the need to further reduce costs and burden, can you indicate existing European statistics which could be simplified?
- In which way could Eurostat support the monitoring of your spending programmes under the next MFF?
- For which policy areas could additional Eurostat services provide added value?

Feedback was received from 23 DGs. The following general remarks could be highlighted:

- The need for statistical data and/or Eurostat services in different statistical domains will remain important regardless of the changes in the political agenda or resource pressure.
- Eurostat data are and should be used extensively, as the Better Regulation guidelines require the use of quantitative evidence for impact assessments, evaluations and policy monitoring, e.g. for modelling activities supporting the Better Regulation process; to build performance measurement frameworks in the context of the European Semester and in general to measure the results and the impacts of the DGs policy initiatives.
- Eurostat could offer additional services to the DGs, such as training and counselling on statistical methodology (when running studies on data collection or on the development of indicators), also in new and rapidly evolving areas such as big data techniques; dissemination of statistics (as e.g. in the reuse of Eurostat's dissemination chain); facilitating the acquisition of commercial data sources; supporting in finding statistics for particular purposes; centralizing acquisition of external (paid and unpaid) data.
- More and more data will come from non-conventional sources (precision farming, satellites, social networks crowdsourcing, etc.).
- Eurostat is seen as playing an important role in developing expertise for accessing, processing and analysing such data in areas that are relevant for the Commission policies.
- Eurostat could promote and make more use of the possibilities offered by the new technologies to compile statistics in a cost-efficient manner, such as Big Data and Internet of things.

The Commission DGs indicated a number of statistical domains where additional statistical data will be needed to be able to reflect on the challenges as identified in the Commission political agenda:

- High quality statistics produced by Eurostat is needed for the defense sector.
- Competitiveness statistics and data for growth and productivity measurement should become a regular statistical production.
- Digital economy with a special focus on collaborative economy. The Communication on a European Agenda for the collaborative economy published in June 2016 commits the Commission to monitor "both the evolving regulatory environment and economic and business developments" within this sector. Given the rapid growth of the collaborative economy and the lack of statistics on this very sector, the new ESP could be a good framework for the systematic collection of these data in the future.
- Circular economy. The recently announced Plastic Strategy, which aims at improving the value chains and the quality of plastics recycling (through better design, reuse), reducing plastic waste and littering (in particular marine litter and micro plastics), is very likely to call for additional data and statistics.



- There is a need to develop an EU-wide survey on the prevalence of gender-based violence within the ESS.
- Eurostat is encouraged to foresee in its post-2020 ESP a legal act for the regular collection of Passenger Mobility Statistics.
- In order to support MSs in addressing migrants' integration the information gap on education needs and qualification levels of the asylum seekers needs to be closed.
- The SDGs include the reduction by at least half of the proportion of people living in poverty until 2030. However, the UN has not defined a uniform poverty indicator for the purpose of this target. For the EU, such analysis needs to be carried out by Commission services. Therefore, one of the priorities for Eurostat could be to develop new indicators of poverty and inequality that can be used in the SDG context. The focus of these efforts could be extreme poverty.

The Commission DGs identified specific statistical domains, where improvements are needed in some of the quality aspects, in particular timeliness and coverage:

- Environmental accounts and energy statistics. Further improvements in the coverage, quality, timeliness and comparability of statistics in this area should be supported by the new ESP.
- Further improvements are needed in the priority areas, like water statistics, chemicals indicators, waste indicators, indicators for nature, biodiversity and ecosystems, plastics and plastic statistics, forest statistics, soil indicators, agro-environmental indicators.
- Timeliness can be improved for other types of European Statistics which are also used for transport policy needs (e.g. Research & Development data and Structural Business Statistics).
- Basic statistics such as structural business statistics, business demography etc. has to be maintained while striving to improve their timely delivery and fuller coverage.
- Improvements in timeliness of social inclusion statistics derived from EU-SILC should be another priority.
- It would be useful to explore the feasibility of an earlier provision of government finance series gathered through the ESA national accounts system.
- There is a need for regional data on public expenditure on education and more harmonised, complete and detailed data on private expenditure on education.
- The reporting framework to be established under the Energy Union Governance proposal will reduce respondents' burden of the Member States, as the number of current reporting obligations will decrease and the whole structure will be put under one common umbrella (e.g. reports relating to national action plans on energy efficiency and renewable energies will also be integrated under Governance related reporting). Monitoring under the Energy Union Governance regime will need to draw on the timely European statistics.
- More timely European statistics needed on the Balance of Payments, Foreign Direct Investment.
- More complete statistics on foreign affiliates (regarding sectors covered, it would be useful to have similar data also on non-services sectors as well as better coverage by sectors, including to the extent possible with estimations replacing missing data) would be helpful.
- Healthcare statistics and in particular healthcare expenditure statistics currently collected will be of increasing importance during the period covered by the next ESP. It is expected that the data collection not only be completed and continued, but also improved with respect to timeliness and reporting detail.

#### *Consultation of national statistical institutes*

Taking into account the new challenges posed for European statistics in a changing environment as well as the fact that National Statistical Institutes of the MSs (NSIs) are important players in the production of European Statistics, Eurostat worked very closely with the NSIs to elaborate the European Statistical System (ESS) priorities beyond 2020. The outcome and concrete priorities were extensively discussed with the NSIs during 2016-2017. Discussions were held on the following issues: changing economies and societies, fast changing of data use and user needs, data revolution aspects and impact on statistics, budget

constraints. New strategic priorities were formulated taken into account the current stance and the dynamics of the external environment.

Important priorities distinguished covered the following:

- **New/additional needs for statistics to measure emerging phenomena** in the societies, which in some cases are not well captured today, e.g.: migration, economic and social inequality, environmental, climate change and energy issues, circular economy, globalisation, digital market, new production models caused by digitisation (such as the sharing economy, the blurring of boundaries between workers and self-employed, goods and services, producers and consumers), combining statistical and geospatial information, measuring progress towards 2030 sustainable development goals.
- **Quality-related improvements driven by users' needs:** improving the timeliness, granularity and comparability of statistics are the quality elements where improvements in the outputs are most sought after; reducing the inherent asymmetries in statistics on cross-border flows within the EU; ensuring the high relevance of new and existing statistics through systematic dialogue with users.
- **Better communication of European statistics:** aligning statistical products and communication methods with the needs, level of knowledge and skills, as well as life or business situations and other characteristics of different user groups; getting closer to citizens, especially the younger generation, in addition to professional users; exploring the possibilities offered by new and existing communication channels; tailoring the choice of communication channels, services and messages to different user groups so as to bring statistics closer to users and ensure high end user value; going beyond the publication of pure facts and figures to help users understand them; describing figures as attractively and clearly as possible, offering simple and clear messages, basic interpretation and visual aids ready to be re-used by the press through different communication channels; more focus on visualisation, infographics and interactive tools; being open to on-demand services; moving from data to information and knowledge, and pushing boundaries towards more data analysis, story-telling and horizontal reports; supporting fact-checking, thus contributing to the importance of trusted data and restoring the standing of facts; promoting linked open data initiatives.
- **More agility and interaction in responding to user needs:** improving identification and analysis of data users and their needs; upgrading existing mechanisms of two-way communication with users to discuss their needs, explore their difficulties in using statistics, anticipate their future needs, and offer relevant products and services; exploring the possibilities of going beyond the traditional business model, for instance by offering experimental statistics, including blending our sources with third party data, certifying data published by non-official or non-statistical providers, offering linking of statistical and non-statistical data and data protection services, etc., while carefully considering the associated benefits, risks and implementation options.
- **Stronger user capabilities:** guiding users and helping them understand how statistics can help shape solutions in private and business life (e.g. more story-telling); promoting new uses of statistics; helping to educate both professional users (policy-makers, journalists, researchers) and ordinary citizens, especially young people, to increase statistical literacy and reduce the risk of misinterpretation and manipulation of information based on statistics.
- **Development of new methods for producing statistics:** being more agile, experimenting with data to optimise data sources and statistical products; continuously seeking new and innovative ways to produce statistics, with state of the art methodologies, efficient processes and modern technologies, including digitisation and automation of statistical processes; exploring the possibilities of improving statistical production based on the exchange of microdata between ESS members; carefully considering ways to reduce the response burden.
- **Making the best of the data revolution:** stepping up analysis and exploitation of new data sources; investing in data integration with a view to benefiting from multiple data sources and unleashing the potential of big data to support statistical production; where useful, acquiring access to privately-held data sources through a collective action, coordinated and led by Eurostat

and supported by the adoption of an enabling EU legislation; further enhancing the use of administrative data sources for statistical purposes.

- **Relations with external stakeholders:** seeking ways to establish close relations with the relevant private sector organisations building on partnership; in particular, cooperating with the technology sector to ensure that statistical production and dissemination is based on modern technology (e.g. access to privately-held data for statistical purposes; integration of data from multiple sources; semantic web standards to support and feed statistical production; modern visualisation techniques); enhancing cooperation with research and academia in developing methods for all phases of the statistical process, especially as regards developing methods and technical solutions for the use of big data and analytical interference from data and statistics.

#### *Consultation of the European Statistical Advisory Committee (ESAC)*

The ESAC, which unites users, respondents, academia, and businesses organised various workshops to discuss the future needs for statistics. The discussions focussed on the impact of the changed environment on production of European statistics, measurement of these changes, concrete actions as well as the impact of them. The outcome of these events includes a wealth of input from the users/methodologists as well as businesses with the view to improve European statistics and the way it is produced and communicated.

Eurostat launched a targeted consultation (end of January – mid February 2018) asking for the ESAC opinion on the priorities for the post-2020 ESP. In particular, Eurostat was interested in receiving feedback as regards the following:

- Options to increase the relevance of European statistics for different user groups.
- Areas where timeliness or completeness (e.g. breakdown, availability by countries, regions, components, etc.) of statistical information needs to be further improved in relation to main user needs or new phenomena.
- Less important statistical fields which could be discontinued in the next European Statistical Programme for the sake of burden and cost reduction.
- Measures to increase agility and/or to further decrease response burden (e.g. new ways of collecting data, etc.).
- Proposals to improve the communication of European statistics and the engagement of users.

To summarise the ESAC position paper, which is a reaction to the Eurostat consultation, the following issues could be taken into account for the elaboration of the post-2020 ESP:

- Official statistics plays and should play a fundamental role in providing insight into the economy and society and that they are vital to the wellbeing of the EU societies and citizens.
- The ESS needs to retain its unique selling point of assured quality, while improving practice in the directions of speed of delivery, extracting information from new data sources, and response to new questions.
- The ESS should pay increasing attention to training and improving statistical skills at all educational levels and also to improving citizens' statistical literacy, including that of non-users.
- The ESS is expected to aim at better coordinating the production of statistics by other Commission services.
- Data generation processes evolve rapidly, and therefore care and attention are needed to ensure that official statistics which are based on, or are taking advantage of, new sources of “big data” are sustainable, and are consistent over time.
- Special attention should be paid to the challenge of ethical data governance. The issues of ethical data governance are becoming more important with the advent of new kinds of data, but they are not the same issues as technical matters concerning whether the new kinds of data are “good enough” for some purpose, or issues of how to capture or use such data. Ethical data governance should be addressed in the next ESP.
- ESAC identified a continuing need for adequate geographical breakdowns of the published data, particularly in monitoring change in social conditions at sub-national level. ESAC appreciates that important work is already under way in different countries and in different statistical domains, in

order to provide statistics down to NUTS 2 level. However, the aim should be to provide statistics broken down to at least NUTS 3 level to support national and regional policy-making.

- Additional issues having an impact on the value of statistics should be addressed, especially those of “post truth reality” and the digital-information era. The individuals and institutions should be clearly informed about the quality of different types of official statistics coming from the ESS and other European institutions. In today’s rapidly changing data environment, helping users know where to go, and what data can be trusted, is critical. Reinforcing the ESS brand is also very important.
- One major trend shaping the world is urbanisation, closely connected to the new reality of globalisation and migration. The EU Urban Agenda is a new method of working with the aim to promote the economic, social and environmental transformations of cities through integrated and sustainable solutions. Monitoring progress of Sustainable Development Goal 11 “Sustainable Cities and Communities” requires a broad set of selected indicators describing cities and their residential areas and other human settlements. Hence the request for regional and urban statistics is an urgent issue at European, national, sub-national, regional and local levels. Providing the requested geographical breakdowns in practice would be more feasible if statistical data were geocoded.
- Digitalisation, international cooperation and partnerships call for common standards. The ongoing development of common standards and data interoperability will be valuable for both capacity building and efficiency gains and will also have a positive impact for users.

#### *High-level stakeholder conference "Power from Statistics"*

This conference was organised in October 2017 to determine which topics will be relevant to decision makers and citizens in the future and how European statistics could best deliver this information. The Conference brought together a multidisciplinary audience, consisting of policy makers, journalists, business leaders, academics and official statisticians from all over Europe to discuss the needs and challenges facing evidence-based policy-making to discuss priorities of European statistics, quality aspects and the value of statistics for knowledge based societies, etc. and covered such topics as trends in migration, globalisation, new economic and business models, sustainable development and science, and statistics and society. The following could be distinguished which will require a proper reflection in the post-2020 ESP:

- New data sources (open data, citizens sourcing, and private data) can make the policy cycles more agile and better informed. Access to new data sources requires new partnerships: data collaboratives (data cooperatives or data pooling, research intelligence products, application programming interfaces, trusted intermediary, etc.). Sharing of data should be motivated by reciprocity, research and insights, regulatory compliance and responsibility. There were concerns expressed as regards the use of private data sources: privacy and accuracy, data quality, competitive concerns, and cultural challenges. In order to overcome risks and avoid them, mitigation actions are necessary throughout the whole statistical production cycle. The biggest risk is to miss the opportunity and not share data or not use private data sources. Eurostat should be at the forefront on these developments and actively engage with stakeholders on data collaboratives.
- The rapid technological change and spread of information via social media confront traditional producers of statistics with a new reality demanding urgent and bold responses for European statistics to remain a highly trusted information source. Providers of other, non-official data, increasingly compete with official statistics by producing more timely, but often less credible information. In this 'post-truth' era, reliable and trustworthy official statistics are needed more than ever.
- European statistics on migration as well as on other domains on the Eurostat's website should be clear, understandable and user friendly. There is a need to simplify the presentation of data, use interactive tools and always test on consumers; narratives, storytelling, visualisation should be improved. Availability of timely data was indicated as a challenge. For this purpose, there is a

need to exploit new data sources. It will help to reflect on what currently is needed for policy makers, e.g. the flow of migrants, their living conditions, etc. Questions related to migration should also be integrated to existing surveys like Labour force survey to complete the picture. Close cooperation with the Commission DGs is indispensable; division of labour and responsibilities between statistical offices and researchers should be clearly established.

- The ESS should play a leading role in measuring the SDGs. To fulfil this role it is crucial to shorten the time lag between the policy makers' requests/need and the time when statistics is produced. Cooperation with industries should be strengthened, so that it is possible to foresee the scenarios for which the data will be needed.
- With the globalisation phenomenon, a quick reaction of statisticians is needed. So far it is not properly reflected by statistical information. Global value chain is only one side of it; however more information needed on jobs, etc. Better cooperation in terms of capturing globalisation is needed between the national accounts and business statistics. Business statistics needs to be modernised.
- Capturing emerging phenomena. New economic and business models are emerging, which are not yet captured by European statistics and may not be part of traditional measurement of GDP and production. This leads to a search of new techniques and measures. Data harvesting from the web or web scraping, machine learning could be examples of those. It is quite complicated to find the right data reflecting on the collaborative economy. Eurostat does it partly, however with a big time lag. Access to privately owned data sources could solve the problem. Eurostat has to continue discussions with the private data owners and establish partnerships with them.

The *Open Public Consultation* was jointly carried out as part of the 'Investment cluster' by the Secretariat General of the Commission and took place between 10 January and 9 March. Beside such areas as investment, research and innovation, SMEs and Single Market, the questionnaire covered European statistics. The results received cannot be interpreted as representative of the whole EU since out of 4052 respondents only few (8) commented on European statistics. 5 of them considered that there is a lack of comparable statistics on fire (fire safety) across Europe.

## Sub-Annex 3: Evaluation results

Eurostat has conducted two mid-term evaluations of the current ESP. The first one<sup>285</sup> covered the implementation of the programme in the years 2013 and 2014 plus relevant progress accomplished in 2015. It was completed in 2015 and it also considered the results of the final evaluation<sup>286</sup> of the linked "Programme for the Modernisation of European Enterprise and Trade Statistics" (MEETS), which finished at the end of 2013, to check that the two programmes were coherent and well-coordinated.

The first mid-term evaluation concluded that 17 out of the 23 detailed objectives were well on track for completion. Limited difficulties were experienced in relation to the other six, these being economic governance (1.2.2), people's Europe (3.2.1), geospatial, environmental, agricultural and other sectoral statistics (3.3.1 and 3.3.4), priority setting and simplification (2.1) and partnership within the European Statistical System and beyond (1.1). In particular for the objective on priority-setting and simplification, substantial reductions could not be obtained with the existing mechanism to fix negative priorities. New approaches for priority setting are being therefore implemented in the ESS and proposals for framework regulations have been adopted for agriculture statistics, business statistics and social statistics to simplify the production of statistics in those fields. The quantitative evaluation, based on the percentages of planned activities that were completed or on track and of the outputs produced for each objective, was accompanied by a qualitative evaluation. The analysis indicated that all projects classified as critical on the basis of their strategic importance, the number of staff involved or the financial resources invested, had been successfully concluded or were on track. Good progress had also been made on projects related to modernisation of the production system. The evaluation also indicated that the projects involving collaboration between the members of the ESS showed good results, with the European Statistical System collaboration networks and the European Statistical System 2020 Vision implementation projects having made particularly good progress. Measuring the costs of producing statistics and the burden on respondents proved to be more difficult, with different methodologies being used in the Member States. Eurostat therefore launched in 2015 a first cost assessment survey on production of official statistics in the European Statistical System.

The evaluation also recommended taking care of some critical issues by giving the following recommendations:

1. Give particular attention to those objectives where problems have been encountered.
2. Secure sufficient resources to maintain the necessary level of investment for the modernisation of the production of European statistics.
3. Identify and implement projects at EU level which can maximise EU added value.

The evaluation found out that the ESP continued to be relevant, as its objectives still corresponded to the needs of the EU. It also stated that Eurostat had made efficient use of its resources, both financial and human and that the ESP continued to produce a clear EU-added value. Finally, it concluded that the ESP was well coordinated with other EU initiatives in the same field, both other Eurostat programmes, such as the MEETS programme, and statistics produced by other Commission Directorate-Generals.

A second mid-term evaluation started at the end of 2017 to support the impact assessment of the post-2020 ESP. It was conducted back-to-back with the impact assessment and it covers the years 2015, 2016 and 2017. Its report is presented as an annex of the impact assessment.

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<sup>285</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0309&rid=1>

<sup>286</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0444&rid=1>

The percentages of planned outputs that were achieved or on target had been constantly over 90 %, to pass 95 % in 2017. As a result, 20 of the 23 detailed objectives of the ESP can be considered on track to be accomplished by the end of the programme. The remaining three objectives only showed limited problems, which will have to be taken care of in the remaining period of the programme. Those are detailed objective 2 on economic governance, detailed objective 4 on economic globalisation and detailed objective 18 on dissemination and communication.

In the years which are included in the current evaluation, 2015-2017, the total budget spent has been about EUR 172 million. Almost another EUR 94 million have supplemented the ESP own budget as credits sub-delegated by other DGs to cover data collections that were specifically requested by policy DGs.

The budget has been spent in the three priority areas of the programme. The first priority area "Statistical outputs" deals with the production of European statistics. In this area the money has been spent mostly for grants used to provide financial support to MSs. MSs use the support for improving their national statistical systems and for implementing actions to initiate new data collections. All MSs have benefited from grants, allowing them in the end to produce more and better quality data. As a result the total number of disseminated datasets increased by 722 datasets or around 15%, in the three years being evaluated.

The second priority area "Production methods of European statistics" supports the production by improving the way statistics are produced, their quality and the way they are disseminated. In this area grants were given to MSs to strengthen the quality and efficiency of statistical production through innovative statistical methods and tools. MSs used the money to participate in the modernisation projects of the European Statistical System Vision Implementation Programme (ESS.VIP). In this same area procurements were used either to finance part of the projects of the ESS.VIP or to finance the modernisation of the statistical infrastructure used for the regular production and dissemination of the statistics. This allowed addressing some of the weaknesses identified in the first mid-term evaluation. Examples of the results are the modernisation of the IT infrastructure to exchange data with MSs, the renovation of Eurostat website, the implementation of a series of new visualisation tools and of new ways to reach out to users.

The third priority area "Partnership" aims at supporting the production and quality of the statistics by improving the cooperation inside the ESS and with other international organisations and third countries. In this area the budget was mostly used to support the development and production of statistics in countries outside the EU, with particular emphasis on enlargement and the European Neighbourhood Policy. This has allowed regularly publishing data from some non-EU countries, especially to support the enlargement process and the negotiations.

In spending the budget no major problems have been encountered and there were no infringements. Eurostat put in place an effective system of anti-fraud measures, which prevented cases of fraud.

The evaluation results show that the programme has been run efficiently. So far:

- A trend of internal productivity is observed.
- The financial implementation shows an execution rate for the ESP's budget of 98.87%.
- Execution on available commitment and payment appropriations both exceeded the targets set in Eurostat's Management Plan.
- Costs and burden are decreasing but slowly and they are difficult to measure.
- All activities of the ESP are monitored in a timely and efficient way.
- Concerning the ESP relevance, the ESP has contributed and continues to contribute to satisfy the users' needs and to the design and monitoring of policies but more is needed:
- The number of users and the quantity of data extracted from the Eurostat website have increased substantially.
- Eurostat is more and more mentioned as a reference source of data on the Internet.
- Users are generally satisfied with the quality of Eurostat's data and services but they demand more, especially regarding timeliness and comparability of data.

- More microdata sets are available for users, and the number of requests has steadily increased.
- New dissemination tools have made it easier for users to consult European statistics.
- New modern ways of reaching out to users (social media) are used.
- When approving Eurostat's annual work programmes, the European Statistical Advisory Committee (ESAC) has expressed some general concerns to be taken into account for the future, including the need for adequate resources.
- Important stakeholders suggested that changes are needed in the way official European statistics are produced to stay relevant.
- Eurostat consulted every year the other DGs of the Commission and could in a majority of cases, but not all, accommodate their requests.
- The European Governance Advisory Board has suggested that changes are needed to exploit the advances in data sources and maintain the official European statistics as relevant.
- The modernisation of the statistical production is progressing and delivering results but now it is time to implement those results in the ESS.
- Work on Big Data and official statistics advanced and implementation can start. However, data governance issues may require changes in the business model.

The evaluation also shows that the ESP is coherent internally and externally with other initiatives aiming at producing statistics:

- The different components of the ESP interact well together to contribute to the general objective of the programme.
- Eurostat coordinates the production of statistics in the Commission and will improve such coordination.
- Sub-delegated credits were needed to supplement the programme's budget to cover data collections that were specifically requested by policy DGs.

Finally, the ESP implementation has shown that the programme has produced and continues to produce a clear EU-added value for its main objectives. The EU added-value of the programme is demonstrated by the harmonised provision of comparable and high-quality data for EU countries. The ESP as a harmonised system with common quality standards for the production of statistics is unparalleled in the world. A similar level of harmonisation, comparability and quality cannot be achieved at Member State level alone to make essential contributions to Union activities, in particular the 10 political priorities of the Commission.

The evaluation work has shown that in general the structure of the ESP is fairly complex, with objectives and sub-objectives, covered by areas and measured by indicators which sometime are not clearly distinct one from another. It is then inherently difficult to understand and to monitor, therefore it is recommended to simplify the structure of the future post-2020 ESP.



## **Annex 7: Programme specific annex on *Implementation and Development of Single Market for Financial Services***

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1. Scope and context**

The current prerogative budget line managed by DG FISMA "Implementation and development of the single market for financial services" is intended to cover expenditure arising in connection with measures contributing to the completion of the internal market and its operation and development in the area of financial services, financial stability and the capital markets union. In order to achieve this, the budget line consists of measures contributing to, among others, greater proximity to citizens and businesses including by a broader consultation of stakeholders, monitoring the implementation of legislation by Member States, a comprehensive review of regulations (with a view to assessing the impacts of the measures taken for the sound operation of the internal market for financial services and proposing changes when necessary), and guaranteeing the completion and management of the internal market, especially in the fields of pensions, free movement of capital and financial services whilst preserving financial stability. .

The current Commission's priorities include boosting Jobs, Growth and Investment, working towards a deeper and fairer internal market and working towards an energy union. These priorities have been again mentioned by President Juncker in its 2017 State of the Union speech, emphasising the completion of an Energy Union, a Security Union, a Capital Market Union, a Banking Union and a Digital Single Market.

DG FISMA's work carried out with the support of this prerogative line contributes directly to at least three of these essential work streams, including working towards an energy union thanks to the recent work that will have growing importance in the coming years thanks to the sustainable finance initiative.

Regarding the completion of the Banking Union, there is still work ahead of us to achieve it and if we want that banks operate under the same rules and under the same supervision across the continent. There is a need to reduce the remaining risks in the banking systems of some of our Member States.

Should we want a stronger European Union, we need to pursue our work towards a stronger single market, also in the area of financial services and capital markets in building a Capital markets Union. .

In the context of Europe continuing to lead the fight against climate change, sustainable finance work stream that started some months ago should take growing importance in the years to come.

Sustainable finance is the provision of finance to investments taking into account environmental social and governance considerations.

All these work streams will not be possible without the support of the budget made available through the prerogative budget line.

## **1.2. Lessons learned from previous programmes**

No evaluation has been conducted as the previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation. A conventional evaluation would be very difficult to achieve given the wide-ranging and constantly changing activities to adapt to new political priorities that are covered by this budget line (studies, surveys, subscriptions to databases, development and maintenance of information systems in support of the business, etc.). More recently, we could mention, in the context of the objective “a new boost for jobs, growth and investment”, the progress made in 2017 on the implementation of the Capital Markets Union Action Plan. 2/3 of the 33 actions were delivered in the first 20 months. This was made possible thanks to budget devoted to specific studies and the data gathered in the different databases to prepare evidence-based proposals. Similarly, it is worth mentioning the Consumer Financial Services Action Plan as well as the progress made on the Banking package to improve resilience and reduce risks in the banking sector, contributing to the objective of “a deeper and fairer internal market with strengthened industrial base”. Finally, the adoption by the Commission in December 2017 of the EDIS proposal and the EMU package in the context of the completion of the banking union, contributing to the objective of “a deeper and fairer economic and monetary union”.

The previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation.

There could be potential synergies for studies, subscriptions to databases, communication activities, Eurobarometer surveys, where, given the small budget currently available for the different policy areas currently covered by FISMA prerogative line could benefit from activities funded under other policy fields of the future Internal Market Programme.

DG FISMA is already cooperating with other DGs, in particular with DG ECFIN-although not in the IMP framework-, in order to share the costs burden of acquiring data under respective framework contracts. It is foreseen to further expand this cooperation and save costs wherever possible.

There is also little to no overlap with other DGs, as concerns the engagement with stakeholders. In action to facilitate a better dialogue and information exchange with stakeholder will therefore need to be funded by this ‘programme’. Efforts are already being made to streamline this engagement by bringing together stakeholders in the form of workshops and conferences rather than individual meetings. This approach saves costs in terms of workhours spent in stakeholders meetings but requires funding in order to organise these larger, collective stakeholder engagement meetings.

No problem due to lack of flexibility, coherence, separation from other programmes dealing with similar or complementary issues have been observed.

## **2. THE OBJECTIVES**

### **2.1. Challenges for the programmes of the next MFF**

As already mentioned, the previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation allowing the DG to pursue its work and objectives related to the Implementation and development of the single market for financial services and therefore to cover for expenditure arising in connection with measures contributing to the completion of the internal market and its operation and development in the area of financial services, financial stability and the capital markets union, among others.

Essential achievements have been made in these areas in the course of the current MFF. This does not mean that the work is over and that no further improvements will be required based on the monitoring and evaluation of the new functioning frameworks.

Better Regulation requires a continuous assessment, including monitoring financial markets and the implementation of legislation, assessing whether the existing legislation is fit for purpose and proposing changes when necessary, and identifying potential areas for action where new risks emerge, with a continuous involvement of stakeholders throughout the policy cycle. The activities covered by the prerogative line all aim to improve evidence based policy making.

Lack of data and quantitative input to effectively monitor developments on financial markets, identify risks to financial stability, assess policy options and analyse the effectiveness of measures taken is a problem that this budget line contribute to tackle. Similarly, the budgetary means provided, even if very scarce, contribute to obtain adequate level of information regarding arising financial stability risks, competition issues and market malpractices, as well as stakeholders' engagement and feedback channels, especially as concerns users of retail financial services.

The capital markets union (CMU), one of the flagship initiatives of the current Commission, is a plan to mobilize capital in Europe. It is designed for all companies, including SMEs, and infrastructure projects that need capital to expand and create jobs.

Deeper and more integrated capital markets provide businesses with a greater choice of funding at lower costs, offer new opportunities for savers and investors and make the financial system more resilient.

The creation of a true single market for capital in the EU by 2019 is a key element of the Investment Plan announced by the Juncker Commission in November 2014. However, once the plan will have been implemented, the Commission should not stop acting but to the contrary pursue its actions to ensure that the objectives pursued will have long-term effects on jobs and growth and ultimately contribute to a stronger Union.

The challenges faced by the CMU initiative will remain if we do not pursue our actions, and if we do not monitor and evaluate their added value.

In response to the financial crisis, the European Commission pursued a number of initiatives to create a safer financial sector for the single market. These initiatives form a single rulebook for all financial actors in the Member States. They include stronger

prudential requirements for banks, improved protection for depositors and rules for managing failing banks.

This single rulebook is the foundation for the banking union.

As the financial crisis evolved into the euro area debt crisis it became clear that deeper integration of the banking system was needed for the euro area countries, which are particularly interdependent. That's why, on the basis of the European Commission roadmap for the creation of the banking union, the EU institutions agreed to establish a single supervisory mechanism (SSM) and a single resolution mechanism (SRM) for banks. The banking union applies to countries in the euro area. Non-euro area countries can also join.

As a further step to a fully-fledged banking union the Commission put forward a proposal for a European deposit insurance scheme (EDIS) in November 2015. This would provide stronger and more uniform insurance cover for all retail depositors in the banking union.

The first two pillars of the banking union – the SSM and the SRM – are now in place and fully operational. However, to complete the banking union, a common system for deposit protection has not yet been established and further measures are needed to tackle the remaining risks of the banking sector. In October 2017 the European Commission published a communication urging the European Parliament and the Council to progress quickly in the adoption of these measures and to complete all parts of the banking union's architecture.

Once this essential work will be completed, again, the EU action does not come to an end. Monitoring implementation in Member States will be crucial to the functioning of the Banking Union. In addition, new challenges are arising and will take on growing importance in the years to come with the emergence of the Initial Coin Offerings (ICOs) and crypto-currencies, currently unregulated and that may put the financial stability at risk.

In the context of Europe continuing to lead the fight against climate change, the Commission is currently finalising its strategy on sustainable finance on the basis of the recommendations included in the final report by its High-Level Expert Group on Sustainable Finance (HLEG). These strategic recommendations are directed towards a financial system that supports sustainable investments.

Delivering an EU strategy on sustainable finance is a priority action of the Commission's Capital Markets Union (CMU) Action Plan, as well as one of the key steps towards implementing the historic Paris Agreement and the EU's Agenda for sustainable development. To achieve the EU's 2030 targets agreed in Paris, including a 40% cut in greenhouse gas emissions, we need around €180 billion of additional investments a year. The financial sector has a key role to play in reaching those goals, as large amounts of private capital could be mobilised towards such sustainable investments. The Commission is determined to lead the global work in this area and help sustainability-conscious investors to choose suitable projects and companies.

*Indeed Finance has a big role to play in funding a sustainable future and moving towards a low-carbon society, where renewable energy and smart technologies improve our quality of life, spurring job creation and growth, without damaging our planet.*

The European Union has taken the lead in efforts to build a financial system that supports sustainable growth. In 2015, landmark international agreements were established with the adoption of the UN 2030 Agenda and Sustainable Development Goals and the Paris Climate Agreement. The EU has set itself ambitious climate, environmental and sustainability targets, through its 2030 Energy and Climate framework, the Energy Union and its Circular Economy Action Plan.

These commitments, and the growing awareness of the urgency to address environmental challenges and sustainability risks, call for an effective EU strategy on sustainable finance.

Work in this area will intensify in the years to come requiring under the new MFF the support provided so far by the current prerogative budget line.

<b>Challenges</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
<b>Programme/line</b>				
Prerogative line Internal market for financial services	✓ To provide evidence based policy making for a deeper and more integrated Capital Markets Union so as to ensure long-term effects on jobs and growth and contribute to a stronger Union.	✓ In the context of the completion of the Banking Union, monitoring the implementation in the Member States will be crucial for its functioning.	✓ Delivering an EU strategy on sustainable finance is a priority action of the CMU Action Plan, as well as one of the key steps towards implementing the historic Paris agreement and the EU's agenda for sustainable development.	N/A
✓ - relevant to the objective, N/A not relevant				

Candidate for

<b>Candidate for</b>	<b>Flexibility</b> (moving funds from one IMP programme to other)	<b>Simplification</b>	With which other IMP programmes there are potential <b>synergies</b>	
<b>Programme/line</b>				
Prerogative line Internal market for financial services	N/A - The previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation.  There could be potential synergies for studies, databases, communication activities, Eurobarometer surveys, where, given the small budget currently available for the different policy areas currently covered by FISMA prerogative line could benefit from activities funded under other policy fields of the future Internal Market Programme.			
✓ - relevant to the objective, N/A not relevant				

## 2.2. Objectives of the programmes of the next MFF

Objectives will remain unchanged.

This 'programme' aims to ensure that DG FISMA can meet the goals set out in its mission statement, namely monitoring the effectiveness of reforms and ensuring that EU legislation is fully implemented as well as to respond to emerging financial risks.

It specifically aims to facilitate a better assessment of policy options that are being considered for inclusion in legislative proposals as well as measures taken in the past, especially as concerns their effectiveness and efficiency.

It also pursues the objective to meet the EC's commitment as regards Better Regulation and evidence-based policymaking.

Finally, it intends to facilitate a more efficient information exchange and dialogue with stakeholders.

DG FISMA should receive sufficient budgetary support to pursue its work and objectives related to the Implementation and development of the single market for financial services" and therefore to cover for expenditure arising in connection with measures contributing to the completion of the internal market and its operation and development in the area of financial services, financial stability and the capital markets union, among others.

Its work towards the Capital Markets Union, the Banking Union and the work on sustainable finance contributing to the fight against climate change will remain the core tasks for the forthcoming MFF, in addition to the monitoring of existing acquis, assessing the effectiveness of the measures taken with a view to the sound operation of the internal market for financial services and the evaluation of the overall impact of the internal market on businesses and the economy, identifying areas where legislation can be improved, as well as remaining vigilant to potential new financial risks and tackle them as appropriate.

<b>Challenges</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
<b>Programme/line</b>				
Prerogative line Internal market for financial services	Pursue actions related to Capital Markets Union so as to ensure long-term effects on jobs and growth and contribute to a stronger Union.	In the context of the completion of the Banking Union, monitoring the implementation in the Member States will be crucial for its functioning.	Delivering an EU strategy on sustainable finance is a priority action of the CMU Action Plan, as well as one of the key steps towards implementing the historic Paris agreement and the EU's agenda for sustainable development. Work in this area will intensify in the years to come requiring additional support under the new MFF.	

		New challenges arising with the emergence of ICOs and cryptocurrencies, currently unregulated may put the financial stability at risk.	

Candidate for

Potential for Programme/line	Simplification of your programme, and/or synergies and/or flexibility
Prerogative line Internal market for financial services	N/A - The previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation.  There could be potential synergies for studies, databases, communication activities, Eurobarometer surveys, where, given the small budget currently available for the different policy areas currently covered by FISMA prerogative line could benefit from activities funded under other policy fields of the future Internal Market Programme.

### 3. PROGRAMME STRUCTURE AND PRIORITIES

Commission activities carried out through the procurement of studies, purchase of access to databases, conformity assessments, communication activities, development and maintenance of information systems.

In particular, the 'programme' aims to facilitate the following:

- Producing analysis, evaluations and impact studies on the effectiveness of the measures taken with a view to the sound operation of the internal market for financial services and the evaluation of the overall impact of the measures on businesses and the economy,
- Assessing policy options that are being considered for inclusion in legislative proposals, especially as concerns their effectiveness and efficiency,
- Broadening the strategy regarding the development of statistics on financial service sectors and statistical development projects in cooperation with Eurostat and the OECD,
- Supporting activities that enhance supervisory convergence and cooperation,
- Improving payment systems and retail financial services in the internal market,
- Increasing the proximity to citizens and businesses with a targeted communication and including the development and strengthening of dialogue with these stakeholders.

EU action in this area is required given the increasing interconnectedness, cross-border activities and complexity of financial institutions and markets. In order to assess risks to financial stability and monitor the functioning of the internal market, a holistic, European view is necessary.

Member States are unable and/or unwilling to fully analyse issues arising from cross-border activities and interconnectedness between national markets. While it is important to engage with national regulators and supervisors and gather information on national

markets from them, it is much more efficient as well as effective to piece this information together at the European level.

#### 4. DELIVERY MECHANISMS OF THE INTENDED FUNDING

Commission activities carried out through the procurement of studies, purchase of access to databases, conformity assessments, communication activities, development and maintenance of IT systems. There are no alternative ways to continue obtaining the necessary data and information and to conduct the actions supporting DG FISMA's mission.

#### 5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?

Commission activities carried out through the procurement of studies, purchase of access to databases, conformity assessments, development and maintenance of IT systems and communication activities.

Performance can be assessed based on the percentage of delivery of the initiatives foreseen in the Management Plan

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
A new boost for jobs, growth and investment	Employment rate population aged 20-64			EUROSTAT	Yearly	69.2% (2014)	At least 75%
A deeper and fairer internal market with a strengthened industrial base	FINTEC – composite indicator of financial integration in Europe			ECB	Yearly	0.5/0.3	Increase
A deeper and fairer economic and monetary union	CISS – Composite indicator of systemic stress			ECB	Yearly	0.25 in normal times 0.8 in a crisis mode	stable



## **Sub-Annex 1: Evidence, sources and quality**

### **6. EVIDENCE, SOURCES AND QUALITY**

Not applicable as the previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation.

## **Sub-Annex 2: Stakeholder consultation**

Not applicable as the previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation

## **Sub-Annex 3: Evaluation results**

Not applicable as the previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation.

## **Sub-Annex 4: [any other initiative specific annex.....]**

Not applicable as the previous source of funding is a prerogative line under Article 54(2) of the Financial Regulation.

## **Annex 8: Programme specific annex on *Standards in the field of reporting and auditing***

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1. Scope and context**

The programme provides EU funding to three European and international organisations in the field of financial reporting:

- the European Financial Reporting Advisory Group (EFRAG);
- the International Financial Reporting Standards Foundation (IFRSF);
- the Public Interest Oversight Board (PIOB).

This programme underpins the EU legal framework on financial reporting (accounting and auditing), an essential element of the legislation regulating EU capital markets. This remains fully relevant in the context of the EU's efforts to establish a Capital Markets Union, which is one of the main objectives of President Juncker, as stated again in his 2017 State of the Union. The programme was established to overcome long-standing concerns about the non-diversified, voluntary and precarious funding that the three beneficiaries previously relied upon, which undermined the continuity and independence of these organisations.

The programme has a financial envelope EUR 57 007 000 for the period 2014-2020, broken down as follows:

- EFRAG: EUR 23 134 000<sup>287</sup>;
- IFRS Foundation: EUR 31 632 000;
- PIOB: EUR 2 241 000.

Funding is provided to the three beneficiaries by means of an operating grant.

#### **EU added value of this programme in the next Multiannual Financial Framework (MFF)**

In a global economy, there is a need for a global accounting language. International Financial Reporting Standards (IFRS) developed by the International Accounting Standard Board (IASB) are adopted and used in many jurisdictions around the world. Such international accounting standards need to be developed under a transparent and

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<sup>287</sup> The 2014 Regulation (No 258/2014) allocated a financial envelope of EUR 43 176 000 to the programme for the period 2014-2020 and EUR 9 303 000 to EFRAG for the period 2014-2016. The programme was amended in 2017 (Regulation No 2017/827) to extend EFRAG's funding for the full duration of the programme, increasing the financial envelope for the programme to EUR 57 007 000 for the period 2014-2020 and the EFRAG's allocation to EUR 23 134 000 for the same period.

democratically accountable process. In 2002 the EU decided to adopt international accounting standards in order to enhance the global competitiveness of its companies, and to not develop "regional" EU standards, but the EU kept the discretion whether or not to endorse a particular international standard. In order to ensure that global standards are of high quality and compatible with Union law, it is essential that the interests of the Union are adequately taken into account in that international standard-setting process; this why the European Financial Reporting Advisory Group (EFRAG) ensures that the EU is speaking with one voice and the interests of Union are adequately taken into consideration in that process. Regarding auditing, it is important to make sure that the International Federation of Accountants (IFAC) standard setting activities are properly responsive to the public interest. The Public Interest Oversight Board (PIOB) is responsible for monitoring the due process of the standard setting process.

The objectives and rationale for the programme identified in the 2012 ex-ante evaluation<sup>288</sup> remain relevant.

The objective to improve the conditions for the efficient functioning of the internal market by supporting the transparent and independent development of international financial reporting and auditing standards must be pursued in the future to preserve the EU's international influence.

In particular, it remains the case that no significant further progress towards establishing national funding mechanisms in EU Member States can be expected and any new funding mechanisms that may be established would not compensate for the withdrawal of EU funding (most large MS have already established a funding mechanism). Moreover, the renationalisation of funding of bodies related to standards-setting in financial reporting would run counter to the thrust of the Capital Markets Union project. It could also undermine the EU's efforts to speak with a more unified voice in international economic and financial fora.

## **1.2. Lessons learned from previous programmes**

The programme was subject to an ex-ante evaluation published in 2012, which also analysed the (limited) experience gathered from the predecessor programme. The programme's main strategic objective is to ensure stable, diversified, sound and adequate funding for the three beneficiaries. A secondary strategic objective, particularly relevant for the IFRSF, is to preserve the EU's international influence in the field of financial reporting. The discontinuation of EU funding was rejected on the grounds that it would not allow the programme objectives to be achieved. Alternative delivery mechanisms, in particular establishing national funding mechanisms in EU Member States, were explored for EFRAG and the IFRSF but were not considered realistic.

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<sup>288</sup> SWD(2012)444 final of 19.12.2012.

In addition, the beneficiaries report on a yearly basis and the Commission engages in numerous interactions with the beneficiaries throughout the year, notably by participating in their governance structures as a member or observer. On this basis, the Commission also submits an annual report to the European Council and European Parliament. These reports have all shown that the programme objectives are being achieved.

There have been no audits by the Court of Auditors.

As far as the funding of EFRAG is concerned, the EU put in place the first financing programme of this body in 2010 to make it independent from the private sector and national standard setters. The programme covered the period 2010-2013. The Commission proposed to prolong its financing for the period 2014-2020. However, in the context of discussions on the financing regulation the European Parliament and the Council decided to shorten the proposed financing period of EFRAG from seven to three years (2014-2016) in order to ensure that EFRAG delivers on the implementation of its governance reform, which they fully supported.

In 2014, the evaluation carried concluded that the governance reform of EFRAG was successfully implemented. It involved a fundamental revision of the EFRAG Statutes and the EFRAG Internal rules to incorporate a new governance structure. As a result, the decision was taken to amend the Financing Regulation by prolonging the financing of EFRAG for the period 2017-2020<sup>289</sup>. As regards the Commission proposal to amend the Financing Regulation by prolonging the financing of EFRAG for the period 2017-2020, it referred to an ex-ante evaluation, which accompanied the Commission proposal of the Financing Regulation for the period 2014-2020 given that the financing period 2017-2020 was already covered and the proposed amounts of financing remain unchanged.

In the context of the public consultation on the operations of the European Supervisory Authorities in 2017, the Commission sought feedback about possible synergies between the roles of ESMA and EFRAG in the endorsement process for international accounting standards. Such synergies, which could go as far as integrating EFRAG's role within ESMA, could realise economies of scope. However, stakeholders' feedback was overwhelmingly opposed to grant a stronger role to ESMA in this area (only few market or prudential *supervisors* favoured significant changes in the role and/or governance of EFRAG). The Commission is therefore not pursuing this option further at this stage.

As regards the PIOB, there is a diversification of funding sources, with a substantial contribution from IFAC but below a two-thirds threshold, as stipulated in the Regulation. The PIOB is responsible for monitoring the due process of the international standard setting process in the areas of audit and assurance, education, and ethics.

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<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014DC0396>

## 2. THE OBJECTIVES

### 2.1. Challenges for the programmes of the next MFF

As indicated in section 1, no significant further progress towards establishing national funding mechanisms in EU Member States can be expected for the next MFF and any new funding mechanisms that may be established would not compensate for the withdrawal of EU funding. Moreover, the renationalisation of funding of bodies related to standards-setting in financial reporting would run counter to the thrust of the Capital Markets Union project. It could also undermine the EU's efforts to speak with a more unified voice in international economic and financial fora.

In terms of implementation modalities, given the limited scale and targeted nature of the programme, there does not appear to be scope to simplify programme design or implementation modalities. There does not appear to be any possibility to merge programmes that would achieve significant reductions in administrative costs (which are minimal).

Any scenario implying a reduction of the programme's financial envelope would require across-the-board cuts in the funding at least of the two main beneficiaries (IFRSF and EFRAG) because they are the most important beneficiaries of the funding. This would inevitably require a significant scaling-back of EFRAG and IFRSF's activities and could potentially undermine the IFRSF's ability to function as an effective global standards-setter.

As regards the PIOB, the role of the PIOB may be strengthened in the future by the outcome of the Monitoring Group Consultation Paper concerning "proposals for strengthening the governance and oversight of the international audit-related standard setting boards in the public interest", which was published on IOSCO's website on 9 November 2017.

<b>Challenges</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
<b>Programme/line</b>				
Programme to support specific activities in the field of financial reporting and auditing	N/A	N/A	The EU legal framework on financial reporting is an essential component of the Capital Markets Union project. Continuity and independence of the 3 organisations supported, working towards standards settings in financial reporting and auditing and supporting EU's efforts to speak with a unified voice in international economic	N/A

			and financial for a is essential.	
√ -relevant to the objective, N/A not relevant				

Candidate for

Candidate for Programme/line	Flexibility (moving funds from one IMP programme to other)	Simplification	With which other IMP programmes there are potential <b>synergies</b>	
Programme to support specific activities in the field of financial reporting and auditing	N/A – Given the size of the programme and the implementation mechanism, further simplification would be extremely difficult to achieve. Also taking into account the specificity of the programme (operating grant to identified beneficiaries), flexibility and synergies appears impossible to reach.			
√ -relevant to the objective, N/A not relevant				

## 2.2. Objectives of the programmes of the next MFF

The strategic objectives and rationale for this programme will remain relevant in the future (until the end of the next MFF, i.e. 2027).

In the next Multiannual Financial Framework (MFF), the Commission's main objectives with this programme will remain to ensure that the EU despite not being the author of standards in the field of financial reporting, can still exercise an appropriate level of influence over the international standards setters, to ensure high quality international accounting standards, which are fit for EU companies; Therefore it needs to ensure a stable, diversified, sound and adequate funding for the three beneficiaries (EFRAG, IFRSF and the PIOB). A secondary strategic objective, particularly relevant for the IFRSF and the PIOB, must be continued to preserve the EU's international influence in the field of financial reporting. The discontinuation of EU funding is currently not an option. It would undermine the Commission's credibility and it would jeopardise the functioning of these beneficiaries. Alternative delivery mechanisms, in particular establishing national funding mechanisms in EU Member States, were explored for EFRAG, the IFRSF and the PIOB but were not considered realistic.

As part of future evaluation of this programme, under the next MMF, the beneficiaries should continue to report on a yearly basis and the Commission should remain engaged in numerous interactions with the beneficiaries throughout the period, notably by participating in their governance structures as a member or observer. On this basis, the Commission would be able to submit an annual report to assess whether the programme objectives are being achieved.

The Commission should report main achievements and activities in the previous years. That report should also examine developments in respect of the expanded public good

criterion of Regulation No 2017/827 and provide a detailed overview of the developments in the field of International Financial Reporting Standards (IFRS).

<b>Challenges</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
<b>Programme/line</b>				
Programme to support specific activities in the field of financial reporting and auditing			The EU legal framework on financial reporting is an essential component of the Capital Markets Union project. Continuity and independence of the 3 organisations supported, working towards standards settings in financial reporting and auditing and supporting EU's efforts to speak with a unified voice in international economic and financial for a is essential.	

Candidate for

<b>Potential for</b>	<b>Simplification of your programme, and/or synergies and/or flexibility</b>
<b>Programme/line</b>	
Programme to support specific activities in the field of financial reporting and auditing	N/A – Given the size of the programme and the implementation mechanism, further simplification would be extremely difficult to achieve. Also taking into account the specificity of the programme (operating grant to identified beneficiaries), flexibility and synergies appears impossible to reach.

### 3. PROGRAMME STRUCTURE AND PRIORITIES

It is appropriate to continue the financing of the IFRS Foundation, EFRAG and the PIOB for the period 2021 to 2027 in order to meet the long-term objectives of the Union programme to support specific activities in the field of financial reporting and auditing.

#### Priorities

The priorities with the financing of these three bodies will remain the same, namely:

- Ensuring high-quality accounting standards and high standards of transparency, accountability and integrity;
- Playing a central role in ensuring that investors are equipped with important information relating to the balance sheet, the profit and loss statement and cash flow, financial statements support effective corporate governance;

- Ensuring the interests of the Union are adequately taken into account in that international standard-setting process;
- Ensuring that the process through which IFRS are developed and approved delivers standards that are consistent with the requirements of the legal framework of the internal market;
- Assessing the actions taken within EFRAG in order to ensure high standards of democratic accountability, transparency, and integrity which, inter alia, concern public access to documents, open dialogue with European institutions and various stakeholders, the establishment of mandatory transparency registers and rules on transparency of stakeholders' meetings as well as internal rules, in particular prevention of conflict of interests;
- And finally assessing how the work of PIOB contributes to the enhancement of audit quality, including the integrity of the auditing profession.

### **Critical mass**

Our estimations for the future financing should be based on the figures of the current Programme, the beneficiaries' budget projections, the expected inflation rate and should take into account the current context of budget austerity. From a policy point of view in order to produce the intended impact, we think that the current level of funding should be maintained.

There is a critical mass of Union co-financing under which :

- the financing structure will not be stable enough (is based on voluntary contributions). It currently comes from stakeholders that have a direct interest in the work of the beneficiary (this is the case of the IFRS Foundation and the PIOB and it partly applies to EFRAG);
- The financing received from the other sources would not be sufficient to cover its public interest mission (this is typically the case of EFRAG).

In addition, in the case of the IFRS Foundation, Europe can maintain its seat in the Monitoring Board (the body overseeing the IFRS Foundation) if it contributes to the funding of the Foundation.

The overall objective of co-financing the accounting bodies proposed is to support the adoption of IFRS and its acceptance as a global single accounting language and to preserve the EU's weight and voice in influencing the setting of IFRS at the same time. Therefore it would be rational to co-finance the international body (the IFRS Foundation) and the European technical body (EFRAG) at the same time in a coordinated manner.

The EU co-financing is also expected to contribute to enhancing the independence of the beneficiaries in the field of accounting by allowing them to move from voluntary and/or private funding sources to stable, predictable, public financing. The EU grant also contributes to boosting the beneficiaries' reputation and thus helping them in attracting



financing from other sources and in the recruitment of highly qualified independent experts.

In the case of EFRAG, it is also expected that fair burden sharing among Member States is enhanced. Also, the EU co-financing should equip EFRAG with sufficient financial resources to carry out its European public interest mission.

In the case of the PIOB, the aim is strengthen the independence of the organisation: an oversight body must not be financially dependent on the stakeholders it oversees. Public oversight may be inefficient or at least not credible otherwise.

See also section 2.1.

#### **4. DELIVERY MECHANISMS OF THE INTENDED FUNDING**

Since the EU seeks to support the development of accounting and audit standards by the beneficiaries in the public interest rather than supporting specific projects or activities implemented by these beneficiaries, the selected delivery mechanism was an operating grant. Alternative delivery mechanisms were explored and rejected in the context of the 2012 ex ante evaluation. These considerations remain valid for the financing of the IFRS Foundation, EFRAG and the PIOB for the period 2021 to 2027.

The duration of a new programme could be aligned with that of the MFF and as said above the current level of funding should be maintained .

However, if a trade-off *between the suitability of the funding mechanism and the level of funding which may be actually available due to budgetary constraints*, one can consider a fall compared to the current programme, mainly as a result of potential reductions of the EU's funding contribution to the IFRSF.

These could arise for three reasons: anticipated increases in the IFRSF's self-generated income, increased contributions from other jurisdictions and cost-savings within the IFRSF, for example due to the reduction in number of members of the IASB (the IFRSF has already agreed to reduce the IASB's size from 16 to 14 members). Overall, this could be consistent with ca. 15% reduction<sup>290</sup> in the programme's financial envelope, assuming that EU Member States do not reduce their national contributions to the IFRSF.

This would still leave the Commission as the single most important contributor to the IFRSF's budget and the EU as a whole (including funding from EU Member States) as the region that makes the largest financial contribution to the organisation. However, if EU Member States reduce their own contributions proportionately to the EU's, the IFRSF would likely have to scale-back its activities.

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<sup>290</sup> i.e. a maximum of approx. EUR 1 300 000 per annum taking the commitment appropriations for 2020 as a reference.

With regard to EFRAG, its role may be affected and strengthened by the outcome of the Action Plan on financing sustainable growth which will be published around 7 March 2018 and the Fitness on the EU framework for public reporting by companies that we plan to publish around 21 March 2018.

If the budgetary constraints implies a reduction of up to 30% of the programme's financial envelope of approx. EUR 2 600 000 per annum taking the commitment appropriations for 2020 as a reference, such a reduction would require across-the-board cuts in the funding at least of the two main beneficiaries (IFRSF and EFRAG). This would inevitably require a significant scaling-back of EFRAG's activities, even if the reduction falls more heavily on the IFRSF, as it is unlikely that EFRAG could raise sufficient funding from private sources or national funding mechanisms to make-up the shortfall. Moreover, if EU Member States reduce their own contributions to the IFRSF in proportion to the EU's, the IFRSF would have to significantly scale-back its activities. **This could potentially undermine its ability to function as an effective global standards-setter.**

## **5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?**

The beneficiaries should continue to report on a yearly basis and the Commission should remain engaged in numerous interactions with the beneficiaries throughout the year, notably by participating in their governance structures as a member or observer.

On this basis, the Commission can submit annual reports to the European Council and European Parliament. These reports have to show that the programme objectives are being achieved (see priorities of the funding in section 3).

No targets can be imposed to the beneficiaries like the number of endorsement advice provided by EFRAG to the Commission on financial reporting matters and outreach activities. The EU co-financing is expected to contribute to enhancing the independence of the beneficiaries in the field of accounting and auditing and to preserve the EU's weight and voice. Imposing targets against which success will be measured would be counterproductive because one may influence the governance of the beneficiaries..

### Arrangements for monitoring and evaluate the programme

The Commission's concern is to make sure that the Community money is spent to the purposes it was targeted at and in a cost-effective way.

The Commission should therefore continue to monitor closely the fulfilment of the respective work programme of the beneficiaries and clarify funding issues by participating in their monitoring bodies (e.g. Commission should remain member or observer of the IFRF Monitoring Board, of the Supervisory Board of EFRAG, of the Monitoring Group of the PIOB). The Commission should in particular evaluate their governance in terms of transparency, the prevention of conflicts of interest and the diversity of experts, and the steps that have been taken to ensure broad representation of interests and public accountability.

In addition, the Commission should:

- Analyse the annual reports produced by the three beneficiaries
- Evaluate their financial statements and audit reports
- Discuss matters with other possible fund providers
- Arrange visits to the three beneficiaries' premises when deemed necessary to verify the financial systems and controls.

For EFRAG in particular, the evaluation should also include the assessment of the quality and efficiency of EFRAG's technical work based on its work programme and the documents issued and whether the expanded public good criterion has been respected during the endorsement process undertaken during the previous year.

- *Efficiency* would be measured by scrutinizing whether EFRAG delivered the documents (e.g., comment letters, input to the IASB's discussion papers) envisaged in its work-programme.
- *Quality* could be measured by delivering the documents on time and possibly by examining the percentage of EFRAG's comments taken into consideration by the IASB.

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
To improve the conditions for the efficient functioning of the internal market by supporting the transparent and independent development of international financial reporting and auditing standards	Number of countries using the IFRS			IFRS	Yearly	135 (2017)	Maintain positive trend
	Percentage of standards endorsed in the EU compared to the number of standards issued by the IASB			FISMA	yearly	97%	100%

## Sub-Annex 1: Evidence, sources and quality

### 6. EVIDENCE, SOURCES AND QUALITY

The programme was subject to an ex-ante evaluation published in 2012, which also analysed the (limited) experience gathered from the predecessor programme.

In addition, the beneficiaries report on a yearly basis and the Commission engages in numerous interactions with the beneficiaries throughout the year, notably by participating in their governance structures as a member or observer. On this basis, the Commission also submits an annual report to the European Council and European Parliament. These reports have all shown that the programme objectives are being achieved.

In 2014, an evaluation of the funding of EFRAG was carried out and concluded that the governance reform of EFRAG was successfully implemented. It involved a fundamental revision of the EFRAG Statutes and the EFRAG Internal rules to incorporate a new governance structure. As a result, the decision was taken to amend the Financing Regulation by prolonging the financing of EFRAG for the period 2017-2020<sup>291</sup>. As regards the Commission proposal to amend the Financing Regulation by prolonging the financing of EFRAG for the period 2017-2020, it referred to an ex-ante evaluation, which accompanied the Commission proposal of the Financing Regulation for the period 2014-2020 given that the financing period 2017-2020 was already covered and the proposed amounts of financing remain unchanged.

## Sub-Annex 2: Stakeholder consultation

In the context of the public consultation on the operations of the European Supervisory Authorities in 2017, the Commission sought feedback about possible synergies between the roles of ESMA and EFRAG in the endorsement process for international accounting standards. Such synergies, which could go as far as integrating EFRAG's role within ESMA, could realise economies of scope. However, stakeholders' feedback was overwhelmingly opposed to grant a stronger role to ESMA in this area (only few market or prudential *supervisors* favoured significant changes in the role and/or governance of

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<sup>291</sup>

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014DC0396>

EFRAG). The Commission therefore decided not to pursue this option further in its proposal on the ESAs' Review.

### **Sub-Annex 3: Evaluation results**

See sub-annex 1

## **Annex 9: Programme specific annex on *Enhancing the involvement of consumers and other end-users in Union policy-making in financial services (ICFS)***

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1. Scope and context**

In March 2009, the Commission adopted a comprehensive strategy to mitigate the fallouts of the global financial crisis. The annex to this strategy contained a proposal to provide direct funding to European retail investor stakeholders to strengthen their voice in EU policy-making. In June 2010, 22 Members of the European Parliament issued a cross-party appeal urging civil society to develop financial services expertise and offer an alternative voice to industry advocacy.

By the end of 2011, a pilot project in capacity building came into being. It provided financial support for the development of financial expertise in organisations representing European end-users and other non-industry stakeholders. Through this pilot project and the subsequent preparatory action, the Commission awarded, via an open call for proposals, operating grants to two non-profit entities (and only applicants), Finance Watch and Better Finance between 2012 and April 2017 included (on average, **€1.45 million** per year). All EU financing received did not exceed 60% of their annual budget.

In parallel, the Commission was adopting a package of legislative reform measures for the financial industry (>40 acts between 2009-2014) introducing new levels of governance in EU financial supervision, new regulatory/supervisory requirements for different financial services and new transparency/consumer protection obligations. Comprehensively, the regulatory framework became even more specialised and sophisticated. Hence the need for new civil society stakeholders to develop financial services policy expertise and understand the implications of new rules for consumers and investors in order to define appropriate advocacy strategies.

Based on an evaluation carried out in 2015, the Commission proposed on 15 June 2016 a Regulation to provide for multi-annual financing in the form of **action grants** to non-industry stakeholders specialised in financial services. The Regulation, as adopted by co-legislators, establishes a capacity-building programme with a budget of **€6 million** covering 1 May 2017 till 31 December 2020. The programme is currently being implemented, with the second tranche of payments to be approved by Q1 2018. Finance Watch and Better Finance were designated as sole beneficiaries of the Programme. Therefore, continue to co-finance these organisations is therefore necessary in the context of the new Programme.

#### **1.2. Lessons learned from previous programmes**

In 2015, the Commission conducted an evaluation of the pilot programme with a view to a potential follow-up, in the form of multi-annual funding with an appropriate legal basis.

The evaluation was published in the Commission Staff Working Document of 22 December 2015.

The evaluation presented the following main findings:

- Since first receiving EU financial support, Finance Watch and Better Finance have grown into expert non-industry organisations, the one complementing the other in terms of scope of activities/membership reach.
- Finance Watch and Better Finance worked on different policy areas and targeted different audiences. With the exception of retail finance, they collectively managed to cover most of the EU financial political agenda since 2012.
- Both organisations managed to provide policy makers with other views (e.g. through parliamentary hearings at EU and national level) than those expressed by the financial sector, helping to balance other advocacy interests during EU law-making.
- Finance Watch was assessed as more present on the Brussels policy-making scene whereas Better Finance was found more effective in the second- and third-level legislative activities of the ESAs.
- Both were found to possess substantial expertise and proper communication capacity through websites, press releases and conferences for the benefit of their members and the wider public alike.
- One area for further growth was the ability of the two organisations to build the capacity of their own members to influence EU policy making.
- Both remained heavily dependent on EU funding in 2015.
- The evaluation found evidence of their added value in relation to national members and also to European consumers in a way that national consumer advocacy groups have not been able to deliver.

The evaluation work was conducted by a contractor between January and June 2015. It included desktop research and a targeted consultation (on-line survey and interviews) leading to the conclusions described immediately above.

**Desktop research involved:**

- extensive organisational descriptions
- a full list of deliverables by each beneficiary including all publications (responses to consultation, policy papers, research reports),
- a full list of conferences organised since 2012 (topics, number of participants), press releases, key documents and other communication activities.
- an evaluation grid converting the high-level questions set out in the terms of reference into measurable parameters by establishing a judgement criterion (norm), and indicator for meeting the norm, and defining the ways of measuring the indicators (e.g. through desktop research, online survey or interviews).
- survey and interview questionnaires based on the evaluation grid.
- interviews with various stakeholders

## **Surveys**

The contractor conducted two internet-based surveys, one per beneficiary based on the detailed questionnaire derived from the evaluation grid. They were open to responses between the 12th of March and the 10th of April 2015. The surveys organised for this evaluation aimed to generate data on beneficiaries' performance across a broad range of stakeholders (member organisations, associate members, individual experts, Commission officials, MEPs and supervisors from the three European Supervisory Authorities (ESAs)). The Finance Watch survey response rate was 47% out of 109 stakeholders. The Better Finance survey response rate was 39% out of 95 stakeholders. All stakeholders had a history of engagement with either beneficiary dating back at least three years.

## **Interviews**

The Commission provided a list of stakeholders to the contractor who held structured interviews with 24 stakeholders including mainly policy-makers (MEPs, Commission officials, officials from the ESAs), officials from National authorities and other relevant financial experts. The Commission conducted the interviews with their fellow colleagues at DG FISMA and other DGs.

### **Real life example of success story of synergies, with other IMP programmes:**

Financial services support many policies and activities that are aimed at stimulating growth and societal well-being. In this sense, the activities of Finance Watch and Better Finance aimed at improving the readability of EU financial regulation to EU citizens and sharpening the focus of EU policy making on smaller stakeholders have far-reaching effects.

Some brief examples of synergies with other IMP programmes are the following:

The European Commission is financially supporting EFRAG, the European Financial Reporting Advisory Group through a budget line (120203) included in the IMP. One of the ways Better Finance seeks to scale up its advocacy at EU level is to participate in expert groups. In October 2017, Better Finance managed to join EFRAG as a non-contributing member.

## **2. THE OBJECTIVES**

### **2.1. Challenges for the programmes of the next MFF**

#### **How the Programme currently works**

The Capacity-Building Programme involves the preparation and submission by beneficiaries of annual work programmes. As of 2018 (the first full year of implementation of the programme) these work programmes are approved and first instalments of the annual grant are paid during the first quarter. Each beneficiary has its own comparative advantage so the programme is implemented in different ways, though some commonality exists (e.g. type of outreach activities). Broadly speaking, both beneficiaries use the EU grant to organise awareness raising events, to conduct research and publish expert studies, to develop and implement advocacy campaigns, to carry out



member coordination and secure new memberships. Finance Watch, as distinct from Better Finance, also has a dedicated work stream focussing on own strategic development, underpinned by a strategic plan. Better Finance is best known for its annual report on the performance of long-term pension products and focusses on retail investment products. Finance Watch is actively engaged in most policy areas covered by DG FISMA while developing also a niche of expertise in sustainable finance. Policy and expert advice are of high standards in both organisations.

In general terms, since 2012, Finance Watch has received approximately 80% of available funds every year and Better Finance the remaining 20%. Up to the end of the preparatory action, operational appropriations were on average in the order of €1.45 million per year. (See table)

#### Operating grants

YEAR	INSTRUMENT	AMOUNT	BENEFICIARIES
2012	Pilot project	€1.25 million	Finance Watch, Better Finance
2013	Pilot project	€1 million	Finance Watch, Better Finance
2014	Preparatory action	€1.75 million	Finance Watch, Better Finance
2015	Preparatory action	€1.75 million	Finance Watch, Better Finance
2016-April 2017	Preparatory action	€1.5 million	Finance Watch, Better Finance
<b>TOTAL</b>	<b>€7.25 million</b>		

#### Action grants

YEAR	INSTRUMENT	AMOUNT	BENEFICIARIES
May –December 2017	Programme	€1.1 million	Finance Watch, Better Finance
2018 (projected)	Programme	€1.5 million	Finance Watch, Better Finance
2019 (projected)	Programme	€1.5 million	Finance Watch, Better Finance
2020 (projected)	Programme	€1.5 million	Finance Watch, Better Finance
<b>TOTAL</b>	<b>€7.25 million</b>		

#### Challenges for the next MFF

The next MFF will need to support Commission efforts to continuously improve the delivery of the Single Market for citizens and businesses. It is still costly and time-consuming for EU citizens and businesses to rights under the Single Market as not all the required information, procedures and assistance services needed to operate cross-border are online, they are not well known, of insufficient quality or not accessible to cross-border EU users. This is particularly true of financial services which also present an additional challenge – **a very detailed and voluminous regulatory and supervisory framework** (>50 pieces of primary legislation; >200 pieces of secondary legislation). The global financial crisis which started to impact the European financial system at the end of 2007 shed light on gaps in the relevant EU legislative framework. This was revised principally between 2009-2014 focussing on improving resilience to future crises, strengthening EU financial stability and reinforcing the consumer protection dimension.

The impact of this legislation on all EU citizens can be considerable, particularly if the risk of financial instability is not properly reduced. Yet, the expertise on financial sector legislation is highly concentrated among experts working for regulatory and supervisory authorities and those working for the financial services industry. Civil society representatives (including parliamentarians and NGO experts) are often not well equipped to assess the quality of financial services legislation and policies. It is therefore in the public interest to build up an industry-independent capacity to assess financial services legislation and policies which will create more awareness of the issues and help raise the quality of the democratic debate on EU financial services policy. The Capacity-building programme is addressing this problem.

The Commission consults widely on its policy-making. As part of its continued efforts to improve the end-user impact of its policies and also to reduce the risk of regulatory take-over (strong industry influence), the Commission needs influential end-user representatives to participate in advocacy activities. The Capacity-building programme builds on positive experience with the pilot project and preparatory action before it. The two beneficiaries provided quality input to public consultations supporting subsequent decision-making. Their advocacy throughout the whole policy cycle and involvement in different Commission and European Supervisory Authority expert groups has supported the Commission's roles as policy initiator and enforcer, especially work on regulatory technical standards and implementation of directives.

Looking towards the future and challenges that still lie ahead, EU financial support has been crucial to help establish Finance Watch and Better Finance as credible advocates of consumers and other non-industry stakeholders. While they have improved their expertise over time, their financial situation still relies on continued EU support. It would also be helpful for other potential beneficiaries to emerge, in order to widen the circle of non-financial stakeholders participating in EU policy-making.

Assuming positive outcomes of the 2019 evaluation foreseen for the current programme, capacity-building of non-industry stakeholders in financial services could continue after 2020. Current levels of funding cater adequately for the growth of the beneficiaries and allow them to deliver results expected of them under the programme. Lower funding would endanger the financial viability of the two current beneficiaries, the breadth of their research and outreach activities and the effectiveness of their campaigns. The Commission would in turn lose capable non-financial stakeholders and miss out on insights into very concrete impacts of policy and legislative measures in the area of financial services. At the level of the EU single market, a cumulative loss of consumer confidence due to rules that are not understood, or worse, investment decisions that turn out to be based on misplaced trust, could create shocks in the EU financial system and threaten financial stability. At the level of EU citizens, personal financial decisions turned awry could put at risk savings and livelihoods.

This being a small programme with a moderate budget, the current set-up works fine. DG FISMA is in charge of both the policy content that keeps beneficiaries active and the financial management of the EU grant. Other DGs have capacity-building programmes, some of which will be included under the internal market framework programme.. Some administrative gains are to be expected for the European Commission. The approach is yet untested with current beneficiaries. Their current policy counterpart should not change allowing not just for continuity but also for beneficiary confidence in the new system to develop within a reasonable timeframe – provided that the programme continues with the same level of funding and the same two beneficiaries apply and are accepted for the next programme. At the present juncture, synergies with other programmes to be managed as part of the SMP are not immediately clear.

<b>Challenges</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resource for the society and the internal market
<b>Programme/line</b>				
<b><i>Capacity-building programme enhancing the involvement of consumers and other financial services end-users in Union policy making in the area of financial services.</i></b>	Citizens need better information about financial services in order to take the right personal financial decisions.	N/A	Increasingly since the financial crisis, the Commission is seeking to preserve a balanced and structured interaction with stakeholders to improve the calibration of its rules.	N/A
√ -relevant to the objective, N/A not relevant				

<b>Candidate for</b>	<b>Flexibility</b> (moving funds from one IMP programme to other)	<b>Simplification</b>	<b>With which other IMP programmes there are potential synergies</b>	
<b>Programme/line</b>				
<b><i>Capacity-building programme enhancing the involvement of consumers and other financial services end-users in Union policy making in the area of financial services.</i></b>	N/A – Given the size of the program and the implementation mechanism, further simplification would be extremely difficult to achieve. Also taking into account the specificity of the programme (action grants to identified beneficiaries), flexibility and synergies appear impossible to achieve.			
√ -relevant to the objective, N/A not relevant				

## 2.2. Objectives of the programmes of the next MFF

The general objective of the continued Capacity-building programme under the next MFF should be to support the Commission's need for non-industry expertise in financial services. It would be desirable for the IMP to contain a mechanism to support better

performing programmes it finances through funds recouped from unspent appropriations elsewhere in the IMP.

The specific objectives Regulation EU 2017/826.

1. To further enhance the participation and involvement of consumers and other financial services end-users in Union and relevant multi-lateral policy-making in the area of financial services  
=> Linked with the rule-making challenge: *Increasingly since the financial crisis, the Commission is seeking to preserve a balanced and structured interaction with stakeholders to improve the calibration of its rules.*
2. To contribute to the information of consumers and other financial services end-users about issues at stake in the financial sector  
=> Linked with the empowerment challenge: *Citizens need better information about financial services in order to take the right personal financial decisions.*

Challenges Programme/line	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
<b>Capacity-building programme enhancing the involvement of consumers and other financial services end-users in Union policy making in the area of financial services.</b>	Citizens need better information about financial services in order to take the right personal financial decisions.	N/A	Increasingly since the financial crisis, the Commission is seeking to preserve a balanced and structured interaction with stakeholders to improve the calibration of its rules.	N/A

Potential for Programme/line	Simplification of your programme, and/or synergies and/or flexibility
<b>Capacity-building programme enhancing the involvement of consumers and other financial services end-users in Union policy making in the area of financial services.</b>	N/A – Given the size of the program and the implementation mechanism, further simplification would be extremely difficult to achieve. Also taking into account the specificity of the programme (action grants to identified beneficiaries), flexibility and synergies appear impossible to achieve.

### 3. PROGRAMME STRUCTURE AND PRIORITIES

The Capacity-building programme is small and targeted. Continuity in the next MFF is the minimum requirement for its sustainability.

Currently, there are two beneficiaries – two associations representing the interests at European level of consumers, small investors and other non-industry users of financial services. Their operating budgets are modest (calculated at €2.5 million cumulatively in

the beginning of 2018) of which up to 60% is funded through the EU grant. The current annual level of funding (€1.5 million per annum) constitutes the critical mass of funding needed to make the programme work effectively.

Funding at EU level is required both to mitigate the risk of regulatory take-over and to support effective non-industry financial stakeholders with as broad a reach as possible. An effective way of balancing the Commission's stakeholder mix is to rely on civil society and end-user representatives who possess the capacity to operate on a European level.

Experience with the current beneficiaries illustrates how challenging it is for them to cover as many European citizens as possible. To the best of our knowledge, national consumer or other end-user groups focussing on financial services are at different levels of development. The overall picture is very fragmented across the EU, with some Member States having hardly any such organisations. One of the reasons why Finance Watch and Better Finance do not have a pan-EU network of members is precisely that they struggle to find the right or adequately resourced counterparts in all Member States.

From a policy perspective, the cross-border dimension of the end-user impacts of EU financial services policy is central to efforts to broaden stakeholder policy inputs. For example, insights provided by Finance Watch and Better Finance respectively in relation to sustainable finance and pension products have been helpful in ongoing work to develop a Capital Markets Union (CMU). Part of the potential of the CMU lies precisely in offering EU citizens the prospect of shopping across borders for the best non-bank investment products.

It is reasonable to consider that if the Programme were to be terminated, the two beneficiaries would not find alternative financial support immediately. Their future could be in jeopardy. At the present juncture, there is no independent alternative available. The lack of EU funding could inhibit new entrants should the Programme be terminated.

#### **4. DELIVERY MECHANISMS OF THE INTENDED FUNDING**

Possible issues to consider in terms of simplification:

- The Commission should guide the two beneficiaries and promote coherence and complementarity of their annual activities. There is not much overlap currently. However, this is an area worth monitoring on an annual basis to ensure full added value of EU spending.
- The Annual work programme template could be revised to elicit from beneficiaries more precise reporting data or qualitative information that could be used for standard Commission budget reporting documents. For example, one of the beneficiaries, Finance Watch, has over time developed a niche for itself in sustainable finance. Commission budget reporting requires DG to quantify the support of any of their financial programmes to UN climate change targets. Currently, there is no standard system to collect this information from Finance

Watch. Better Finance is also starting to look at sustainable finance from a retail investment perspective. Possibly, this is an area of growth.

## 5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?

Before 1 December every year, beneficiaries submit their application for a grant for the year  $n+1$ . The application is based on a detailed template which among others requires information about planned outreach activities. In this context, beneficiaries usually provide statistics as a baseline to determine their progress in achieving desired communication outcomes by the end of  $n+1$ .

Since it is difficult to accurately and objectively measure increase in influence, two proxies have been chosen:

1. Number of position papers/responses to public consultations – this is the core business activity for both beneficiaries and is illustrative of how closely they follow the EU's policy agenda, both on a reactive and pro-active basis. Public consultations should continue throughout. For this reason, a corresponding decline in beneficiary advocacy is to be expected, giving them time to strengthen lesser-developed activities (e.g. new research projects as part of a pro-active agenda; creation of new websites to overcome technical difficulties with current ones, expansion of membership, etc.). For the purposes of the MFF impact assessment, we are recommending that beneficiaries maintain a positive trend, ideally no less than 30 position papers/responses to public consultations. The 2017 baseline was 56.
2. Updated list of Twitter followers – the beneficiary Twitter accounts are efficient communication tools with a strong multiplier effect. They usually contain links to the specific locations on the respective websites of the two beneficiaries. They also refer to third-party content (EU institutions, member associations, national authorities, etc.). The decision to follow content uploaded by Finance Watch and Better Finance on their respective Twitter feeds belongs to Twitter followers alone. Since it is the expression of a choice, it can count as an indicator of interest in the activities of the two beneficiaries. Data on Twitter followers is updated in real time and can be checked directly by visiting the Twitter pages of the two beneficiaries. At the end of 2017, Twitter followers cumulatively stood at 1740. By 2020, beneficiaries should aim to exceed 2500 followers together.

In line with the multi-annual nature of the Capacity-building programme, these two indicators should be monitored once a year, every January/February.

Systematic reporting of progress related with these outcome indicators can usefully feed into evaluation reports of the performance of the programme.

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
To further enhance the participation	Number of position papers and	Proxy value to measure pro-activity of	Position paper or response to EU public	Beneficiaries' annual	Annual.	56 (2017)	Maintain positive

and involvement of consumers and other financial services end-users in Union and relevant multi-lateral policy-making in the area of financial services.	responses to public consultations for both beneficiaries.	beneficiaries to influence EU policy-making in the area of financial services.	consultation.	reports.			trend.  (minimum threshold for 2020 = 30) <sup>292</sup>
To contribute to the information of consumers and other financial services end-users about issues at stake in the financial sector.	Number of Twitter followers.	Proxy value to capture the reach of the beneficiaries' information dissemination activities.	Twitter followers.	Beneficiary Twitter accounts for most up-to-date data.	Annual.	1740 (2017)	>2500

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<sup>292</sup> Target set based on the expected decrease of legislative proposals submitted by the Commission in 2019 and 2020.

## **Sub-Annex 1: Evidence, sources and quality**

### **6. EVIDENCE, SOURCES AND QUALITY**

An evaluation was carried out in 2015. The adopted Regulation establishing a capacity-building programme with a budget of **€6 million** covering 1 May 2017 till 31 December 2020 is currently being implemented. Two beneficiaries were designated. The Programme is subject to a review based on an evaluation report foreseen by the end of 2019. A recital also establishes that any prolongation, modification or renewal of the Programme should be subject to an open call procedure to select future beneficiaries.

The evaluation conducted in 2015 of the pilot programme with a view to a potential follow-up, in the form of multi-annual funding with an appropriate legal basis was published in the Commission Staff Working Document of 22 December 2015.

The evaluation work was conducted by a contractor between January and June 2015. It included desktop research and a targeted consultation (on-line survey and interviews).

#### **Desktop research involved:**

- extensive organisational descriptions
- a full list of deliverables by each beneficiary including all publications (responses to consultation, policy papers, research reports),
- a full list of conferences organised since 2012 (topics, number of participants), press releases, key documents and other communication activities.
- an evaluation grid converting the high-level questions set out in the terms of reference into measurable parameters by establishing a judgement criterion (norm), and indicator for meeting the norm, and defining the ways of measuring the indicators (e.g. through desktop research, online survey or interviews).
- survey and interview questionnaires based on the evaluation grid.
- interviews with various stakeholders

#### **Surveys**

The contractor conducted two internet-based surveys, one per beneficiary based on the detailed questionnaire derived from the evaluation grid. They were open to responses between the 12th of March and the 10th of April 2015. The surveys organised for this evaluation aimed to generate data on beneficiaries' performance across a broad range of stakeholders (member organisations, associate members, individual experts, Commission officials, MEPs and supervisors from the three European Supervisory Authorities (ESAs)). The Finance Watch survey response rate was 47% out of 109 stakeholders. The Better Finance survey response rate was 39% out of 95 stakeholders. All stakeholders had a history of engagement with either beneficiary dating back at least three years.



## **Interviews**

The Commission provided a list of stakeholders to the contractor who held structured interviews with 24 stakeholders including mainly policy-makers (MEPs, Commission officials, officials from the ESAs), officials from National authorities and other relevant financial experts. The Commission conducted the interviews with their fellow colleagues at DG FISMA and other DGs.

## **Sub-Annex 2: Stakeholder consultation**

See sub-Annex 1

## **Sub-Annex 3: Evaluation results**

In 2015, the Commission conducted an evaluation of the pilot programme with a view to a potential follow-up. This evaluation was published in the Commission Staff Working Document of 22 December 2015.

The evaluation presented the following main findings:

- Since first receiving EU financial support, Finance Watch and Better Finance have grown into expert non-industry organisations, the one complementing the other in terms of scope of activities/membership reach.
- Finance Watch and Better Finance worked on different policy areas and targeted different audiences. With the exception of retail finance, they collectively managed to cover most of the EU financial political agenda since 2012.
- Both organisations managed to provide policy makers with other views (e.g. through parliamentary hearings at EU and national level) than those expressed by the financial sector, helping to balance other advocacy interests during EU law-making.
- Finance Watch was assessed as more present on the Brussels policy-making scene whereas Better Finance was found more effective in the second- and third-level legislative activities of the ESAs.
- Both were found to possess substantial expertise and proper communication capacity through websites, press releases and conferences for the benefit of their members and the wider public alike.
- One area for further growth was the ability of the two organisations to build the capacity of their own members to influence EU policy making.
- Both remained heavily dependent on EU funding in 2015.

The evaluation found evidence of their added value in relation to national members and also to European consumers in a way that national consumer advocacy groups have not been able to deliver.

## **Annex 10: Programme specific annex on *Company law and anti-money laundering***

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1. Scope and context**

##### **Company law and corporate governance**

One of the priorities of the current Commission has been to establish a deeper and fairer internal market, and a stronger Single Market is seen as a precondition for a stronger Union in the 6<sup>th</sup> scenario for the future set out in the State of the Union speech of 2017 as the most desired scenario. This should be a single market where the freedom of establishment is guaranteed, where companies can compete on their merits and innovate and where stakeholders, such as employees, shareholders and creditors of companies, can have confidence that their rights are protected. Freedom to conduct business is a right recognised by the Charter of Fundamental Rights of the European Union. Freedom of establishment, which includes in particular companies, is one of the four freedoms of the internal market.

Against this background, EU action in the area of company law and corporate governance aims at fostering a sound and predictable legal environment for business, while ensuring sufficient protection of all the interests that may be affected by different business operations. At the same time, promoting a more responsible and sustainable approach to business is crucial. Funding under the IMP related to company law would contribute to such EU action.

It would also be necessary to provide for the maintenance and further development of the Business Registers Interconnection System (BRIS, established on the basis of Directive 2012/17/EU), including for anti-money laundering related issues (beneficial ownership registers).

##### **Anti-money laundering and counter terrorism financing**

Fight against money laundering and terrorism financing has been one of the Commission top priorities. Crime has no boundaries. In the context of internal market, financial flows are integrated and money can flow swiftly from one Member State to another, allowing criminals and terrorists to move funds across countries avoiding detection by authorities.

An EU coordinated action in all Member States is the only way to make sure that cases of money laundering or terrorist financing are detected as early as possible, blocked and investigated.

As indicated above, an EU coordinated action in all Member States is key to ensure that cases of money laundering and/or terrorist financing are detected in early stages, blocked and investigated. Recurring financial money laundering scandals in which EU financial system seems to have been misused seems to indicate that there are flaws in the Member States' enforcement of EU AML/CFT legal framework.

Even if Member States are primarily responsible for delivering the Single market on the ground, the Commission as a guardian of the Treaties and the EU as a whole has an interest that this delivery is done in a coherent and coordinated way, and that citizens and businesses enjoy the same rights and the same opportunities throughout Europe. In addition, cross border activity requires good cooperation between national authorities, but the EU has a key role to play in ensuring that such cooperation is effective, efficient and corresponds to the needs of citizens and businesses.

## **1.2. Lessons learned from previous programmes**

The budget line "Company law" for company law/corporate governance and anti-money-laundering/counter terrorism financing has not been subject to evaluation or consultation due to the fact that it was financed under the Commission's prerogatives under Article 54(2) of the Financial Regulation.

The yearly budget allocated under the on-going Multi-Annual Financial Framework amounted in principle to around 1 Mio EUR (due to increasing needs in particular in the anti-money-laundering area and constant needs in the area of company law, the amount was increased to 1,7 Mio EUR in 2018).

Experience in executing the budget shows that there could be potential synergies for instance for studies, where, given the small budget currently available for Company law and anti-money laundering policy, these policies could benefit from activities funded under other policy fields of the future Internal Market Programme to the extent that this allows covering the topics on which carrying out a study in these specific policy areas is required. Possible synergies could also be obtained as regards communication activities.

## **2. THE OBJECTIVES**

### **2.1. Challenges for the programmes of the next MFF**

#### **Company law and corporate governance**

In the area of company law and corporate governance, funding would mainly contribute to addressing challenges related to **rule-making, standard setting and enforcement at EU institutions level**.

Based on the current acquis as well as a number of legislative proposals which are about to be presented or already in legislative negotiations, the Commission has a number of reporting obligations in company law and corporate governance stemming directly from EU legislation. To comply with these obligations, it will be necessary to deliver a number of studies, and possibly to organise meetings, workshops and conferences that would need to be financed by the Commission. As guardian of the Treaties, the Commission also has the obligation to monitor the transposition of EU legislation. Also to this end, data collection is necessary.

New priorities that can currently be identified are emerging issues, such as the Sustainable Development Agenda which will also be promoted by a Reflection paper forward looking into the next Commission's mandate, increased attention to human rights issues in the context of companies' activities, continuous developments in the digital area. They will constantly create new challenges for adaptation of the regulatory framework and are prone to generate needs for studies preparing appropriate policy responses.

Related to the maintaining and developing the project of business registers interconnection, funding would also contribute to challenges related to **administrative**

**cooperation and integration among Member States.** The Commission is obliged under Directive 2012/17/EU to provide for the business registers interconnection (BRIS). Funding is currently ensured under the Connecting Europe Facility (CEF). To the extent that funding cannot be ensured under the successor programme to CEF, it would also be necessary to provide for the maintenance and further development of BRIS, including for anti-money laundering related issues (beneficial ownership registers connection).

In detail, the challenges to be addressed by funding related to company law and corporate governance are the following:

- The regulatory framework in the area of company law and corporate governance has not reached sufficient maturity to allow the full exploitation of the potential of the Single Market: company law directives and regulations provide a legal framework which has an impact on investments, with more uncertainty in company law making the EU less attractive for investors, resulting in untapped potential. Also, in the absence of a reliable legal framework in company law, companies have difficulties to access markets in other MS which can deter them, in particular SMEs, from doing cross-border business. This leads to unnecessary costs for companies and hinders or prevents them from using the opportunities offered by the Single Market. Relevant stakeholders (employees, creditors, minority shareholders and other third parties) are faced with uncertainty as to their rights and protection in cross-border situations. At the same time, emerging issues (such as the Sustainable Development Agenda, increased attention to human rights issues in the context of companies' activities, continuous developments in the digital area) constantly create new challenges for adaptation of the regulatory framework. Company-law dedicated funding is needed to address these regulatory failures and challenges on the basis of solid data collection, for instance on existing Member States laws, market practices, economic assessment of existing and future solutions etc. This could be provided by external studies and consultative stakeholder activities for which dedicated funding is required.
- There is continuous need to evaluate and enforce existing legislation: there is an extensive *acquis* in the area of company law and corporate governance; also a Company law package with a number of targeted amendments to be presented by the Commission in the first quarter (tbc) of 2018 will bring new changes. Insufficient knowledge on the application of the existing *acquis* and on transposition measures in Member States puts at risk the appropriate pursuit of the objectives of the relevant legislation. Evaluation and enforcement in the area requires extensive data collection, where necessary supported by stakeholder consultation, to be financed by company-law dedicated funding.
- Relevant stakeholders are not sufficiently informed about new legislation or accompanying non-legislative measures (such as guidelines) or on new and still developing digital tools (e.g. BRIS). Also, as cross-border activity of companies is continuously developing, the current degree of exchange of information between national authorities is insufficient, including on IT solutions and best practices, possibly with a view to developing common approaches at EU level. Also, it could be relevant to further develop cross-border, interoperable, digital e-government solutions in the company law area. Therefore, company-law dedicated funding needs to be used to inform, advise and assist relevant stakeholders (including through communication measures) and to promote the necessary information exchange between national authorities and where appropriate cross-border digital solutions.

- The Commission has an obligation to deliver the following reports:
  - report on the application of Directive 2012/17 (business registers interconnection/BRIS): by June 2022, could be advanced in order to accelerate further development;
  - reports on the application of the amended Shareholders Rights Directive: by June 2022 and by June 2023;
  - evaluation reports relating to the different proposals forming part of the Company Law Package: 4 years after the end of the transposition deadline, i.e. earliest second half of 2025;
  - report on the application of the proposal for a directive on investment firms supervision: 3 years after the end of the transposition deadline, i.e. approximately mid-2023.

### **Anti-money laundering and counter terrorism financing**

In the area of anti-money laundering and terrorism financing there are significant and evolving challenges which need to be addressed at EU level. The recent terrorist attacks and recurring financial scandals call for stronger action in this area. To address the cross-border phenomena, the EU Anti-money laundering/Counter terrorism financing framework has defined common rules, however, despite substantial and steady progress in this area, more effort and additional measures to close any potential gaps are still needed to effectively combat money laundering and terrorist financing.

Based on Directive 2015/849/EU (4th Anti-money Laundering Directive) and its recent amendments (to be formally adopted and published in spring 2018), the Commission has a number of obligations in the anti-money laundering policy field stemming directly from EU legislation in the AML field. To comply with these obligations, it will be necessary to deliver a number of studies, to organise meetings, workshops and conferences that would need to be financed by the Commission. As guardian of the Treaties, the Commission also has the obligation to monitor the transposition and implementation of EU legislation. Also to this end, data collection is necessary.

In detail, the challenges to be addressed by funding related to **anti-money laundering and counter terrorism financing policies** are the following:

- Anti-Money Laundering (AML) policy has recently received an increased attention by the Commission and EU institutions and has become a top political priority. In particular, the Panama committee of the European Parliament was inquiring, among others, about the Commission work in ensuring the correct and timely transposition, application and enforcement of the 4<sup>th</sup> Anti-Money Laundering Directive and its amendments by EU Member States. In this respect, the Commission will have a number of new obligations to report (also specifically on its own actions to verify that Member States take action in compliance with this Directive and to assess emerging problems or new developments in the Member States). Therefore, it is of a very high political importance that the Commission provides a continuous quality detailed check of the Member States' laws transposing EU legislation as well as their correct application and enforcement in practical terms.
- The Commission obligations stemming directly from the 4<sup>th</sup> Anti-Money Laundering Directive (2015/849) and its amendments:

- to adopt an implementing act on technical specifications and procedures necessary to provide for the **interconnection of Member States' central beneficial ownership registers**. The Commission is obliged under amendments to Directive 2015/849/EU to provide for the beneficial ownership registers interconnection (via BRIS). Funding of BRIS including the BO registers interconnection is currently ensured under the Connecting Europe Facility (CEF). To the extent that funding cannot be ensured under the successor programme to CEF, it would also be necessary to provide for the development of BO interconnection via BRIS and its maintenance.
- This is a particularly important obligation stemming from the amendments to the Directive 2015/849 that must be flagged from the financial perspective concerns the Commission's obligation to provide for the interconnection of Member States' central registers of beneficial ownership. This interconnection will be carried out through BRIS (Business Register Interconnection System). According to our information it should be covered by the CER2 programme
- to adopt an implementation Commission decisions on the list of high risk third countries for the purposes of Article 9 of the Directive. In this framework, the Commission has committed to deliver its own methodology with the aim to develop its self-standing list of high risk third countries in line with Article 9 of Directive 2015/849.
- The Commission has an obligation to deliver a number of reports stemming directly from the anti-money laundering Directive.
  - 1) To summarise and explain the **statistics** referred to in Article 44 (annual report)
  - 2) to adopt a **supranational assessment report on risks of money laundering and terrorist financing** (report every 2 years)
  - 3) **to adopt a Report on the implementation of this Directive** (2 years after the date of transposition and every three years thereafter):

In this Report the Commission must report on certain specific subjects that will require additional expertise:

- Account of specific measures adopted and mechanisms set up at Union and Member State level to prevent and address **emerging and new developments presenting a threat** to the Union financial system
- **Follow-up actions undertaken at Union and Member State level on the basis of concerns brought to their attention**, including complaints relating to national laws hampering the supervisory and investigative powers of competent authorities and self-regulatory bodies
- Account of the **availability of relevant information for the competent authorities and FIUs** of the MS for the prevention of the use of financial system for the purposes of ML and TF
- Account of the **international cooperation and information exchange between competent authorities and FIUs**

- Account of necessary Commission actions to **verify that MS take action in compliance with this Directive and to assess emerging problems or new developments in the MS**
- Analysis of the feasibility of specific measures and mechanisms at Union and MS level on the possibilities to collect and access **BO information of corporate and other legal entities incorporated outside the Union**
- Analysis of the **proportionality of the measures referred to in Article 20(1)(b) (PEPs)**
- Evaluation of how **fundamental rights** and principles recognised by the Charter have been respected

**The Report** could include where appropriate **proposals with respect to:**

- **Virtual currencies:** empowerment to set-up and maintain a central database registering users' identities and wallet addresses accessible to FIUs and self-declaration forms for the use of virtual currency users
- Improve **cooperation between AROs of the MS**
- **A risk based application of the measures in Article 20(1)(b) (PEPs)**

4) to adopt a Report by June 2019 to assess the **framework for FIUs cooperation with third countries** and obstacles and opportunities to **enhance cooperation between FIUs in the Union** including the possibility of establishing coordination and support mechanism

5) To adopt a Report by 26 June 2020 to assess whether **all trusts and legal arrangements which have a structure or functions similar to trusts governed under the law of MS** were duly identified and made subject to the obligations as set out in the Directive.

6) To assess the conditions and technical specifications and procedures for ensuring secure and efficient **interconnection of central automated mechanisms (bank account registers)**.

7) To adopt a report by 31 Dec 2020 to assess the necessity and proportionality of harmonising the information included in the registers and assessing the need for the interconnection of the **land registers**.

8) To adopt a report (no date indicated) on the need and proportionality of **lowering the percentage for the identification of BO** of legal entities in light of any recommendation issued in this sense by international organisations and standards setters with competence in the field of preventing ML and TF as a result of a new assessment, and present a legislative proposal if appropriate.

- Commission complies with its obligation to contribute to the Financial Action Task Force (FATF) budget for its membership in FATF:

The fight against money laundering has been a top political priority of the European Union for a number of years, based on the need to protect the financial system from misuse. The European Commission is a Member of FATF and as such has an obligation to contribute to its annual budget. The Company law prerogative budget line has been used for the financing of the FATF contribution on annual basis. FATF, an inter-governmental body established by the G7 in 1989 and based in the OECD premises, is the foremost international body devoted to combating of money laundering and – since the events of 11 September 2001 – the financing of terrorism.

- Training of obliged entities on anti-money laundering rules (Directive 2015/849 - 4<sup>th</sup> AMLD and its amendments)

The 4<sup>th</sup> AMLD with transposition deadline on June 2017, imposes many additional and complex obligations on “obliged entities” (professionals applying the anti-money laundering rules in practice such as banks, real estate agents, lawyers). It is essential to provide targeted courses to such obliged entities.

Recently, delivering training for legal professionals (notaries and lawyers) that are covered by the 4<sup>th</sup> AMLD has been envisaged. The Report on the supranational risk assessment on money laundering and terrorist financing published by the Commission in June 2017, has shown that the knowledge and also the practical application of the rules of the Directive by legal professionals is rather limited. At the same time this issue received European Parliament's attention.

For this reason, training of legal professionals on AML rules at EU level has been envisaged to proactively help practitioners to apply correctly the AML rules and improve the current situation.

Given the fact that the list of obliged entities subject to the 4th AML Directive covers also other professionals whose training is also essential, it would be beneficial to extend the training programme in the future (after 2020) also to other obliged entities.

Challenges Programme/line	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
Programme 1	√ / N/A + few words of explanation	√ / N/A + few words of explanation	√ / N/A + few words of explanation	√ / N/A + few words of explanation
Company law prerogative		√  As regards company law, the current degree of exchange of information between national authorities is insufficient, including on IT solutions and best practices  Ensure that Member States competent authorities in anti-money laundering field cooperate between each other to ensure cross-border cases of money laundering and terrorist	√  Technological evolution and emergence of new policy challenges which may lead to fragmentation and legal uncertainty  Lack of/difficulty to collect high quality data and evidence  Costs and burden for businesses due to legal uncertainty or fragmentation; uncertainty for stakeholders in the exercise of their rights	



		financing are detected.	<p>New challenges in the anti-money laundering and counter terrorism financing field emerge, criminals detect gaps in the AML/CTF legal framework and/or in its enforcement.</p> <p>Ensure that the EU rules on anti-money laundering and terrorist financing are up-to-date.</p> <p>Ensure that authorities competent in anti-money laundering field can deliver a high level of compliance by obliged entities of the rules of anti-money laundering legislation</p> <p>Ensure that the EU financial system is protected through strengthened implementation of EU anti-money laundering legal framework</p>	
Business registers interconnection including Beneficial ownership registers interconnection		<p>√</p> <p>Develop and maintain tools and platforms required by EU law (e.g. maintain interconnection of the business interconnection as required by Directive 2017/1132 and develop interconnection of MS beneficial ownership registers under Directive 2015/849 – 4th AMLD including the most recent amendments – 5th AMLD)</p>		
√ -relevant to the objective, N/A not relevant				

## 2.2. Objectives of the programmes of the next MFF

The specific objectives of this prerogative line are the following as regards the two policy areas covered:

- **Company Law:** support the development of the EU regulatory framework in the area of company law and corporate governance with a view to making business more efficient and competitive while providing protection for stakeholders affected by company operations; ensure appropriate evaluation and enforcement of the relevant acquis; inform and assist stakeholders and promote information exchange in the area.
- **Anti-money Laundering and counter terrorism financing (AML/CTF):** to ensure the correct and full implementation and application of EU legal framework for anti-money laundering and countering terrorism financing (AML/CFT) by the

EU Member States, to develop future AML/CFT policies to address new challenges in the AML/CTF field.

Challenges Programme/line	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
Company law prerogative		Promote information exchange between national authorities, including on IT solutions and best practices, in the area of company law Ensure efficient cooperation between Member States authorities competent in the field of anti-money laundering to detect cases of money laundering and terrorist financing.	Gather up-to-date information (and provide solutions when gaps in regulations are identified/evaluate existing legislation), including by developing state-of-the art tools  Facilitate dialogue with civil society and other stakeholders (feedback gathering)  Facilitate introduction of new technologies  Ensure the development, implementation and monitoring of high-quality and effective Single Market rule making and standard setting (in the company law and anti-money laundering and counter terrorism financing field)  Ensure high-quality and effective enforcement actions	
Business registers interconnection including beneficial ownership registers interconnection		Develop and maintain tools and platforms required by EU law (e.g. maintain interconnection of the business interconnection as required by Directive 2017/1132 and develop interconnection of MS beneficial ownership registers under Directive 2015/849 – 4th AMLD including the most recent amendments – 5thAMLD).		

### 3. PROGRAMME STRUCTURE AND PRIORITIES

This budget line being a prerogative line – i.e. a line to be used by the Commission at its own prerogative in view of new challenges and needs as part of policy strategy and coordination –, there is no relevance to define in advance a particular structure and it would be impossible to establish priorities at the start of the Multi-Annual Financial Framework. The key consideration here is to define the critical mass of funding needed to allow effective policy strategy and coordination by the Commission.

Over the 2014-2020 period, funding amounted in principle to around 1 m/yr. Due to increasing needs in particular in the anti-money laundering area and constant needs in company law, the budget had been increased to 1,7 Mio in 2018. Significant increase would be necessary (expected around 2-3 €/m/yr) in a situation where the interconnection of registers required to be administered by the Commission according to the legislation in the field of company and anti-money laundering law would not be financed under the Digital Europe programme). In any event, some increase will be necessary – as already shown by the increase for 2018 – as there are new challenges in the field emerging and new obligations on the Commission imposed by EU legislation. Certainly, any reduction would have non-negligible consequences as it would prevent carrying out several much needed studies or other activities.

#### 4. DELIVERY MECHANISMS OF THE INTENDED FUNDING

The budget of this prerogative line is mainly used to support policy and legislative developments, monitoring and follow-up and to ensure an efficient implementation of the Commission's right to initiative and efficient governance of the EU legislative process. This includes procurements for impact assessment, evaluation, market studies, conformity checks, experts groups, etc. Therefore, it is appropriate to continue to implement this budget within DG JUST.

#### 5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?

For a prerogative line, it is impossible to determine in advance the use of the allocated funds and thereby to define specific indicators as to the outputs, results or impacts. It is therefore proposed to monitor and evaluate performance on a financial basis, as is currently the case with the existing budget line: Commission services will focus on timely budget execution.

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
Company Law: support the development of the EU regulatory framework in the area of company law and corporate governance with a view to making business more efficient and competitive while providing protection for stakeholders affected by company operations; ensure appropriate evaluation and enforcement of the relevant acquis; inform and assist stakeholders and promote information exchange in the area.	Timely budget execution	Execution of more than 95% of budget by year-end	Use of budget available	ABAC (Commission financial system)	Annual	>95%	>95%

<p>Anti-money Laundering and counter terrorism financing (AML/CTF): to ensure the correct and full implementation and application of EU legal framework for anti-money laundering and countering terrorism financing (AML/CFT) by the EU Member States, to develop future AML/CFT policies to address new challenges in the AML/CTF field.</p>							
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## **Annex 11: Programme specific annex on *Consumer programme and New Deal for consumers***

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1. Scope and context**

Retail markets, fuelled by households' consumption, generate more than 56% of the EU GDP and therefore represent the biggest share of the value added generated in the Single Market. In the EU, retail markets are regulated by an extensive acquis of harmonised consumer rights and product safety laws, including laws to ensure consumer redress and efficient administrative cooperation in the relevant harmonised fields of consumer rights and product safety. In addition, Article 169 TFEU provides that the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.

The Consumer Programme 2014-2020 promotes in particular the development and enforcement of consumer rights in the EU and supports measures to inform and empower consumers. It builds on and consolidates the achievements of the 2007-2013 Consumer Programme.

It funds actions under the following four objectives:

- Safety: to consolidate and enhance product safety through effective market surveillance throughout the Union.
- Consumer information and education, and support to consumer organisations: to improve consumers' education, information and awareness of their rights, to develop the evidence base for consumer policy and to provide support to consumer organisations, including taking into account the specific needs of vulnerable consumers.
- Rights and redress: to develop and reinforce consumer rights in particular through smart regulatory action and improving access to simple, efficient, expedient and low-cost redress including alternative dispute resolution.
- Enforcement: to support enforcement of consumer rights by strengthening cooperation between national enforcement bodies and by supporting consumers with advice.

Among the Consumer Programme's key achievements, the following can be highlighted:

- Consumer product safety: effective monitoring of EU markets and enforcement of EU product safety law via the EU rapid alert system for dangerous consumer products (over 20.000 alerts on dangerous products since 2004), strengthening of capacities of national enforcers through co-funding of exchange of officials and of coordinated enforcement actions;

- Consumer information and education: Strengthening of capacities of national consumer organisations via the umbrella organisation BEUC, consumer education with the creation of the Consumer Champion and Consumer Classroom projects and awareness-raising actions on consumer issues (e.g. energy, consumer rights with consumer credits or online dispute resolution);
- Development of a solid evidence basis for policy making and enforcement at EU and national level through a consistent monitoring of how the single market is performing for consumers through the Consumer Scoreboards and a series of in-depth market studies to investigate specific problems in consumer markets and specific areas (e.g. consumer vulnerability, e-commerce, online marketing, environmental claims, comparison tools) and behavioural studies to test policy options in terms of their impact on consumer behaviour. These studies also provided key evidence to ascertain the demand side of key strategies and policies of the Commission (e.g.: DSM, Energy Union, Internal Market, retail financial markets);
- Enforcement and redress: EU wide screenings of websites (more than 5000 websites have been reviewed thanks to coordinated "sweeps") to identify and follow-up on infringements of EU consumer laws. Breaches of consumer rights made by large traders with EU level operations were addressed in the area of on-line games, car rental, and social media. About 100 000 consumers per year have been receiving concrete assistance by the ECC-Net to resolve their disputes with traders established in another Member State. The Commission set up in 2016 the ODR platform to provide consumers and business an easier access to alternative-dispute-resolution procedures when shopping online.
- Development of IT tools (in some cases based on legal obligations stemming from the EU consumer laws) to facilitate the swift and secure exchange of information and the cooperation between national authorities (e.g. EU's Rapid Alert System for non-food dangerous products and the CPC-System for enforcers of consumer laws in MS).

The legal and political commitments which underpin the existing consumer programme are still all fully valid (see sub-annex 3 with the relevant legal obligations). Furthermore, our evaluation of the actions funded under this programmes shows they are still highly relevant and efficient.

### **Recent developments: the New Deal for consumers**

In May 2017, the Commission finalised a thorough evaluation of the EU consumer and marketing law which concluded on the need to better enforce rules and support redress when consumers have been harmed by breaches to consumer laws. This need is underpinned by recent large-scale issues for consumers created by problems such as the "Dieselgate", dual quality standards of foodstuff, or massive flight cancellations.

As a consequence, President Juncker stressed in his 2017 State of the Union speech that "in a Union of equals, there can be no second class consumers" and that he was "shocked when consumers are knowingly and deliberately misled". The Commission

therefore announced in its work programme for 2018 a 'New Deal for Consumers'. This project is proposing an overhaul of consumer laws and redress means and new policy activities in order to take into account the impact of the further digitalisation of consumer markets on consumer protection.

This new strand of action will require specific financial support to ensure that the proposed package of measure deliver on the ground. In particular to ensure:

- equal treatment of consumers across the Single Market in relation to double quality standards;
- stronger enforcement capacities of Member States
- EU level market intelligence to implement the new Consumer Protection Cooperation Regulation adopted end 2017;
- enhanced product safety especially to take into account new technological developments such as Internet of Things, robotics and artificial intelligence;
- strengthening of consumer protection at international level in order to address the challenges of the global economy and their impacts on the economic interests and safety of EU consumers;
- support to qualified entities for the revision of the Injunction Directive which will be one of the legal instrument proposed in the New Deal package.

## **1.2. Lessons learned from previous programmes**

The current evaluation covers two separate evaluations that are carried out simultaneously, whilst respecting the different scopes and nature of the evaluation.

The purpose of the Consumer Programme 2007-2013 evaluation is to assess the main outcomes and results achieved and to identify the main problems and solutions with regard to its implementation, including against recommendations from the mid-term evaluation of the same programme. Actions covered by this programme are also being assessed for their sustainability.

The purpose of the mid-term evaluation of the Consumer Programme 2014-2020 is to review the achievement of the objectives of all the measures (at the level of outputs, results and impacts, the latter to the extent possible), the state of play regarding the implementation of the eligible actions set out in Article 4 and the specific actions referred to in Annex I of the Regulation, the allocation of funds to the beneficiaries, the efficiency of the use of resources and the programme's European added value, taking into consideration developments in the area of consumer protection and other consumer-relevant EU policies, with a view to a decision on the renewal, modification or suspension of the actions.

The evaluation equally addresses the scope for simplification, the programme's internal and external coherence including possible synergies/complementarities with other EU programmes.

The midterm evaluation of the current Consumer Programme is on-going and the first results show a general satisfaction of the stakeholders in terms of relevance and effectiveness of the activities. The European Consumer Centres, E-enforcement academy (training programme for enforcement agencies), and the RAPEX system, scored highly, as well as the support to BEUC and for all the networking and stakeholders events. The reasons and influencing factors for "lower scores" relate mostly to the lack of flexibility of the programme to address new market challenges driven by fast and often unpredictable societal and technological changes. In addition, there are specific limitations in the Member States for an optimal uptake (e.g. Limited staff/financial resources/skills of NGOs or authorities). Finally the production of evidence is widely valued but the timeframe is too slow.

Overall the objectives and priorities of the Consumer Programme are assessed as being still fully relevant and should be continued. Additional priorities could be given to sustainable consumption, a uniform and high level of consumer protection throughout the EU, support to consumer organisations at the Member State level (e.g. jointly with the Member States in their role as consumer watchdogs).

To achieve coherence at the capacity of consumer organisations, there seems to be limited overlaps with other programmes, but quite a significant potential for increasing synergies with activities in other areas. There seems to be significant room for improvement regarding administrative burdens related to the programme delivery with a huge demand for simplification as regards grants for joint actions and exchange of officials.

Regarding programme activities administrated/implemented by Chafea, results so far point to efficiency, management and high staff turnover issues linked to a lack of critical size.

Suggestions for changes to the programme include the need for more flexibility (i.e. a much less prescriptive programme), better planning process with however the ability to react fast to new policy demands or market developments and better possibilities for developing linkages to third countries (especially in the area of enforcement).

These lessons are also very relevant for the new funding needs under the New Deal for Consumers policy line. Indeed, most stakeholders and types of actions will be the same. However, the need to support centrally certain types of activities will be reinforced: e.g. the development of relevant market information for enforcement purposes, the development of adequate testing facilities for connected objects. There will be also a need to provide efficient and speedy direct (and sometimes small scale) support to



enforcement capacities in the Member States both for competent authorities and qualified entities in the sense of the revised injunction directive.

## **2. THE OBJECTIVES**

### **2.1. Challenges for the Consumer and New Deal for consumers programme of the next MFF**

In the next MFF, the three first main challenges identified for the Internal Market Programme are relevant for the continuation of the consumer programme and for the new funding needs under the New Deal for consumers. The fourth challenge regarding health is also relevant in so far as dangerous products may seriously and physically harm people. However, in the present state of management of dangerous products in the EU, it is not considered material in terms of public health threat.

The specific problems are the following:

- Consistently high level of non-compliance to key consumer rights, insufficient redress obtained by consumers, regular occurrence of massive issues harming consumers across the Internal Market.
- Shortcomings of the existing regulatory framework and enforcement tools to address new safety and economic risks linked to the globalisation of the production chain, direct internet sales (including from outside the EU) and the continuous appearance of innovations in consumer products and services enabled by the rapid digitalisation of all sectors of the economy such as connected products, artificial intelligence, robotics, new online business models, etc.;
- Insufficient capacities and knowledge of consumers and other relevant active actors in representing or protecting consumers, such as consumer organisations and national competent authorities (national, regional and local level) to follow the rapid development and complexification of retail markets, to act to counterbalance market asymmetries and to advocate for consumers interests;
- Limited capacities of consumers and SMEs to meet the challenges stemming from the transition to a green, circular and low-carbon economy and thus to efficiently contribute to this transition on retail markets
- Increasing share of the population at risk of being excluded from more complex and digitalised markets and falling in vulnerability patterns.

These problems are expected to become greater over time as consumer transactions intensify due to globalisation and digitalisation.

The drivers are the following:

- Technological developments, globalisation and digitalisation lead to new sophisticated, complex products and services being offered very easily and rapidly to a large number of consumers across borders.
- Increase of market asymmetries due to a risk of higher concentration of market power of large internet platforms and multinational companies (e.g. in the car industry, energy, telecom, ...)
- Budgetary constraints are increasing stretching resources of national authorities and weakening existing models to strengthen consumer organisations and empower consumers
- Demographic developments such as the increasing ageing of population and growing social inequalities but also new patterns of consumption in particular by the youngest generation (partly due to more work –life balance).
- Environment challenges make natural resources more scarce

The consequences are the following:

- Lack of confidence of consumers in the internal Market, sub-optimal competition conditions.
- The emergence of new technologies (e.g. 3D printing, Internet of Things, advanced robotics), new materials (e.g. bio- or nano-based), new processes (e.g. increasing online sales, data driven production, artificial intelligence), often combined with cyber-criminality (e.g. hacking of connected devices and services) create new challenges for policy makers, enforcers and market surveillance authorities and weaken the effectiveness of their enforcement actions - widespread infringement of consumer rights can then spread rapidly and harm millions of consumers while obtaining redress for consumers becomes increasingly difficult.
- Technological developments and digitalisation whilst being powerful tools to stimulate the economy and offer more choice for the consumers, require strong, empowered consumers able to face new challenges. For instance in the area of financial services block-chain technologies, digitalisation of the banking system (fintech) and new funding models (crowd-funding) bring new opportunities but also risks. As not all consumers are able to follow (due to their age and lack of digital skills), the share of the population becoming vulnerable risk is increasing as well as the consequential social divide, financial exclusion and over-indebtedness;
- Rising consumption worldwide increasingly threatens the environment as it competes for scarcer resources. Without engaging consumers into more sustainable consumption patterns, the EU will not be able to meet its goals on a green, circular and low-carbon economy. The choices made by millions of consumers can indeed support or hamper these developments and incur in cost savings for both individuals and the society as a whole

*Summary problem tree for consumer related activities, regrouped under the IMP main challenges*

	<b>Empowerment of citizens, consumers and businesses</b>	<b>Administrative cooperation and integration among Member States</b>	<b>Rule-making, standard setting and enforcement at EU level</b>
<b>• Drivers</b>	<ul style="list-style-type: none"> <li>• Growing number of products/ services being offered rapidly to consumers across borders due to technology.</li> <li>• Increase of consumer markets asymmetries due to the development of new marketing models (digital only, multiplication of intermediaries) and new products (IOT, robotics, AI).</li> <li>• Change in consumption patterns linked to demography (ageing population, change in rural/city repartition)</li> <li>• Increase share of the population at risk of vulnerability (due to technology and educational gaps)</li> <li>• Increased need for sustainable consumption behaviour (due to increased environmental deterioration)</li> </ul>	<ul style="list-style-type: none"> <li>• Member States are the prime authorities responsible for the application and enforcement of EU rules, but can have limited knowledge, capacity and incentives to apply EU rules at national level or suffer from budgetary constraints</li> <li>• Globalisation of markets create global challenges for enforcers and increase the risk of fragmented regulatory response</li> <li>• Increased need for cross-border management of dangerous/fraudulent products and services</li> <li>• Complex tools/technology evolution</li> </ul>	<ul style="list-style-type: none"> <li>• Limited civil society/ consumer engagement</li> <li>• Lack of/difficulty to collect high quality data and evidence</li> </ul>
<b>• Problems</b>	<ul style="list-style-type: none"> <li>• Limited and complex information to the various stakeholders involved in retail markets and especially consumers and their representatives</li> <li>• Limited e-procedures to support problem solving for consumers in cross border situations</li> <li>• Market asymmetries insufficiently addressed</li> <li>• Insufficient representation of consumer interest at the EU level</li> <li>• Insufficient incentive for sustainable consumption</li> <li>• Increasing risk of consumer vulnerabilities and inadequacy of consumer assistance schemes</li> </ul>	<ul style="list-style-type: none"> <li>• Limited cooperation/exchange of best practises between authorities</li> <li>• Member States and Commission IT tools not interoperable and not digitised</li> <li>• EU rules are not equally or sufficiently enforced or applied across the EU by Member States authorities</li> <li>• National rules may hinder internal market principles</li> <li>• Not up-to-date competence of authorities.</li> </ul>	<ul style="list-style-type: none"> <li>• EU rules and standards could be not up to date or not future proofed (evolving context)</li> <li>• EU decisions not underpinned with state of the art tools and evidence</li> <li>• Costs and burden for businesses due to legal uncertainty or fragmentation; uncertainty for stakeholders in the exercise of their rights</li> <li>• Lack of relevant and up to date information on business practices non-compliant to EU laws that concerns several or all the Member States at the same time</li> </ul>

<ul style="list-style-type: none"> <li>• Consequences</li> </ul>	<ul style="list-style-type: none"> <li>• Less attractive cross-border business, leading to limited competition and consumer choice, as well as higher prices</li> <li>• Consumers/businesses not using their rights to the full extent</li> <li>• Increase in the share of the population at risk of vulnerability</li> </ul>	<ul style="list-style-type: none"> <li>• Each Member State develops unique solutions instead of building on best practice of others</li> <li>• EU solutions differ from global solutions, imposing cost on global exporters or insufficiently safeguarding the Single market</li> <li>• Dangerous/fraudulent products and services can be sold in all MS</li> <li>• Divergent enforcement, serious distortions of competition, compliance problems and infringements, high costs to businesses and consumers, unequal level of protection of consumers</li> </ul>	<ul style="list-style-type: none"> <li>• Imprecise, not fit for purpose or easy to circumvent rules, e.g. in the area of dual quality of products</li> <li>• New markets and/or business models remain unregulated causing detriments to consumers.</li> <li>• Views of minority stakeholders not sufficiently reflected in the decision process</li> <li>• Difficult and costly investigations of illegal practices especially cross border</li> <li>• Difficulty to implement coordinated enforcement measures on problematic practices affecting several or all the MS at the same time</li> </ul>
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## **2.2. Assessment of impacts of new funds attributed to support the New Deal for Consumers**

The New Deal package follows a Fitness Check of EU consumer law, an evaluation of Directive 2011/83/EU on Consumer Rights, both published in May 2017, and a Recommendation on Collective Redress, published in January 2018. Results show that, while the substantive rules are overall fit for purpose, their effectiveness is hindered by lack of awareness and by insufficient enforcement and consumer redress opportunities. In 2016, 20.1% of EU consumers reported consumer rights-related problems and 24% of traders thought compliance with consumer law was not good enough. This leads to consumer detriment and disruption of fair competition for traders.

The problems identified are widespread and have the same causes across the EU. In cases of widespread illegal practices affecting consumers in several Member States, enforcement must be based on a common and uniform substantive law framework. The Fitness Check Report found that the most important added value of EU consumer law is that the harmonised rules enable national enforcement authorities to address cross-border infringements harming consumers in several Member States more effectively. At the same time, the harmonised rules allow traders to trade cross-border more easily and at lower cost.

The focus was on problem drivers that have not yet been addressed otherwise. The proposed intervention aims to support in particular the New Deal objectives to ensure remedies for victims of unfair commercial practices, a strengthened mechanism for collective injunctions and redress and overall stronger enforcement of consumer laws and product safety laws, including via international cooperation.

The New Deal Package was subject to intensive and extensive public consultations and targeted consultations which showed that Consumer associations support all the proposed measures of the New Deal, except on information requirements and the right to withdraw. Business associations support the suggested interventions on transparency for online marketplaces, “free” digital services (partly), information requirements and the right to withdraw. There is some resistance from business associations to the proposed interventions on penalties, remedies, collective injunctions and redress and “free” digital services. Many Member State authorities support the proposed interventions on remedies, collective injunctions and redress, transparency for online marketplaces and “free” digital services. Some express concerns about interventions on penalties, remedies and the right to withdraw

The proposed intervention will make consumer redress easier and more effective, and thus reduce consumer detriment which will be beneficial particularly for vulnerable consumers. It will also have preventative effect through increased deterrence, which

will result in higher compliance rates among traders. The intervention will also support the implementation of the revised CPC Regulation and its effective functioning. By introducing improved redress opportunities and by filling gaps in current protection for digital transactions, consumer trust will be enhanced. Law-abiding traders will benefit from a more level playing field. Compliant traders, including SMEs, will have reduced costs because of better awareness on requirements, a simplified legal and enforcement framework. Positive impacts can also be expected for the environment, by ensuring greater deterrence for misleading green claims which will allow compliant traders to enjoy their competitive advantage resulting from the use of valid green claims and encourage more traders to invest in sustainability.

Improved compliance with EU consumer law will ensure that consumer rights become more tangible for the individual consumers and thus enhance citizens' and businesses' acceptance of the added value of EU rules and the Internal Market. The Intervention on collective injunctions and redress can contribute to better access to justice and are also likely to have positive impacts on vulnerable consumers and on the environment.

### **2.3. Specific Objectives of the consumer related parts in the IMP**

The general objective of the consumer related parts (hereafter the consumer pillar) in the IMP is to ensure a high level of consumer protection in the Internal Market and in particular full compliance to the consumer acquis by businesses; smooth functioning of the internal market, for the benefit of both consumers and traders; empowerment of consumers and their representatives; full redress opportunities for consumers who may have been harmed; effective enforcement by competent authorities; and reliable evidence on retail markets. These objectives support the overall EU strategy for smart, sustainable and inclusive growth, a Digital Single Market and the New Deal for Consumers proposed by the Commission on 11 April 2018.

The Consumer Pillar will do so by contributing to protecting the health, safety and the legal and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests, and supporting the integration of consumer interests into other policy areas. This pillar is not only about consumers' interest but also traders in order to ensure a fair level playing field in retail markets. The Programme shall complement, support and monitor the policies of Member States. In addition, the programme will strive to keep our market information, surveillance and enforcement cooperation tools abreast of constantly evolving markets because of the impacts on consumer goods and services and marketing strategies generated by digitalisation, connected objects, artificial intelligence, and direct trade from third countries. It will ensure that the EU consumer policy and legislative developments supports new societal needs such as promoting sustainable consumption, addressing consumer vulnerability in certain markets. It will address better the gaps in enforcement capacities among the Member States and will

enable EU level cooperation to address market issues of Union dimension (i.e. spreading across all national markets). It will allow national authorities and qualified entities to ensure the highest and most consistent level of compliance of businesses to consumer and product safety laws, and that consumers obtain the redress they deserve in case of problems.

The general objectives will be pursued through the following specific objectives:

	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level
Consumer Programme	<ul style="list-style-type: none"> <li>Ensuring consumers are aware of their rights and of consumer safety issues</li> <li>Strengthening consumer organisations' roles in consumer policy-making and advocacy at EU and national levels</li> <li>Reducing vulnerability of consumers also linked to negative consequences of market digitalisation</li> <li>Enabling assistance and redress systems for individual consumers including support to the ADR bodies, the ODR Platform, and the ECC-Net</li> </ul>	<ul style="list-style-type: none"> <li>Ensuring enforcement authorities competent in consumer and product safety laws can deliver a high level of compliance to the acquis</li> <li>Ensuring the availability of market intelligence tools and joint actions in the field of product safety including in relation to testing of dangerous products</li> </ul>	<ul style="list-style-type: none"> <li>Providing a high quality general information on consumer markets and conditions and behaviours and on safety issues</li> </ul>
New Deal for Consumers	<ul style="list-style-type: none"> <li>Ensuring qualified entities in the meaning of the Injunctions directive can deliver on their injunctive role</li> <li>Promoting sustainable consumption behaviours</li> </ul>	<ul style="list-style-type: none"> <li>Enabling effective and coordinated EU-level enforcement actions in the field of consumer law and product safety</li> <li>Enabling effective enforcement cooperation with third countries</li> </ul>	<ul style="list-style-type: none"> <li>Integrating and developing information on consumer markets with a view to develop evidence for enforcement actions at the EU level</li> <li>Generating evidence on market issues stemming from new technologies (IOT, IA, mobile e-commerce)</li> </ul>

## 2.4. Proposal simplification and synergies

Our ongoing evaluation shows that Member States want more efficient, streamlined, and flexible financing (e.g. through new delivery modes). In doing so, preference should be accorded to solutions providing for economies of scale.

There are potential synergies for market studies. This is notably the case of market studies and analysis of emerging/new business models, possibly also behavioural studies, where synergies could be achieved with DG COMP.

There are other areas such as training actions to enhance business respect for consumer rights and uptake of ADR/ODR or by better integrating market sources for the Single Market Information scoreboard which is managed by GROW and already provides for dedicated sections on the activities of the CPC and the ECC-NET networks or the "Your Europe" portal which is signposting ECCs and is regularly enriched with ECC studies and

advice. A common online publication hub dedicated to citizens could be envisaged with the conclusion of the new Digital Single Market Portal proposal. There are also general synergies to be found in a better integration of the IT tools ensuring communication among the various networks for example by using the same common off the shelves software and having a central team to provide support for the management of the relevant communities and the parametrisation of the instances.

There could also be synergies with other programmes, for example the product safety awareness actions for small businesses/SMEs could fit very well as an action under the II COSME programme. Another example, we are starting to explore with CNECT the link between cybersecurity and product safety, in particular to help SMEs to produce "safe by design" products. Making use of the JRC could also be a potential path for scientific support to product safety.

We should also develop synergies, for example, the ODR platform could be used as a hub for multiple consumer related issues. The same site could be modified in order to dispatch consumers in a more efficient manner (e.g. linking it to the ECC-Net for instance). A one-stop shop element regarding redress should be favoured.

Given our different target groups, synergies could rather be achieved in the development stage than in the execution stage (e.g. development of framework training capacity building activities, development of a common internal market branding for communication campaigns).

There is limited potential for synergies on content, which inherently differ from one DG to another. In particular, each DG should maintain a core budget to do all the activities linked to legislation and policy making (preparation, implementation and follow-up), such as for instance conformity checks, monitoring etc.

### 3. PROGRAMME STRUCTURE AND PRIORITIES

<i>objective</i>	<i>Type of action/name of action</i>
<b>Empowerment of citizens, consumers and businesses</b>	
Ensuring consumers are aware of their rights and of consumer safety issues	Awareness raising campaigns on consumer rights, and product safety Development of networks and new channels to relay the information, elaboration of testimonials. Capacity and synergies building between economic operators and consumers so that they endorse their respective responsibilities and roles and address cross-cutting problems
Strengthening consumer organisations' roles in consumer policy-making and advocacy at EU	Training and support to the operation of consumer organisations



and national levels	
Reducing vulnerability of consumers also linked to negative consequences of market digitalisation	Training of consumer organisations and other relevant bodies Development of market intelligence e.g. on the sharing economy, behavioural aspects in some sectors and/or in general
Enabling assistance and redress systems for individual consumers including in a cross border context	Support to the ADR bodies, the ODR Platform, and the ECC-Network
Ensuring qualified entities in the meaning of the Injunctions directive can deliver on their injunctive role	Support and training of qualified entities
Promoting sustainable consumption behaviours	Development of intelligence Awareness raising campaigns, training and support to relevant NGOs
<b>Administrative cooperation and integration among Member States</b>	
Ensuring enforcement authorities competent in consumer and product safety laws can deliver a high level of compliance to the acquis	Training and support to Member states competent authorities
Ensuring the availability of market intelligence tools and joint actions in the field of product safety including in relation to testing of dangerous products	co-ordinated market surveillance activities, a rapid and effective exchange of information through RAPEX, the system established by the GPSD; capacity-building and the exchange of good practices between EU enforcement authorities; the development of common enforcement tools, joint testing of products
Enabling effective and coordinated EU-level enforcement actions in the field of consumer law and product safety	Support to networking, exchange of best practices, study visits, provision of IT tools, e-enforcement training academy
Enabling effective enforcement cooperation with third countries	Support to exchange of best practices and joint projects between EU authorities and authorities from 3 <sup>rd</sup> countries, including within the OECD. Joint trainings with MS to businesses from 3 <sup>rd</sup> countries
<b>Rule-making, standard setting and enforcement at EU institutions level</b>	
Providing a high quality general information on consumer markets and conditions and behaviours and on safety issues	The consumer scoreboards and specific market studies
Integrating and developing information on consumer markets with a view to develop evidence for enforcement actions at the EU level	The retail markets observatory
Generating evidence on market issues stemming from new technologies (IOT, IA, mobile e-commerce)	Specific market studies

#### 4. DELIVERY MECHANISMS OF THE INTENDED FUNDING

The intended funding needs to be flexible and combine various tools such as procurements, grants, logistic support to Member States. It is intended to use an executive agency, provided such an agency can reach a critical size to make it efficient and in a position to implement the vast majority of the programme from drafting the terms of reference or call for proposals, to evaluation of bids and proposals, to management and audits of the projects and their evaluation.

The governance system should be a committee meeting annually.

One of the characteristic of the consumer programme is the fairly small amounts involved per project, the limited absorption capacity of NGOs and public administration beneficiaries and their incapacity to manage complex accounting requirements. The mechanism should therefore be considerably flexible in order to allow choosing on a case by case basis whether to use procurements or grants. For grants these should be extremely simple, not bound by the use of a complex IT system (such as the one of RTD) and as far as possible they should be operation support with a limited number of conditions. A new model of funding of local NGOs and authorities based on direct management by the Member States may be explored.

#### 5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
<b>Consumer programme and New Deal for consumers</b>							
General performance indicator	Improvement in the Consumer Conditions Index	Composite indicator reflecting consumers and traders perception on the functioning of retail markets	Index 100= maximum theoretical score	Consumer Scoreboard (Commission)	Every two years	65 (2016)  (current target for 2020: 66)	Improvement of 3 points over the period
Strengthening consumer organisations' roles in consumer policy-making and advocacy at EU and national levels	% of consumers who trust consumer organisations to protect their rights as consumers	% of consumers who agree (strongly agree or agree) that they trust consumer organisations to protect their rights as consumers	%	Regular survey on consumer attitudes towards cross-border trade and consumer protection (Consumer Conditions Scoreboard)	Every two year	72% (2016)	75% at the end of the reference period
Enabling assistance and redress systems for individual consumers including in a cross border context	Number of visits to the websites of the ECCs.	Total number of unique visitors on ECCs websites	Nb	ECCs	yearly	4.3mio (2016)	+1% per year
Ensuring qualified entities in the meaning of the future Directive on representative actions (replacing the current Injunctions Directive) can deliver on their role to bring	Increased capacity of qualified entities	Number of qualified entities participating in cooperation and exchange of best practices mechanism	Nb	Commission	Every two years		At least one qualified entity per country at the end of the period

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
representative actions  [subject to adoption of the Directive on representative actions]							
Ensuring enforcement authorities competent in consumer and product safety laws can deliver a high level of compliance to the acquis	% of compliance rate in first level SWEEPS of the CPC network	% of websites checked by CPC authorities in a CPC sweep and found compliant to consumer law	%	Commission	yearly	N/A	Above 40% on average over the period
	% of RAPEX notifications entailing at least one follow-up action (by other Member States)	% of RAPEX notifications entailing at least one follow-up action (by other Member States)	%	Commission	yearly	46% in 2017	Increase of 30 % over the MFF period to 60 %
Ensuring the availability of market intelligence tools and joint actions in the field of product safety including in relation to testing of dangerous products	Number of joint actions performed	Number of joint actions performed	Nb	Commission	Every two year		At least 3 at the end of the period
Enabling effective and coordinated EU-level enforcement actions in the field of consumer law and product safety	Number of coordinated EU-level actions performed	Number of coordinated EU-level actions performed	Nb	Commission	Every two year		At least 3 at the end of the period
Providing a high quality general information on consumer markets and conditions and behaviours and on safety issues	Publication of a relevant set of indicators on retail markets	Number of EU level report on consumer markets or conditions published by the Commission	Nb	Commission	yearly	1 per year	1 per year
Ensuring consumers are aware of their rights and of consumer safety issues	% correct answers to 3 questions on consumer knowledge of relevant legislation	Average percentage of correct answers given by consumers on 3 questions related to the following topics: rights in case of the reception of unsolicited products, faulty product guarantee and distance purchase cooling-off period.	%	Regular survey on consumer attitudes towards cross-border trade and consumer protection (Consumer Conditions Scoreboard)	Every two years	49% (2016)	53% at the end of the reference period
Reducing vulnerability of consumers also linked to negative consequences of market digitalisation	% of consumers who feel vulnerable because of the complexity of offers, terms and conditions	% of consumers who have declared to feel vulnerable or disadvantaged (either "to a great extent" or "to some extent") when choosing and buying goods or services, because of the complexity of offers, terms and	%	Regular survey on consumer attitudes towards cross-border trade and consumer protection (Consumer Conditions	Every two years	21.3% (2016)	19% at the end of the reference period

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
		conditions		Scoreboard)			
Promoting sustainable consumption behaviours	% of consumers who are influenced by the environmental impact when choosing goods/services	% of consumers who declared that considering everything they have bought during the last two weeks, the environmental impact of any goods or services also influence their choice (one of the following answers: "yes, for all or most of the goods/services bought", "yes, but only for some", "Yes, but only for one or two")	%	Regular survey on consumer attitudes towards cross-border trade and consumer protection (Consumer Conditions Scoreboard)	Every two year	49.8% (2016)	53% by the end of the reference period

## Sub-Annex 1: Stakeholder consultation

The focus has been on implementing a broad-scale interview process with key stakeholder organisations in all 28 Member States, Norway and Iceland, as well as with EU level stakeholder organisations. Questionnaires for these targeted interviews were approved by Commission services and the interviews themselves were held during December 2017 and February 2018.

In larger Member States where the number of relevant stakeholder organisations is greater, i.e. Bulgaria, Croatia, Czech Republic, France, Germany, Greece, Hungary, Italy, Poland, Spain, Sweden and the UK, interviews were held with:

- Ministry in charge of consumer policy and/or the consumer agency (where relevant);
- The national authority responsible for enforcement of consumer legislation that is part of the European enforcement network ('CPC Network');
- Other national authorities responsible for policy and enforcement of consumer legislation and other prioritised consumer relevant legislation (digital economy and society, energy/sustainable consumption);
- National representative of the Consumer Safety Network (CSN);
- RAPEX contact point;
- National consumer organisations;
- The European Consumer Centre/ODR contact point;
- Main national business association(s).

In the remaining Member States, i.e. Austria, Belgium, Cyprus, Denmark, Estonia, Finland, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia, Slovenia, Iceland and Norway interviews were held with:

- Ministry in charge of consumer policy or the consumer agency (where relevant);

- The national authority responsible for enforcement of consumer legislation that is part of the European enforcement network ('CPC Network');
- National representative of the Consumer Safety Network (CSN) or RAPEX contact point;
- Main national consumer organisation;
- The European Consumer Centre/ODR contact point.

The consultation process also took place in meetings with relevant EU networks, such as ECCG, FSUG, CPN and CPC where the effectiveness of current actions and future needs were discussed. These meetings took place during January and February 2018.

Furthermore, there was also the Commission's online public consultation conducted as part of a larger exercise combining several consultations.

## Sub-Annex 2: Evaluation results

The midterm evaluation of the current Consumer Programme is on-going and the first results show a general satisfaction of the stakeholders in terms of relevance and effectiveness of the activities. According to the interim results, highest scores in terms of effectiveness were provided regarding Exchange of enforcement officials, E-enforcement academy (training programme for enforcement agencies), and support to BEUC, the European Consumer Centres, the RAPEX system, and networking and stakeholders events in general. Where lower levels of achievements are reported, the reasons and influencing factors seem to relate mostly to new market challenges driven by fast and often unpredictable societal and technological changes. In addition, there are specific limitations in the Member States that affect an optimal uptake (e.g. limited staff/financial resources/skills of NGOs or authorities). Finally the production of evidence (studies, scoreboard etc.) is widely accepted as an effective instrument; however question marks remain regarding the timeline of studies compared to the needs of the policy process and the policy uptake of results.

Overall the objectives and priorities of the Consumer Programme are assessed as being still fully very relevant and should be continued. Additional priorities could be given to sustainable consumption, to activities that contribute to a uniform and high level of consumer protection throughout the EU, and to support to consumer organisations at the Member State level (e.g. jointly with the Member States in their role as consumer watchdogs).

In terms of coherence, there seems to be little overlaps with other programmes, but quite a significant potential for increasing synergies with activities in other areas. In terms of efficiency, there seems to be significant room for improvement regarding administrative burdens related to the programme delivery and scope for simplification as regards grants for joint actions and exchange of officials.

Regarding programme activities administrated/implemented by Chafea, there is no pattern that would indicate that activities managed by Chafea are more or less effective. However issues have been noted relating to efficiency of programme management, relating *inter alia* to delineation of responsibilities with DG JUST, the reportedly high staff turnover, and complex administrative procedures in some areas.

Suggestions for changes to the programme include the need for more flexibility (i.e. a less prescriptive programme), better planning process with however the ability to react fast to new policy demands or market developments and better possibilities for developing linkages to third countries (especially in the area of enforcement).

These lessons are also very relevant for the new funding needs under the New Deal for Consumers policy line. Indeed, most stakeholders and types of actions will be the same. However, the need to support centrally certain types of activities will be reinforced: e.g. the development of relevant market information for enforcement purposes, the development of adequate testing facilities for connected objects. There will be also a need to provide efficient and speedy direct (and sometimes small scale) support to

enforcement capacities in the Member States both for competent authorities and qualified entities in the sense of the revised injunction directive.

### **Sub-Annex 3: Legal commitments under the Consumer Programme 2014-2020**

**List of legal commitments under their respective legal basis:**

- **Directive 2013/11/EU (ADR):**
  - Development of a IT tool to assists consumers
    - (a) clarify the legal basis and availability and appropriateness of ADR for an issue they may have;
    - (b) select the appropriate ADR body for their issue;
    - (c) structure their complaint and
    - (d) directly communicate their complaint to the appropriate ADR body in circumstances where direct communication with a trader and/or the ODR platform has not worked
  - Training for ADR entities (through public procurement, i.e. a contractor that organises relevant training courses)
  - Support and facilitate the networking of national ADR entities and the exchange and dissemination of their best practices and experiences.
  - Take accompanying measures to raise awareness of ADR entities and their procedures and to promote ADR take-up by traders and consumers.
  - Action in support of capacity building through training available in various languages and exchange of best practices and expertise for staff members
- **Regulation 524/2013 (ODR):**
  - Develop the ODR platform (and be responsible for its operation, including all the translation functions necessary for the purpose of this Regulation, its maintenance, funding and data security.
  - Actions in support of facilitating access to alternative dispute resolution schemes, including through a Union-wide online system
  - Actions to support the preparation by the Commission of consumer ADR/ODR protection legislation and other regulatory initiatives, monitoring the transposition by Member States and the subsequent evaluation of its impact, and the promotion of co-regulatory and self-regulatory initiatives and monitoring the real impact of those initiatives on consumer markets
- **CPC Regulation 2006/2004 and implementation of revised CPC (Regulation 2017/2394)**
  - CPC IT tool
  - Sweeps questionnaires and data processing

- Support to exchange of officials and study visits other capacity building activities of authorities
- Market surveillance tools to develop evidence based Enforcement prioritisation
- **GPSD – Directive 2001/95/EC:**
  - "Promote and take part in the operation in a European network of the authorities of the Member States competent for product safety, in particular in the form of administrative cooperation"
    - Budget for running the Consumer Safety Network (CSN)
  - Facilitate Member States' "information exchange on risk assessment, dangerous products, test methods and results, recent scientific developments as well as other aspects relevant for control activities" .... "improved cooperation at Community level with regard to the tracing, withdrawal and recall of dangerous products"
    - Budget for horizontal co-ordinated product safety activities by national authorities
  - Facilitate "the establishment and execution of joint surveillance and testing projects"
    - Budget for product specific co-ordinated product safety activities by national authorities
  - Facilitate "the exchange of expertise and best practices and cooperation in training activities"
    - Budget for the Exchange of Officials
  - Consult a "Community" Scientific Committee on serious risks posed by certain products to the health and safety of consumers in several Member States
    - Budget to contribute to the operation of scientific committees
- **GPSD – Directive 2001/95/EC art. 12 and Regulation 765/2008 art. 22:**
  - Operate RAPEX
    - Budget for the maintenance and the further development and modernisation of the RAPEX IT galaxy (more budget will be needed than during previous years under the 2014-2020 programme because of the needed total revamp of RAPEX and the future addition of international exchange of information modules)
- **Retail Financial services Regulations including PAD and consumer credit: workshops with MS**
- **Main consumer acquis: case law database, awareness raising actions**
- **General treaty obligation to support consumer representation especially at the EU level with BEUC and ANEC.**
- **Co-financing of ECCS as part of their potential role to host contact points for the ODR Regulation, the Geoblocking new Regulation, the Service Directive, the package travel Directive.**
- **Implementation of EU consumer law Directives.** Besides the still ongoing transposition checks of the Consumer Rights Directive, the new challenge for the coming years will be



the transposition check of the new Directives 2015/2302 on package travel and linked travel arrangements (PTD) due in 2018.

- **Evaluation of existing legislation. Need to carry out evaluations of the EU Directives, in particular of the new PTD due in 2019 and 2021 as required by that Directive.**

## Annex 12: Programme specific annex on *Internal Market - Governance tools*

### 1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

#### 1.1. Scope and context

During the last 15 years the Commission has developed a number of Internal market governance services (*Your Europe* (YE) portal, *Your Europe Advice* (YEA), *SOLVIT*, *Internal Market Information* (IMI) system and the *Single Market Scoreboard* (SMS) aimed to ensure that the Single market works in practice for businesses, citizens and public authorities. These services, managed by the Single Market Service Centre help citizens and businesses reaping the benefits of the Single market and contribute to an EU serving better people "*needs and wishes to live, study, work, move and prosper freely across our continent and benefit from the rich European cultural heritage*", in line with the commitments of the Bratislava Declaration, adopted on 16 September 2017.

Since 2006 the **YE** on line portal brings down barriers to unlock opportunities, by explaining to both citizens and businesses EU rights and rules in jargon free language, including their national application. **YEA** offers citizens and businesses tailored information and advice on their rights in the Internal Market, free of charge and in all 24 EU languages, including re-direction to the authority or other body (local, national or European) best placed to solve their problem.

**SOLVIT** is a network between Member States' administrations set up in 2002 by the Commission and the Member States, aimed to deliver fast, effective and informal solutions to cross border problems citizens or businesses encounter when their EU rights in the Internal Market are denied by a public administration.

**IMI** is a multilingual online application offered as a service to Member States, allowing authorities to ask each other questions notify each other of developments and store information they need to share. The Commission is legally responsible for ensuring the security, availability, maintenance and development of its software and IT infrastructure. The system has been developed as a generic on-line application, which today provides an IT solution for administrative cooperation in 12 Internal Market policy areas.

The **SMS** provides an annual evaluation of the functioning of the Single market and Member States' performance, according to measurable indicators, for Single Market governance tools and in several policy areas.

All these services and tools help up-hold a **Deeper and fairer internal market** and to setting up a **Digital Single Market**, two of the 10 Juncker's Commission priorities for the period 2014-2019. By explaining the rights and administrative formalities, solving problems and enabling administrations to share information needed to apply EU laws correctly, they achieve a positive impact in the citizens' daily lives and the businesses' ability to start-up, scale-up and trade across borders, giving at the same time more visibility to EU's positive intervention.

In addition, the planned **single digital gateway** to be based on the Your Europe portal should ensure a centralised access for EU citizens and businesses to all the information necessary when using their rights to mobility in the EU. It should also ensure full access to online procedures in a non-discriminatory way (if a procedure is available for a national of a specific Member States, it should also be accessible to users from other Member States). It will impose on Member States an obligation to create full online access to the most important and most often used procedures. It includes a strong incentive to Member States to adopt ambitious cross-border and national e-government strategies, so EU citizens and business can benefit fully from the available technological developments. Relevant eGovernment actions under the European Structural and

Investment Funds should be designed in line with the single digital gateway requirements.

## **1.2. Lessons learned from previous programmes**

By explaining the rights and administrative formalities, solving problems and enabling administrations, the Internal market governance tools improve citizens' daily lives and businesses' ability to start up, scale up and trade across borders, and increasing the visibility of the Single Market. Continuously improving the functioning of the Single Market for citizens and businesses is essential, taking into account the steady increase in cross-border activity.

Within the Commission, the Your Europe portal has become one of the most visited EU portal in Q4 2017 and the third most consulted interinstitutional EU portal with 20 million visits over the year 2017 and more than 2 million visits a month in January 2018. Compared to the previous period (2007-2013) where Your Europe reached 14,6 million visits in the four years after its launch (2010), it is estimated that the number of visits would increase to more than 100 million for the period 2014-2020. These figures, prove its success in helping citizens and businesses to overcome obstacles in the Single Market. According to regular user surveys, it's seen as a best practice example with interactive content and all the performance targets in terms of language coverage, number of visits and user satisfaction have been constantly met year after year since its launch.

Still, a persistent lack of awareness about EU rights emerged from recent Eurobarometer research showing that only 6% of EU citizens feel that they are well informed about their rights as a citizen of the EU and only 36% feel that they are fairly well informed<sup>293</sup>. In the public consultation on the single digital gateway, 80% of businesses found complying with national requirements difficult and 60% of citizens who have tried to find which national requirements they should fulfil when moving to another Member State found this difficult or somewhat difficult to do<sup>294</sup>. The lack of EU knowledge also impacts negatively the turnout of citizens to the elections of the EP. According to Eurobarometer<sup>295</sup>, as much as 84% of the respondents thought that the turnout would have been higher if more information was provided on the impact of the EU on their daily lives.

SOLVIT provides a free, unique and efficient problem solving service in comparison to costly and lengthy legal proceedings at the national level and formal infringement proceedings at the EU level and providing greater benefits to the Single Market than the individual cases solved. The most recent SOLVIT assessment (SWD(2017)210 final), carried out to underpin actions identified to strengthen the network and accompanying the SOLVIT Action Plan adopted on 2 May 2017<sup>296</sup>, highlighted shortcomings requiring improvements, notably as regards the administrative capacity, staffing levels, expertise and positioning of SOLVIT centres within national administrations; meeting the quality criteria set out in the 2013 SOLVIT Recommendation; the lack of systematic and

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<sup>293</sup> Eurobarometer 430: European Union citizenship – March 2016.

<sup>294</sup> Commission staff working document synopsis report on the stakeholder consultation on the single digital gateway Accompanying the document Proposal for a regulation of the European Parliament and of the Council on establishing a single digital gateway to provide information, procedures, assistance and problem solving services and amending Regulation (EU) No 1024/2012 (SWD/2017/0212 final - 2017/086 (COD)).

<sup>295</sup> Flash Eurobarometer 431: Electoral Rights – March 2016.

<sup>296</sup> COM(2017)255 of 2 May 2017.

structured set-up for the handling, follow-up and reporting of problems detected in SOLVIT linked to breaches of EU law by the Member States; and the limited awareness of SOLVIT as a problem-solving tool, especially among start-ups, SMEs and other businesses. With regard to the latter, businesses have submitted over the period 2015-2017 only a small fraction of the total number of cases in SOLVIT, compared with those submitted by individuals as highlighted in the following table:

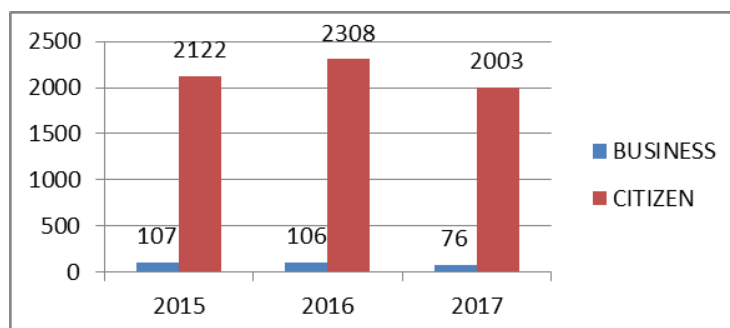


Table 1: Business vs citizens cases EU 28, source SOLVIT database

The latest YEA evaluation report (Invitation to Tender N° MARKT-B.TF1/7/2013) concluded, in 2014, that it meets the objective of providing a service that is fast, of high quality and offering advice that empowers its users and its cost is overall reasonable. More recent Commission services' internal assessment shows a slight decrease in the number of YEA enquiries.

The use of IMI has been steadily increasing over the years: In 2017 more than 33,500 exchanges were recorded in the system, representing a 25% of increase compared to the year before. Amongst other forms of cooperation more than 110,000 bilateral information exchanges have taken place since 2008. The system is used by more than 7,800 public authorities and 18,300 registered users. More than 85% of the users confirm that the system is easy to use and appreciate the Commission's continuous investment in improving the functionality of the system. IMI already replaces 12 IT systems with a capacity for replacing more. This multipurpose tool for administrative cooperation is characterized by a rational and cost efficient approach to IT development: if IMI is reused to support additional administrative cooperation procedures, there is no need for specific development, independent support and separate maintenance services. IMI can bring synergies and efficiencies, contributing to the IT rationalisation, thereby enhancing synergies and efficiencies and its added value at EU level for the good functioning of the Single market, provided that its recognition as the default corporate tool for administrative cooperation in the Internal Market is preserved and sufficient resources are allocated.

**Real life example of success story of synergies, with other IMP programmes:**

Examples of recent SOLVIT cases showing how it helped concrete businesses to benefit from swift proper enforcement of EU rules in customs and safety and health at work:

- A Hungarian company not obtaining correct invoices for tax free refunds within the EU from an Austrian company raised the issue without success with the Austrian financial authority. After SOLVIT intervention, the Austrian supervisor clarified conditions for full tax refund. Following this clarification, the concerned Austrian company changed its practice of issuing invoices and further streamlined business practices by the creation of a new and less restrictive refund form.
- After having been fined in the Netherlands in July 2017 because wrong placement of recording equipment in the vehicle, a Estonian lorry driver submitted his case to SOLVIT invoking incorrect

interpretation of the provisions under Regulation (EU) No 165/2014 governing conditions for inspections of tachographs: Since in this case, the tachograph had been verified in accordance with those rules, following SOLVIT intervention the Dutch authority agreed to withdraw the fine.

However, significant obstacles persist for both citizens and businesses interested in moving to, selling products or providing services in another EU country. Finding relevant, accurate and understandable information online as well as being able to access and carry out administrative procedures online is crucial for those willing to use the advantages of the Single Market, but often remains complicated, time-consuming and expensive, if at all possible as set out in the impact assessment on the single digital gateway<sup>297</sup>.

## 2. THE OBJECTIVES

### 2.1. Challenges for the programmes of the next MFF

The good functioning of the Single market is not a given and has not materialized yet in a number of areas. 25 years later, citizens and businesses are still confronted with administrative complexity, technical barriers or lack of enforcement on the ground. This becomes evident in the increasing number of cases submitted to the Single market assistance and problem-solving services, in particular Your Europe Advice and SOLVIT.

In line with the main objective of the Single Market Strategy<sup>298</sup> - improving opportunities to access markets across borders and bringing the Single Market's practical benefits to all citizens and businesses -, the existing governance tools (YE, YEA, SOLVIT, IMI and the SMS) aim to provide information and advice, assistance and problem-solving services, based on close connection between Member States' administrations, thereby helping citizens and businesses to reap the benefits of the Single market and ensuring that it works in practice for them on the ground.

Challenges Programme/line	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
Internal Market governance tools	<p>✓</p> <ul style="list-style-type: none"> <li>• Enable citizens/businesses to have easier access to more comprehensible information, procedures and assistance services</li> <li>• Improve problem-solving tools in cross-border situation</li> </ul>	<p>✓</p> <ul style="list-style-type: none"> <li>• IMI to become the corporate tool to manage cross-border policy challenges.</li> <li>• The coordination group of the Member States for the single digital gateway will increase cooperation and integration.</li> </ul>	<p>✓</p> <ul style="list-style-type: none"> <li>• Make better use of the information in SOLVIT for EU law enforcement actions and the design of future policies.</li> <li>• The common quality criteria of the single digital gateway will help to provide businesses and citizens a consistent approach to information across borders.</li> </ul>	N/A
✓ - relevant to the objective, N/A not relevant				

<sup>297</sup> SWD(2017) 213 final

<sup>298</sup> COM (2015) 550 final of 28 October 2015.

## Candidate for

Candidate for Programme/line	Flexibility (moving funds from one IMP programme to other)	Simplification	With which other IMP programmes there are potential synergies	
Internal Market governance tools	N/A	<p>✓</p> <ul style="list-style-type: none"> <li>IMI already replaces 12 IT systems with a capacity for replacing more supporting IT rationalisation.</li> </ul>	<p>✓</p> <ul style="list-style-type: none"> <li>The single digital gateway will join various sectoral information and assistance sources under one access point, preventing duplication and fragmentation.</li> </ul>	
✓ -relevant to the objective, N/A not relevant				

## 2.2. Objectives of the programmes of the next MFF

As stated above, it remains time consuming and costly for EU citizens and businesses to exercise their Single Market rights as not all the required information, procedures and assistance services needed to operate cross-border are online, they are not well known, of insufficient quality or not accessible to cross-border EU users.

The single digital gateway aims at significantly improving the online availability, quality and accessibility of information, assistance services and procedures which are relevant for citizens and businesses in the EU, all to more so when they want to operate and move within the Single Market. It is based on close cooperation between the Commission and Member States for an effective, step by step implementation of the various requirements of the project. The effective implementation of the single digital gateway will be ensured by the creation of a coordination group which will be a forum for cooperation between the Commission and the Member States.

The single digital gateway contributes to the Digital Single Market strategic objective of modernising the public administration, achieving cross-border interoperability and facilitating easy interaction with citizens, also reflected in the e-Government Action Plan. It is in line with the Commission's digital transformation objective of creating a streamlined web presence and avoiding further fragmentation caused by new portals and contact points. It is in line with the recommendations of the European Interoperability Framework.

By significantly improving the user experience, the initiative will greatly improve citizens' and businesses confidence in the Single Market. Digitisation of procedures and provision of accurate and reliable information as well as easier access to assistance services will smoothen cross-border exchanges, generate efficiencies and reduce red tape, thereby contributing to the creation of new job opportunities and growth.

In spite of a successful track record with EU citizens, Single market information and problem solving tools remain underused, particularly by businesses. Your Europe Business is currently covered and financed by COSME while Your Europe Citizens is not related to any programme. A more coherent approach is needed in the future. There is a need to keep investing on boosting the quality, the visibility and the transparency of the Single Market governance tools, raising awareness to maximise their impact, notably via

promotion focusing on businesses which rarely use today assistance and problem-solving tools such as YEA or SOLVIT. Making full use of feedback on the functioning of the Single market from the existing governance tools is essential, as well as continuing to ensure its transparent evaluation through the Single Market Scoreboard. The latter is recognised as *"a useful tool to monitor the application of EU law"* by the EP and Council, that have both asked in several occasions for its further expansion.

Moreover, gradual expansion of IMI for any legislation in the field of the internal market would reinforce its role as the "default tool" for administrative cooperation, bringing synergies through IT rationalisation.

Challenges Programme/line	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
Internal Market governance tools	<ul style="list-style-type: none"> <li>Enhanced access to information, advice, improved problem-solving services and procedures on a cross-border basis</li> </ul>	<ul style="list-style-type: none"> <li>Improve management of cross-border Single Market challenges, while promoting IT rationalisation</li> </ul>	<ul style="list-style-type: none"> <li>Giving SOLVIT a more prominent role in the overall EU Law enforcement.</li> <li>Ensure the coherent application of the single digital gateway quality standards</li> </ul>	

### 3. PROGRAMME STRUCTURE AND PRIORITIES

In the context of the ongoing digitalisation of the Single Market and with a view to the implementation of the single digital gateway, a comprehensive upgrade of the Your Europe portal is required. The single digital gateway will be based on the Your Europe portal with a new common user interface (search engine) managed by the Commission.

The high added value, in comparison to their limited cost, of Internal market governance tools and services, giving visibility to the EU's positive role in the citizens' daily lives and allowing businesses to reap the benefits of the Single market, needs to be fully taken into account. Even if generally the amounts provided under the Single Market Governance tools budget line have enabled the EU to fulfil its obligations as a result of its prerogatives in this area so far, the issues that have emerged during the current MFFs (see above) need to be addressed in the upcoming MFF period. As recommended in the REFIT Platform Opinion adopted on 21 September 2017, *"sufficient human and financial resources must be available to make sure that all the support networks for the Internal Market (IMI, SOLVIT, Points of Single Contact etc.) can operate efficiently and have enough visibility"*<sup>299</sup>. Moreover, the Commission has to meet existing legal commitments in terms of IMI support to 12 Single Market policy areas and upcoming new ones, and in view of the role of the Your Europe portal<sup>300</sup> as backbone of the single digital gateway and the new enhanced role of SOLVIT in the enforcement policy.

The outcome of the Brexit negotiations might imply long transitional arrangements impacting the running and demand of most of these services. This might be rather

<sup>299</sup> REFIT Platform Recommendations – Internal Market: XII.2.a and XII.4.c - "Internal Market Information System and Single Market Centres" ([https://ec.europa.eu/info/files/refit-platform-recommendations-internal-market-xii2a-and-xii4c-internal-market-information-system-and-single-market-centres\\_en](https://ec.europa.eu/info/files/refit-platform-recommendations-internal-market-xii2a-and-xii4c-internal-market-information-system-and-single-market-centres_en)).

<sup>300</sup> <http://europa.eu/youreurope/index.htm>

demanding for assistance and problem-solving services such as YEA and SOLVIT. Quality improvement, more prominent role in the overall EU Law enforcement and awareness raising efforts of both services should increase their number of users. Further expansion of the Scoreboard to ensure that this on-line tool even better reflects the actual functioning of the Single Market, providing a more comprehensive and accurate view of how it works in practice, might be resource intensive too.

The provision of IMI remains a legal obligation for the Commission for all areas currently listed in the annex of the IMI Regulation<sup>301</sup> and those for which pilot projects have been formally launched such as train driving licences<sup>302</sup>. The continuity of services needs to be ensured and ready to address increase in system usage. Moreover, there is a legal obligation to launch a new IMI module for Public Documents<sup>303</sup> and the Commission made political commitments to ensure the technical implementation of the SOLVIT Action Plan. Several other pieces of legislations which are currently in different stages of adoption in the legislative process will use IMI and will thus lead to the launch of new modules in the system: e.g. European Services e-Card<sup>304</sup>, notification procedure for authorisation schemes and requirements related to services<sup>305</sup>, firearms, General Data Protection Regulation. This gradual expansion of IMI for any legislation *"in the field of the internal market"* should reinforce its role as "default tool" for administrative cooperation's role.

As stated above, the single digital gateway will provide a single entry point to information, assistance, problem-solving services and e-procedures. At EU level, it should reduce fragmentation and lack of awareness by making different contact points and problem solving mechanisms more findable and accessible, and by ensuring that any services available through it respect certain minimum quality standards.

The single digital gateway regulation leaves ownership and responsibility for supplying national information, national procedures and assistance and problem solving services to the Member States. At the same time, with regard to e-procedures, it addresses the existing cross-border access' obstacles, eliminating discrimination and reducing administrative burden on citizens and businesses that operate or want to operate in other Member States, without affecting the substance or competence regarding any such procedures. The measures do not extend beyond what is necessary to solve the identified problems and to achieve the identified objectives. However, the regulation requires Member States to offer a number of key procedures fully on-line and to make them fully accessible for cross-border EU users according to an agreed timetable. This will significantly reduce administrative burden and eliminate the disproportionate hurdles

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<sup>301</sup> Regulation (EU) No. 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (OJ No. L 316 of 14.11.2012, p. 1).

<sup>302</sup> Commission implementing decision of 14 February 2014 on a pilot project to implement the administrative cooperation obligations set out in Directive 2007/59/EC of the European Parliament and of the Council by means of the Internal Market Information System (OJ No. L 45, 15.2.2014, p. 36–39).

<sup>303</sup> Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 (OJ No. L 200, 26.7.2016, p. 1–136).

<sup>304</sup> COM(2016) 824 - Proposal for a regulation of the European Parliament and of the Council introducing a European services e-card and related administrative facilities; and COM(2016) 823 - Proposal for a directive of the European Parliament and of the Council on the legal and operational framework of the European services e-card introduced by Regulation.

<sup>305</sup> COM(2016) 821 - Proposal for a directive on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services.



faced by EU citizens and businesses from a different Member State to comply with the rules applicable in other Member States.

The necessary ongoing monitoring and evaluation measures of the single digital gateway will be based on direct user feedback about the quality, availability and findability of the services offered. In addition, users will be encouraged through a second feedback tool to report problems encountered with the Single Market. This user feedback is an efficient way for steering quality management but also for gathering evidence about success/obstacles in the functioning of the Single market. When implemented as an integral part of an information system, it should provide quick and accurate picture of strengths and weaknesses. It is a low-cost option replacing expensive ongoing evaluation machinery.

Improving the functioning of the Single Market is based on articles 21(2), 48 and 114(1) of the TFEU. In its Single Market Strategy, the Commission proposed improving opportunities to access markets across borders and bringing the Single Market's practical benefits to citizens and businesses. Ensuring further development of the Internal market governance tools should contribute to a well-functioning Single market for citizens and businesses, taking into account the steady increase in cross-border activity.

Action at EU level is required to ensure consistent development of the Single Market tools, non-discrimination and linkage of user-friendly services. Individual actions by Member States have led to some differences in approach, and such differences impose additional costs on firms, in particular SMEs, when operating in cross-border situations, discouraging many of them from scaling up internationally. Member States should create full transparency about their applicable rules, expanding the good practices already established in many areas to the overall service package provided to citizens and businesses by the Single Market Service centre, as this is an essential requirement for doing business, working, studying or traveling within the EU.

#### **4. DELIVERY MECHANISMS OF THE INTENDED FUNDING**

Running all these services (Your Europe, Your Europe Advice, Internal Market Information (IMI) system, SOLVIT and the Scoreboard) is currently financed through the Single Market Governance Tools' administrative budget line 02.030400, with the exception of the Your Europe Business part, which is an implementing action supported by COSME<sup>306</sup>. In 2017, the budget line amounted to EUR 3.650.000, covering expenditure arising in connection with activities deployed for the business management, content development, IT maintenance, development and hosting, as well as promotion of these tools. The financing available under the existing financial framework (EUR 25.975.000) represents less than 0,00001% of the EU budget.

More concretely, the Your Europe (YE) budget appropriation covers the costs for the further development of the content management tool (YEST) and addition of new functionalities to adapt to new challenges, maintenance, support and training activities; it does also cover organisation of 2 annual meetings of the YE Editorial Board, composed by Member States' representatives and chaired by the Commission, as well as promotion activities. It is currently managed by an internal team of 5 people, supported by an

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<sup>306</sup> In 2017 the budget for Your Europe Business was covered under COSME (yearly EUR 450,000 operational and EUR 105,000 administrative credits)

external team of 5 editors/webmasters. Analysis of the delivery of the Your Europe Business which has been delegated to EASME under the current multiannual financial framework shows that duplication of work has evolved between the parent Commission service and the Executive Agency and that the delegation has so far not provided the desired simplification of the delivery. It would therefore no longer be considered suitable for delegation as analysis shows that effective delivery can be better achieved by fully integrating delivery with the other Internal Market governance tools.

The Your Europe Advice (YEA) service is provided through a contractor (ECAS, European Citizens' Action Service) managing a network of 60 legal experts with EU law background, expertise and experience in national law and administration in all Member States, financed by the Commission which also takes care of the political guidance, maintenance and further adaptation of the YEA database application to the citizens and experts' needs (1 official). Delegation to the Executive Agency of the purely day-to-day management of such a contract is an issue which might eventually be suitable.

As far as SOLVIT is concerned, workshops with Member States' SOLVIT centres (2 per year) and newcomers' trainings are an essential element for the good functioning and the success of the network, as well as promotion activities following the adoption of the SOLVIT Action plan in May 2017. Within the Commission, the SOLVIT team is composed of 4 officials, ensuring coordination with national SOLVIT centres, with other networks (i.e., EDCC, EEN, YEA, etc.), bodies (i.e., European Ombudsman), external stakeholders and services.

The IMI budget and portfolio are managed by an internal team of 6 officials, supported by an external team of 2 IT experts and a project manager position (1 AD official) seconded to DG DIGIT, following the MoU with this DG to ensure IT developments needed for further expansion of the system (which started with the Services Directive in 2008 and is now supporting administrative cooperation for 12 legislative areas within the Internal Market).

The coordination and annual edition of the on-line Single Market Scoreboard is ensured in-house by one official, with dedicated technical support from IT and web experts from the IMI team.

The continuity of all these services needs to be ensured so as to ensure they are ready to address an expected increase in system usage as a result of awareness raising campaigns following political (i.e., SOLVIT Action Plan, Council calls to expand the Scoreboard, etc.) and legal commitments (i.e., IMI expansion to new policy areas, Your Europe's role in the future deployment and up-take of the single digital gateway).

The ongoing initial investment covering the establishment of the single digital gateway is based on an implementation plan with a detailed list of actions which need to be carried out to ensure the timely launch of the gateway. The costs of implementing the single digital gateway are divided into initial investment costs and annual running costs. The initial investment started in 2018, and the last part of it (€ 3 millions) falls on 2021. The running costs will be €1.5 million in 2021 and € 2millions/year thereafter.

## 5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?

The **Single Market Scoreboard** aims to give an overview of the practical management of the Single Market by carrying out an EU-wide monitoring exercise of governance tools and policy areas on a yearly basis. The Member States' performance is evaluated based on reliable indicators. To make the results visually more attractive and easier to understand and compare, this evaluation is translated into 'traffic light' charts with green, yellow and red cards for good, average and bad performance. The Scoreboard allows for comparison of results over the years and amongst Member States building a good basis for informed decisions or to exercise peer pressure.

Enhancing access to information through the **Your Europe (YE)** portal requires close cooperation and dedication from both the Commission and the Member States. YE is running an **annual online user survey** on both the citizens and business part of the portal. The 2018 survey confirms a constantly very high level of user satisfaction: 94% of YEB users and 95% of YEC users are satisfied with the portal. Moreover, the Scoreboard monitors whether Member States support this website in an adequate way. On an annual basis it is checked and evaluated, whether national governments provide content (i.e., national rules implementing the Single Market acquis) and whether they are promoting it to their own citizens and businesses. If Member States do not meet these information requirements, an information gap is created, making it difficult for citizens and businesses to make informed decisions or to fully enjoy their rights. The Scoreboard also monitors the number of visits to both sections of YE (Citizens and Business), showing that there is a growing interest in and need for the information provided. The fact that Member States' performance is monitored and evaluated via a 'traffic light' system with red green or yellow cards certainly keeps them motivated and ensures that they are not relenting in their efforts.

The Scoreboard also monitors the efficiency of **Your Europe Advice (YEA)** by checking on the speed of replies, the aim being to reply to enquiries within 3 working days. But it also monitors the number of enquiries to YEA and shows the relation between this number and the improved information on YE (more relevant and user-friendly information reduces the need of inquiries). It highlights the main subject areas dealt with and thereby raises awareness for where people's real problems with the Single Market lie and obstacles to exercising EU rights persist.

The Scoreboard monitors the **SOLVIT** resolution rate by country – the aim being to solve all cases submitted so the network plays a more prominent role in the overall EU Law enforcement – but also the time taken to handle a case (first response time, preparation time and resolution time). Looking at the Scoreboard results from 2013 until today, it can be said that the overall performance of Member States' SOLVIT Centres has definitely improved. In 2013 a majority of countries showed a medium performance (yellow cards). Over the years this has changed and nowadays most of the Member States show a good performance (green cards). In addition to this, the Scoreboard provides useful background information on the distribution of SOLVIT cases amongst the Member States and their caseload, helping to make decisions on staffing numbers - only efficient SOLVIT centres can ensure the smooth resolution of problems submitted to them. Furthermore, the Scoreboard highlights problem areas and thereby shows where the Single Market is not properly functioning, as well as barriers to the free movement of people, goods and services in the EU should be removed.

All Member States involved in **IMI** have to make an effort to make this network run smoothly. The Scoreboard offers IMI a platform to fulfil its legal reporting obligation under Article 25(1) of the IMI Regulation and, in addition to the monitoring via quantifiable indicators like the speed in accepting and answering requests, the Scoreboard has – upon Member States' request – introduced qualitative indicators like *"the efforts made by an authority as rated by counterparts"*. This shows the importance the Member States attach to a fair and meaningful monitoring by the Scoreboard. It also keeps track of the number of exchanges of information through IMI and keeps track of the areas in which IMI is used promoting IT rationalisation.

The draft **single digital gateway** regulation states that an assessment report on the functioning of the gateway and of identified Single Market obstacles will be submitted to the European Parliament and the Council two years after the adoption of the Regulation and every two years thereafter. An evaluation is also planned to take place five years after the entry into force of the Regulation. The single digital gateway coordination group, a central co-ordination body in the single digital gateway governance structure will assist the Commission in monitoring the performance of the gateway and the state of application of the Regulation.

Particular monitoring is needed in those Member States that have large gaps in the availability of information and procedures online, especially concerning the access of foreign citizens. The planned governance structure based on very close cooperation of the Member States and the Commission should help in bringing all Member States up to speed.

The results of the monitoring efforts should guide continuous improvement of the services and will also be used for a Commission report on the functioning of the single digital gateway to the European Parliament and the Member States every two years. A full evaluation should take place four years after entry into force of the single digital gateway regulation.

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
Enhancing access to information through the Your Europe public information website	Visits and user satisfaction	Number of visits to the Your Europe portal and user satisfaction	One individual person visiting a single webpage in a single on-line session.	YE users statistics	Yearly measurement	20,1 million / 90% of user satisfaction / 2017	Stable number of users (over 100 million visitors over the whole period) and user satisfaction
Enhancing access to information through the Your Europe public information website, ensuring full coverage of national information citizens and businesses need, in line with Annex I	Successful search	Percentage of businesses and citizens who indicate they have found the information they were looking for.	One individual person visiting a single webpage in a single on line session.	YE/SDG user statistics	Yearly measurement	Benchmark to be decided in year 1, upon launch of the SDG	Yearly increase from benchmark in Year 1, towards target of 90%

of the SDG proposed Regulation							
Enhancing access to advice and assistance through YEA	YEA performance	Performance of the YEA service in terms of number of enquiries received, ensuring continued high quality and speed of replies	Individual enquiries	YEA user statistics	Yearly measurement	22662 enquiries received (of which 19042 eligible) in 2017	+/-20.000 eligible cases per year.
Giving SOLVIT a more prominent role in the overall EU Law enforcement.	SOLVIT performance	Maintain the performance standard of SOLVIT while ensuring good availability, particularly with regard to businesses	Number of days between receipt and closure of a case.	SOLVIT network statistics	Yearly measurement	2.414 cases in 2017: 64 days average.	+/- 60 days average.
Improve management of cross-border Single Market challenges, while promoting IT rationalisation	Policy areas covered by IMI	IMI performance in terms of policy areas covered	Policy area	IMI statistics	Yearly measurement	12 policy areas covered in 2017	Integrating at least 1 to 1.5 new policy area every year
Improve management of cross-border Single Market challenges, while promoting IT rationalisation	EPC applications	IMI performance in terms of submitted EPC applications	Each individual EPC application	IMI and EPC statistics	Yearly measurement	2.309 EPC applications submitted in 2017	Duplicating the issuance of EPC, depending on the expansion of the covered professions.
Improve management of cross-border Single Market challenges, while promoting IT rationalisation	IMI bilateral requests	IMI performance in terms of number of bilateral requests	Bilateral requests	IMI statistics	Yearly measurement	14.764 requests sent	Increase use of the system of 10% per year.
Improve awareness of services available through the gateway	Monthly users	Trends in average number of monthly users.	One individual person visiting a single webpage in a single on line session.	User statistics	Monthly measurement	Benchmark to be decided in year 1, upon launch of the SDG	Monthly increase from benchmark in month 1
Eliminate or overcome duplication complexity, improve findability of information, advice,	Monthly users	Trends in average number of monthly users.	One individual person visiting a single webpage in a single on line session.	User statistics	Monthly measurement	Benchmark to be decided in year 1, upon launch of the SDG	Monthly increase from benchmark in month 1, towards target of 90%

problem-solving services and procedures on a cross-border basis							
Improve quality across the board for all information, assistance and problem-solving services, as well as e-procedures	Satisfaction with quality	Percentage of business and citizens who indicate satisfaction with quality (based on criteria).	Quality criteria to be defined in the SDG Regulation.	User statistics	Yearly measurement	Benchmark to be decided in year 1, upon launch of the SDG	Yearly increase from benchmark in Year 1, towards target of 90%
Ensure that EU citizens and businesses can complete the most important part of their interactions with the administration online	Ability to complete procedures on-line	Percentage of businesses and citizens who indicate that they have been able to complete the available procedures fully online.	Individual users	User statistics	Yearly measurement	Benchmark to be decided in year 1, upon launch of the SDG	Yearly increase from benchmark in Year 1, towards target of 95%
Make all procedures indicated in the SDG fully accessible for non-national citizens and businesses	Ability to complete procedures on-line	Percentage of cross-border businesses and citizens who indicate that they have been able to complete the available procedures fully online.	Individual users	User statistics	Yearly measurement	Benchmark to be decided in year 1, upon launch of the SDG	Yearly increase from benchmark in Year 1, towards target of 95%
Get a more systematic overview of obstacles encountered by cross-border users	Feedback	Usability of data from user feedback tool and from assistance services regarding obstacles in the Single Market and quality of resulting report	Data received through the user feedback tool	User feedback	Yearly measurement	Benchmark to be decided in year 1, upon launch of the SDG	Positive feedback from stakeholders on usefulness of reporting on Single Market obstacles

## Sub-Annex 1: Evidence, sources and quality

### 6. EVIDENCE, SOURCES AND QUALITY

For EU citizens and businesses with a cross-border perspective, the benefits of having full online access to reliable information and user friendly procedures in a language that they can understand is considerable. As part of the Europa platform of the Commission, the existing Your Europe portal respects the corporate "Information Providers Guide"<sup>307</sup>, i.e. the Europa-specific quality standards on content (definition, drafting, SEO ...) and design (structure, layout, usability, accessibility...). The 2013 Commission Communication on an *"Action Plan for boosting Your Europe in cooperation with the Member States"* was positively welcomed by both the EP and the Council. One year later, the results of the Your Europe Advice evaluation report (Invitation to Tender N° MARKT-B.TF1/7/2013) were made available.

Improved knowledge about rights and opportunities, and better-quality online services may also contribute to more firms and citizens claiming these EU rights. An example is the principle of mutual recognition for intra-EU trade in goods that is currently not well-known among businesses. A study on information and assistance needs has concluded that businesses could save between EUR 11 and 55 billion annually for researching nine business topics<sup>308</sup>. As for the benefits for citizens, they can only be indicated by estimating the number of hours saved. A single entry point to all relevant information, through the Your Europe portal, would reduce by 60% the 1.5 million hours that citizen currently spend on researching online seven essential topics before going abroad. If these costs, time and hassle could be avoided, not only for businesses but also for citizens, more people would be encouraged to expand their activities across borders due to much increased transparency. Furthermore, e-procedures reduce the risk of administrative errors and corruption.

Finding clear and comprehensive information about the applicable requirements is only a first step. Administrative procedures have to be completed in order to comply with them. Digitising key procedures reduces compliance costs and increases the rate of compliance with the applicable regulations. With regard to problem-solving services, the most recent SOLVIT assessment (SWD(2017)210 final) was carried out in 2017 to underpin actions identified to strengthen the network and accompanying the SOLVIT Action Plan adopted in May of that year.

The study about administrative formalities<sup>309</sup> has calculated that the costs of cross-border businesses are 50% higher compared to domestic businesses, and that the aggregate cost difference (between the same number of domestic and cross-border businesses, for nine procedures) is EUR 131 million. Almost half of the additional costs for cross-border businesses is caused by translations (EUR 60 million) , followed by additional costs for

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<sup>307</sup> [http://ec.europa.eu/ipg/index\\_en.htm](http://ec.europa.eu/ipg/index_en.htm)

<sup>308</sup> Study on information and assistance needs of businesses operating cross-border within the EU, including gap and cost analysis, Ernest & Young, 2017. See annex 19 for the methodology.

<sup>309</sup> Study about administrative formalities of important procedures and administrative burden for businesses, Ecorys, 2017 See annex 19 for the methodology.

gathering information (mostly advice, EUR 30 million), submitting documents (EUR 22 million, mostly travel costs if submission in person is required, certification (EUR 11 million) and collecting data and documents (EUR 7 million). The savings for domestic businesses from digitalisation are much greater and in the order of magnitude of EUR 6.5 billion for just nine businesses procedures, and EUR 48 million for cross-border users.

## Sub-Annex 2: Stakeholder consultation

The overall consultation process on the single digital gateway started in November 2015 and closed in December 2016. It included a dedicated stakeholders' workshop, an online public consultation as well as numerous bilateral discussions with stakeholders and Member States. The process highlighted a strong consensus among business and citizens around the importance of the main pillars to be covered by this initiative.

The main elements that emerged from the consultation were the need to tackle the quantity and quality of single market related information, online procedures and assistance services available, a broad support for the aims of the initiative and a high level of interest concerning the concrete implementation by stakeholders. Businesses and citizens considered that having access to all applicable information would be useful to make informed decisions. Member States considered that minimum information is already being offered and that it would be challenging to offer all information online. A majority of respondents preferred to carry out cross-border procedures online. They considered it important to remove some of the remaining obstacles in the single market.

Member States had concerns with regards to feasibility, notably regarding authentication and mutual recognition of e-signatures and regarding potential cost of putting all procedures online.

To get a better overview of the **Single Market Scoreboard's** readers and their satisfaction, an end user survey was carried out in the form of a pop-up questionnaire from October 2015 to January 2016 which provided for the following results: 47% of the respondents came from the public sector; 14 % came from the business sector and 13% were students. As for the information presented on the Scoreboard: 69% found the information they were looking for and 97% found the information useful.

Similar satisfaction surveys are run on a yearly basis with regard to the Your Europe portal. The 2018 survey confirms a constantly very high level of user satisfaction: 94% of YEB users and 95% of YEC users are satisfied with the portal.





### **Sub-Annex 3: Evaluation results**

The ex-post evaluation of the existing (regulatory and non-regulatory) framework relevant to the single digital gateway pointed to a number of problems that concern the individual services, as well as their lack of effectiveness, efficiency and coherence as a package of Single Market services for citizens and businesses.

As far as the effectiveness of individual services is concerned, recurring and cross-cutting problems pointed out are: lack of visibility and findability online, lack of quality and under-use. 92% of consumers and businesses are unaware of any online services at European level that they could turn to in case of problems. In addition, gaps exist with regard to national-level information, which is either not online or only in national language, and procedures can often not be carried out online by foreign users – even where this is possible for domestic users. The existing legal framework also contains a number of gaps. Cross-border accessibility remains one of the key development points in order for contact points and other portals to fully support the Single Market.

The EU-level assistance and problem-solving services such as Your Europe Advice and SOLVIT are considered cost efficient when taking into account the savings and other benefits these services provide to businesses and citizens as compared to much more costly private alternative services. However, the national-level assistance services (PSCs, PCPs and PCPCs) can only be considered as partially efficient. The cost effectiveness aspect is difficult to assess, as data are missing, but they are under-performing for businesses as far as their effectiveness is concerned. Moreover, the low quality of their websites represents a missed opportunity to reduce the number of requests through better online up-front information, and thus to be even more cost-efficient.

## **Annex 13: Programme specific annex on *Internal Market* – *Support to Standardisation activities***

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1. Scope and context**

European standardisation is the cornerstone of the effective functioning and the completion of the Single Market, as standards' issues affect 80 percent of world commodity trade. Overall, there are 20.000 European standards developed by CEN-CENELEC for products and services and 35.000 standardisation deliverables by ETSI. Each European standard replaces at least 34 national standards (members of CEN, CENELEC are not comprised only of the EU28 but also of EFTA and candidate countries).

Standards are important for the implementation of the EU safety and environmental legislation, particularly under the "New Approach". This is because the Directives include only the essential safety requirements whereas standards prescribe the practical ways for meeting the set requirements. Standards are a tool for EU industrial policy because they set a common ground for competition (i.e all EU telecom firms are competing by using the same GSM standards while in the USA each firm has its own technical specifications). Promoting European standards worldwide allows EU companies, in the cases where EU standards are being accepted, to compete under the same conditions as the native companies.

The Commission provides financial support to the:

- European standardisation organisations for activities related to the quality of standardisation, standardisation work in the various sectors, the visibility and promotion of the European standardisation system and
- organisations representing small and medium-sized enterprises (SMEs) and societal stakeholders active in standardisation activities, to promote the participation and interests of the stakeholders in the European standardisation system, improving their information and use of standards whilst demonstrating to them the benefits..

However, the standardisation environment is changing because of the higher position that standardisation now has in the political agenda. New elements are being added, namely the increased amount of standardisation activities to be carried out by the European standardisation organisations in response to the Communication COM(2016) 176 on ICT standardisation priorities, as well as the actions envisaged in the Rolling Plan for ICT Standardisation. Moreover, new technologies and the progressive integration of digital solutions in industrial global value chains, as well as the fast evolving international context, are putting pressure on the European Standardisation System to provide new standards' categories (i.e electronic standards, Machine-to-Machine standards) in very short time frames. This can still be leveraged to contribute more to EU jobs and growth but it will require important investments from the European Standardisation System and the EU financial contribution will be decisive.

The Commission responded to these challenges by proposing the Joint Initiative on Standardisation [C(2016)3211] which was signed on 13 June 2016 in Amsterdam together with actors of the European Standardisation System. The Joint Initiative on Standardisation consists of concrete actions to improve and modernise the system, and its outcome is expected by the end of 2019. These actions will also require financial support from the Commission.

## 1.2. Lessons learned from previous programmes

In 2015 the Commission, based on 2013 and 2014 data assessed the performance of the European Standardisation System (ESS) including the EU Regulation 1025/2012 since its entry into force in 2013, in terms of effectiveness, efficiency, coherence, relevance and EU added value.

The evaluation has built on the results of the Independent Review of the European Standardisation System (ESS) published in April 2015.

Areas where effectiveness has been fostered and which would indicate that progress is being made are:

- Transparency- positive findings were the publicly available planning of the Commission on standardisation and the publication on internet of the working plans of the standardisation bodies;
- Inclusiveness- while at the European level SMEs appear to be largely represented at policy and technical level (e.g. in 2014, SMEs were represented at technical level in more than 80% of CEN's and Cenelec's technical bodies and ETSI's working groups), the involvement of the other stakeholder groups is more limited;
- Timeliness -the time to develop new standards requested by the Commission decreased from 5 years, on average, in 2009 to 3 years in 2013;
- Union financing of Standardisation activities - there is a perception among European Standardisation organisations and other organisations receiving EU funding that the Regulation has increased administrative burden. The assessment of such burden showed that it represents a reasonable share of the amount provided by the EC funding. The Vademecum on European Standardisation in support of Union Legislation and policies and the recent Commission decision to implement lump sums in line with Article 17(4) of the Standardisation Regulation are expected to improve the situation in order to make the access to Union funding easier and more predictable.

Efficiency was assessed in terms of impact to the economy, which was found positive but the data refer to national studies performed in France, Germany and UK. They lack European data to be assessed.

In terms of coherence, EU added value and relevance the evaluation showed that removing trade barriers (replacing 28 national standards and their corresponding Regulations with one European standard) and fostering a Single Market represent by far the major potential for EU added value of European standardisation.

Overall, the conclusion of the evaluation was that no major problem in the application of the legal framework had been identified, while some areas for improvement, have been identified. They concern areas of improvement identified to be addressed in relation to the overall European standardisation system and areas in relation to the standardisation activities supported by EU funds. The Commission is working with its partners from the European standardisation system to address these issues and modernise the functioning and delivery of the system.

The areas to be improved in relation with the overall standardisation system are:

- speed and timeliness elaboration of standards necessary for early market uptake;
- link SMEs and innovation with standardisation;
- Efficient and effective standardisation support on legislative and policy needs by better definition of these needs, by improving the verification of compliance of standards with the given legislation or policy and by removing conflicting national standards;
- inclusiveness of weaker stakeholders (representing consumer, environmental,

workers interests and SMEs) in the standardisation process at European and international level;

- support to competitiveness of European businesses at global level by adapting the European stakeholder needs to match with the non-EU processes and by adapting standards developed outside the EU system, like in ICT within the European standardisation system.
- enhance communication channels between the Commission and the European standardisation system and optimise the administrative procedures and the reporting requirements;

The areas to be improved in relation with the standardisation activities supported by EU funds are:

- speed up the process leading to the conclusion of the grant agreements (time to contract) by employing simpler and faster working methods
- streamline of administrative and financial procedures for the management of grant agreements by providing practical guidance to all involved actors in order to enhance the common understanding of the rules;
- Simplify and rationalise the reporting requirements by allowing electronic and comparable data to be gathered in a database, by establishing key qualitative or quantitative indicators to measure the impact and performance of the actions;
- regularly monitor the overall Union financing, the results of the simplification measures and the opportunities to move further towards a more performance-based system.

## 2. THE OBJECTIVES

Union financing of activities of the European standardisation organisations and of the organisations representing SMEs, workers, consumers and environmental interests in standardisation is limited to an amount of EUR 23 million annually (22,264 million euros for 2017 and 2018 respectively). 42% of the budget is given to support the operating costs of those organisations. The rest 58% is given to actions related with the elaboration and use of standards. Since 2013, the Commission has reduced the amount granted to the European standardisation organisations for their operating costs by 33%, in order to finance standardisation actions that correspond to the policy objectives of the Commission and that are in line with the Union's priorities.

So far, only the standardisation priorities that have been taken up under the annual Union work programme for European standardisation (Article 8 of Regulation (EU) no 1025/2012) and the Rolling Plan for ICT standardisation (Commission document elaborated with the support of the ICT Multi-Stakeholder Platform (MSP) set up by Commission Decision (2011/C349/04) of 30 November 2011) would be eligible for receiving Union financing. Since the adoption of the Communication COM(2016) 176 on ICT Standardisation Priorities, some of the actions described in the five priority areas (5G, data, cloud, cybersecurity and Internet of Things) could also become eligible. The annual Union work programme for European standardisation, and the Rolling Plan for ICT standardisation are essential tools to identify standardisation work, which has taken priority in terms of the Union's financing also.

Moreover, the support given to the organisations representing SMEs, workers, consumers and environmental interests in standardisation plays a significant role (20% of the EU budget of standardisation is dedicated to the Annex III organisations) in strengthening the representation of relevant stakeholder groups (SMEs, consumers, environmental interests and workers) in European standardisation and pursues its objectives in terms of the inclusiveness of the system.

Standards matter because they promote innovation, enable interoperability, increase quality and safety, enable jobs and growth, support global value chains, and help to overcome costly fragmentation in the single market and in the digital single market thanks to the modernised European standardisation process.

The Union financing is targeting standardisation work in areas of public policy (e.g. standards and/or preliminary and ancillary work in the area of consumers' or workers' health and safety, equal opportunities for disabled people, air quality, environmental protections, climate change, security, or transactions between business and public administration), that otherwise would not be funded by industry or the NSBs, at least not to such a large extent considering the timing required also.

Since 2015, the refugee crisis and the EU's role of stabilising the troubled areas that feeds the crisis, as well as protecting its citizens from terrorists' attacks, is creating a new need for standardisation in Defence and Security (i.e. drones, detectors, databases). Restricted access and the increased use of raw materials that the Circular economy action aims to tackle require standards to support the whole process to make recycling possible and economically viable. Ensuring that Europe produces affordable energy for our industry, cities, roads and everyday activities requires adding renewables to the existing energy mix and setting European standards. This, in turn will improve energy storage capacities, build smart energy hubs and make all such systems interoperable.

Standards are crucial for innovation and progress in the Single Market and digital single market: they increase safety, interoperability and competition and help remove trade barriers. They are essential for European productivity and competitiveness. The action contributes to the functioning and delivery of the European standardisation system in support of the Union policies and legislation.

Standards are needed to support the compliance of goods with the essential requirements of the EU legislation,

Standards are needed to provide interoperability between systems (i.e. transport, energy, security, defence and data systems)

Standards are needed to create platforms for exploitation of innovative ideas by all economic operators shifting the competition between operators from the technological differences to the successful application and adaptation of the innovative technology to the market

The following policy options and their implications have been considered:

- a. Budget maintenance at the same level under the new MFF
  - Ensure the basic functioning of the system by providing financial support to the central secretariats of the ESOs and of the Annex III organisations (as referred in Regulation (EU) No 1025/2012) and verify the quality of standardisation work.
  - Minimise the EU funding for the elaboration of the relevant scientific and technical data and laboratory testing which are necessary to support the development of the standards.
  - Ask the European standardisation system to finance, using its own resources, the implementation of the actions agreed under the Joint Initiative on Standardisation.
- b. Increase the budget by 20%
  - Maintain the financing of European standardisation and cover standardisation needs for new ICT areas, in particular for the digitisation of industry.
  - Support the improvement and modernisation of the European standardisation system with the implementation of the actions agreed under the Joint Initiative on Standardisation, such as improvement of the IT systems and the setting up of new procedures to provide the necessary information to the stakeholders and users of standards.

## 2.1. Challenges for the programmes of the next MFF

Challenges	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
Programme/line				
Programme 1	√ / N/A + few words of explanation	√ / N/A + few words of explanation	√ / N/A + few words of explanation	√ / N/A + few words of explanation
Support to Standardisation activities	√ Consumers, environmental, workers and SMEs interests are important in standardisation because the standards affect these areas	N/A	√ One harmonised European standard replaces 28 national standards and provides conformity of compliance with the essential requirements of the EU respected legislation	√ / Standardisation contributes in the harmonisation of health services and on implementation of health and safety regulations on food consumption and in working areas
√ -relevant to the objective, N/A not relevant				

### Candidate for

Candidate for	Flexibility (moving funds from one IMP programme to other)	Simplification	With which other IMP programmes there are potential synergies	
Programme/line				
Programme 1	√ / N/A	√ / N/A	√ / N/A	
Support to Standardisation activities	√	√	1 Digital Single Market Support Programme 2 Modernising European Public Administrations and Services (ISA2) 9 Consumer Programme 12 Internal market – operation and development of the internal market for Goods and Services 13 Health programme 14 CFF for food chain 15 Customs and tax policy development support budget line	
√ -relevant to the objective, N/A not relevant				

## 2.2. Objectives of the programmes of the next MFF

Challenges	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among	Rule-making, standard setting and enforcement at EU	Health as a resources for the society and the internal market
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<b>Programme/line</b>		Member States	institutions level	
Support to Standardisation activities	Promotion of the participation and interests of the stakeholders in the European standardisation system, improving their information and use of standards and showing them the benefits of these.		Development and use of standards in support of Union legislation and policies for safety reasons and in areas which are new or dominated by few players and Union financing is necessary to assure the participation of start-ups and newcomers in that market	Development and use of standards in support of Union legislation and policies for safety reasons and in areas which are new or dominated by few players and Union financing is necessary to assure the participation of start-ups and newcomers in that market

Candidate for

<b>Potential for Programme/line</b>	<b>Simplification of your programme, and/or synergies and/or flexibility</b>
1 Digital Single Market Support Programme	
2 Modernising European Public Administrations and Services (ISA2)	
5 Implementation and Development of Single Market for Financial Services (prerogative line)	
9 Consumer Programme	<b>synergies and/or flexibility</b>
12 Internal market – operation and development of the internal market for Goods and Services	
13 Health programme	
14 CFF for food chain	<b>synergies and/or flexibility</b>
15 Customs and tax policy development support budget line	

### 3. PROGRAMME STRUCTURE AND PRIORITIES

The primary objective of the Regulation (EU) No 1025/2012 is the development of standards. Therefore, the financial support for the functioning of the European standardisation



organisations is a condition sine qua non for elaborating new European standards and updating the catalogue of the 4500 harmonised standards in support of EU Regulation.

Funding of standardisation priorities that have been taken up under:

- i. the annual Union work programme for European standardisation (Article 8 of Regulation (EU) no 1025/2012) and;
- ii. the Rolling Plan for ICT standardisation (Commission document elaborated with the support of the ICT Multi-Stakeholder Platform (MSP) set up by Commission Decision (2011/C349/04) of 30 November 2011) would be eligible for receiving Union financing. The standardisation priorities included in the AUWP reflect and support first the Commission priorities and secondly support the implementation of legislative acts with harmonised standards.

The programme is structured around the European standardisation organisations that are the recipients of the standardisation requests and produce European standards.

Funding is focused in support of:

functioning of European standardisation organisations;

standardisation priorities that have been taken up under the annual Union work programme for European standardisation (Article 8 of Regulation (EU) no 1025/2012) and the Rolling Plan for ICT standardisation (Commission Decision 2011/C 349/04);

functioning organisations representing small and middle-sized enterprises (SMEs) and societal stakeholders in standardisation activities.

#### **4. DELIVERY MECHANISMS OF THE INTENDED FUNDING**

The financing is under direct management and according to the provisions of the articles 15 to 17 of the EU Regulation 1025/2012 through operating, action grants, and procurement contracts.

- Operating grants providing support to standardisation activities performed by CEN, Cenelec and ETSI and of the organisations mentioned in the Annex III of the EU Regulation in No 1025/2012 for a total amount in 2017 of € 9 252 323

Action grants to the CEN, CENELEC, ETSI and ECOS for elaboration of standards and associated work for a total amount of € 9 653 377

- Administrative arrangements with JRC for € 325 000
- Action grants to the CEN, CENELEC, ETSI for elaboration of standardisation work in the field of ICT for a total amount of € 2 577 136

Procurement contracts for verification of quality of standards intended to be published in the OJEU thus to offer presumption of conformity with the essential requirements of the respected legislative acts –Framework contract for € 4 000 000

- Procurement contract for the study requested by the Council on the economic and social impact of European standardisation estimated € 2 000 000
- Procurement contracts for Technical consultancy contract, in order to assist the work related to web-publishing for € 173 439 in 2017

The conclusion and management of the framework contracts, of the grant agreements and of the procurement contracts is done by the unit responsible for standardisation in DG GROW. The action grants related with ICT are concluded and managed by the unit responsible for ICT in DG GROW. The procurement contracts affect a big number of services in the Commission. In order to ensure that the result satisfies all these services the works are followed through steering committees.

However, the centralisation of the Financial services has limited the number of colleagues with experience in financial management. To anticipate the lack of expertise to manage the grants within the unit and the Directorate consider necessary to transfer of the management of the grants to an executive agency. The expertise of the agency in financial matters would ensure a solid financial management.

#### **5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?**

The Commission monitors the performance by KPIs that have been integrated in the Framework contracts with CEN, CENELEC and ETSI. Also, every standardisation organisation receiving EU

funding has to report annually to the Commission on the implementation of the EU Regulation 1025/2012. These reports provide qualitative analysis of the performance. Finally the impact of standardisation in the internal market is measured by the implementation rates of CEN/CENELEC standards by its national members

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
Impact of standardisation in the internal market	> 90% average of all EU members	Percentage of agreed EU standards that have been published/enforced at National level	Active published European standards at National level /Active European standards	CEN, CENELEC	TRIMESTRIAL	90% average of all EU members	95% average of all EU members

## **Annex 14: Programme specific annex on *Internal market – operation and development of the internal market for Goods, Services and Public Procurement***

### **1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT**

#### **1.1. Scope and context**

Under the current budgetary period of 2014-2020, the expenditure of Commission services and their various partners arising in connection to the completion of the internal market of goods and services, as described below, is financed from the "Operations and development of the internal market for goods and services" budget line 02.0301 with a budget of EUR 159.089.000. Its main components are:

- **Horizontal support for the Single market of goods**

The Single Market for goods can only function well and be fair for people and businesses if all market players play by the rules. The EU has the following tools requiring financing spending:

**Market surveillance:** joint actions have been financed since 2013 leading to limited successful outcome, improving coordination across Member States. In addition, expenses have also covered the organisation of ADCO meetings and the maintenance of ICSMS system.

**Conformity assessment and accreditation:** part of the budget is spent on coordinating conformity assessment and to support accreditation. In particular, the European Accreditation organisation has been financed with an operating grant per year of 375.000€ from the period 2010-2013 and 600.000€/per year in the period 2014-2017. In addition, expenses cover organisation of meetings of notified bodies and the maintenance of NANDO IT system (80.000 per year).

**Mutual recognition:** the evaluation of the functioning of the mutual recognition principle and its potential impacts on the internal market was financed from this budget.

- **Prevention of technical barriers for goods and information society services**

Directive (EU) 2015/1535 (Single Market Transparency Directive, hereinafter 'the SMTD') defines a preventive mechanism to avoid potential barriers to the internal market of goods and information society services. In order to enable the authorities of all EU Member States to go through the national drafts notified and react when appropriate, the translation into all EU languages of the draft national technical regulations notified is indispensable. Since 2016, the contract concluded for the needs of translations in the context of the SMTD covers also the translation of the national regulatory texts once adopted. This allows for the appropriate follow-up to the notifications by all the parties and the creation, in the medium term, of an EU database including all the national technical regulations notified.

- **Automotive**

The work performed under this budget covers the needs for Better Regulation in the automotive sector as well as the emergency response to the emissions scandal. The budget was spent to perform studies required in order to update the many regulations in this sector covering all aspects of type approval of vehicles while another part of the budget was used to finance new facilities and work for the new market surveillance tasks, in the aftermath of the emissions scandal and in starting these market surveillance activities by the Commission.

- **Services**

Support for policy-making in services is oriented towards analysis of legal frameworks, gathering of data, doing regulatory mapping and assessing the economic impact of restrictions and reforms. The output then feeds into policy preparation, implementation and follow-up of new initiatives. These activities are labour-intensive and require contacts in all Member States. As the services sector has politically very sensitive aspects, a major component of policymaking consists of communication and negotiating efforts, including meetings and conferences with stakeholders, conducting surveys, engaging in promotional activities and conducting studies to support policy-making. The current budget has made this possible. It should be noted that there are legal obligations concerning the monitoring and evaluation arising from the Services Directive, the Postal Services Directive and the Professional Qualifications Directive that cannot be avoided and the current budget allowed to meet.

- **Public Procurement**

In order to underpin the procurement policy, resources are used to perform targeted studies and evaluations on specific topics such as cross-border procurement, joint procurement, green procurement, procurement in the health and waste sector, have been carried out. Also direct support to policy measures and enforcement, such as impact assessments and evaluations, compliance and transposition checks have been undertaken. Awareness-raising activities (e.g. conferences) are also organised to better use public procurement rules and tools and trigger changes.

- For continuously updating the **legal framework for harmonised products** (construction products, eco-design, electrical and electronic products, machinery and other mechanical products, chemicals, medical devices, cosmetics and intellectual property), the existing Internal Market budget line under the current MFF has provided significant added value, by enabling the financing of different types of studies to support the development and evaluation of robust Internal Market legislation, by catering for the practical needs for having in place harmonisation tools (mandates, standards, other technical specifications etc.) of high quality, as well, support to Committees, external partner bodies, international bodies or legal interpretation and enforcement.

## **1.2. Lessons learned from previous programmes**

There has not been one evaluation on the whole budget line, but rather on some of its main elements in the area of "Horizontal support for the Single market of goods" from which lessons learned can be extracted.

The REFIT evaluation on the functioning of market surveillance (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2017:0469:FIN>) found that the current approach of financing individual joint actions of market surveillance authorities without a more coherent framework for coordination has little effect in curbing the tide of non-compliant products that can be found on the single market. In addition, while national authorities professed a willingness to participate in joint actions, they criticised the heavy administrative burden that joint actions represent.

The evaluation found that the problem of non-compliant products within the Single Market is driven by four main factors, namely (1) fragmentation of the organisation of market surveillance in the EU, (2) resources constraints for market surveillance

authorities, (3) low deterrence of the current enforcement tools, notably with respect to imports from third countries and e-commerce and (4) important information gaps (i.e. lack of awareness of rules by businesses and little transparency as regards product compliance).

REFIT evaluation on the functioning of Mutual recognition <https://ec.europa.eu/docsroom/documents/26976> found that another problem highlighted by the Single Market Strategy is the suboptimal functioning of the mutual recognition principle. Its inadequate application makes it harder for companies seeking access to markets in other Member States, leading to lost opportunities for the economy at large. Economic operators are often required to produce specific documentation or carry additional tests; this increases their costs and discourages them from expanding to new markets.

To overcome these problems, funding should be targeted at raising awareness and training on the mutual recognition principle, including specific actions for sectors in which mutual recognition could achieve the greatest increase in EU competitiveness. Funding should also target cooperation among national authorities to enhance their "mutual recognition culture" and built trust in different legal systems and product related requirements.

Moreover, prevention mechanisms have allowed that potential breaches to the internal market of goods and information society services are identified and corrected. Since 2014, almost 3,000 draft national technical regulations have been notified and the Commission and the Member States have expressed concerns via more than 1,400 formal reactions.

Support for policy-making in **services**<sup>310</sup> is oriented towards analysis of legal frameworks, gathering of data, doing regulatory mapping and assessing the economic impact of restrictions and reforms. The output then feeds into policy preparation, implementation and follow-up of new initiatives. These activities are labour-intensive and require contacts in all Member States. As the services sector has politically very sensitive aspects, a major component of policymaking consists of communication and negotiating efforts, including meetings and conferences with stakeholders, conducting surveys, engaging in promotional activities and conducting studies to support policy-making. The current budget has made this possible. It should be noted that there are legal obligations concerning the monitoring and evaluation arising from the Services Directive, the Postal Services Directive and the Professional Qualifications Directive that cannot be avoided and the current budget allowed to meet.

In order to underpin the **procurement policy**, resources are used to perform targeted studies and evaluations on specific topics such as cross-border procurement, joint procurement, green procurement, procurement in the health and waste sector, have been carried out. Also direct support to policy measures and enforcement, such as

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<sup>310</sup> Study on the economic impact of the Services Directive (<http://publications.europa.eu/en/publication-detail/-/publication/42b77185-3a91-4e32-bca1-118e8e48ec84>) and its update (<http://ec.europa.eu/DocsRoom/documents/13327/attachments/1/translations>)

impact assessments and evaluations, compliance and transposition checks have been undertaken. The activities undertaken in the current framework have been well-spent. They have allowed the analytical underpinning and knowledge basis to start helping Member States to implement the new legislative framework adopted in 2014. However, more is to be done as public authorities have expressed the need for more support tools, in particular to facilitate the practical implementation of the rules and options.

**For sectoral purposes** (construction products, electrical and electronic products, machinery and other mechanical products, chemicals, medical devices, cosmetics and intellectual property.

) and more specific policies (CPR and Ecodesign), the existing Internal Market budget line under the current MFF has provided significant added value, by enabling the financing of different types of studies to support the development and evaluation of robust Internal Market legislation, by catering for the practical needs for having in place harmonisation tools (mandates, standards, other technical specifications ... ) of high quality, as well, support to Committees, external partner bodies, international bodies or legal interpretation and enforcement. Some of these studies have identified overarching issues in the legal framework, including cases of significant regulatory burden. All this is essential to ensure the proper functioning of the Internal Market at grass root level, where it counts

**Real life example of problems due to lack of flexibility, coherence, separation from other programmes dealing with similar or complementary issues?**

The budget for medical devices and cosmetics managed by DG GROW, currently is part of the Health Programme run by DG SANTE (for medical devices) and the Consumer Programme run by DG JUST (for cosmetics) resulting in difficulties when managing the budget. Hence both should move under GROW management under the next MFF.

## **2. THE OBJECTIVES**

### **2.1. Challenges for the programmes of the next MFF**

- **Horizontal support for the Single market of goods**

As the Single Market Strategy has highlighted, a serious problem of enforcement of EU product rules persists to the detriment of honest manufacturers and traders as well as consumers. The evaluation of Regulation (EC) No. 765/2008 has shown that there is a need for an increased EU level intervention.

The problem of non-compliant products within the Single Market is driven by four main factors, namely (1) fragmentation of the organisation of market surveillance in the EU, (2) resources constraints for market surveillance authorities, (3) low deterrence of the current enforcement tools, notably with respect to imports from third countries and e-commerce and (4) important information gaps (i.e. lack of awareness of rules by businesses and little transparency as regards product compliance).

To fight these problems, more and better targeted funding is needed (e.g. for the procurement of testing capacities or purchasing of samples). Funding should also go towards a better coordination and information exchange amongst national authorities and provide a more coherent and long-term framework which enables joint actions to focus on the essential rather than their administration. EU coordination can only be as strong as the capacities of the national market surveillance authorities allow. Therefore a necessary complement to stepped-up joint actions, will be peer review and performance monitoring of market surveillance in and by Member States, as well as assistance to capacity building, modernisation of control systems and tools, to ensure ultimately more equivalent market surveillance throughout the Single Market.

Another problem highlighted by the Single Market Strategy is the suboptimal functioning of the mutual recognition principle. Its inadequate application makes it harder for companies seeking access to markets in other Member States, leading to lost opportunities for the economy at large. Economic operators are often required to produce specific documentation or carry additional tests; this increases their costs and discourages them from expanding to new markets. To overcome these problems, funding should be targeted at raising awareness and training on the mutual recognition principle, including specific actions for sectors in which mutual recognition could achieve the greatest increase in EU competitiveness. Funding should also target cooperation among national authorities to enhance their "mutual recognition culture" and built trust in different legal systems and product related requirements.

- **Prevention of technical barriers for goods and information society services**

More market integration will not be achieved unless the emergence of new barriers within the Single Market is prevented. The effective implementation of the SMTD depends much on the translation of notifications since this allows Member States to react to the drafts notified thus taking full ownership of the internal market. The number of notifications received has kept to a similar level in the last years. The same applies to the number of reactions (detailed opinion and comments) issued by the Commission and by the Member States. At the same time a low number of notifications of some MS compared to the others suggest that a certain number of technical regulations remain un-notified, impeding the prevention of barriers and rendering the identification of systemic issues very difficult. Moreover, in the recent years, the Commission is committed to follow up with Member States the reactions to the notified drafts and to create a repository of EU technical regulations available for EU businesses, for both of which the translation of the final adopted national texts is necessary. These mentioned work streams will likely raise the number of notifications and translation needs.

- **Automotive**

The recent emission scandal proved the importance of compliance with the regulations, not only inside a laboratory but also in the real world. The Commission has provided immediate response by proposing a new type approval and market surveillance regulation and by finalising the new emission rules which require vehicles to be tested under real driving conditions on the road. Still it is likely that only strong market surveillance by the Commission will assure that the new rules are followed and nobody tries in the future to cheat the standards, providing non-conform products to the

European citizens. We therefore need to invest and continue investing in the next MFF in surveillance activities by the Commission, similar to what is done by EPA in the US in order to minimise the possibilities for such scandals in the future.

- **Services**

Overall, it is necessary to keep modernising the regulatory framework for the Single Market for services in line with the market developments, and to make it supportive of competition and integration to better benefit consumers, businesses and employees. Of particular importance is an ambitious implementation of the Services Directive and of the Professional Qualifications Directive.

For example, 47 million people work in regulated professional services, such as doctors, pharmacists, architects, accountants or real estate agents, which accounts for 22% of the total EU labour force. More than 600 different generic professions exist in the EU, with close to 6.000 regulated professions. It was estimated that there would be at least 700.000 more jobs in those services, should existing requirements be made less stringent. It is essential to have a good understanding of the models, the effects and economic implications, the current trends and developments and the dynamics in professional regulation.

Services in the public interest, including postal services, continue to evolve rapidly and it is necessary to gather information on developments (adjustments to the universal service obligation for postal services to users' needs, technological developments).

To be able to focus on the most harmful problems in service provision, we need to understand the effect of remaining restrictions in specific sectors to assess their economic impact and to assess the need for possible new legislative proposals. Furthermore, we need to ensure that the Single Market legislation is flexible enough to accommodate new business models. An example is the spread of platform-based collaborative economy businesses that have often bumped into a regulatory minefield, and where European initiatives are needed to preserve the Single Market. Our work on regulatory mapping and analysis also contributes to the European Semester, in particular to the country-specific recommendations.

- **Public procurement** represents 14% of EU GDP. It represents a strong lever to increase innovation, support environmental and social objectives and a means to improve public administration and spending. Accompanying the legal framework, a large number of flanking measures are needed to make the rules work properly on the ground. In its recent Communication (COM (2017) 572) the Commission has pledged to develop support tools for public authorities to make procurement work better in practice. The areas where improvement is needed are greater uptake of innovative, green and social criteria; professionalisation of public buyers (including those using European Regional Development Funds); improving access to markets for SMEs and in third countries; increasing transparency, integrity and quality of data; digitisation of procurement processes; and more cooperation among public buyers. This obviously requires resources.

- **Legal framework for harmonised products**

To ensure a regulatory environment that promotes innovation and responds to new technological and societal challenge, the internal Market product legislation requires constant evaluation, reviews, compliance and transposition checks and related studies.



Such services are the means to collect evidence, data and stakeholder views, which are instrumental in maintaining the regulatory framework up-to-date and adjusted to evolving market needs. This is of particular importance with a view to the significant transformation that industry is currently undergoing in the context of digitisation. IoT enabled, smart, connected devices, key innovative technologies, like artificial intelligence, big data, robotics, etc. present huge business opportunities that European companies must be enabled and encouraged to seize. At the same time the regulatory framework has to cater adequately for any associated new risks. The regular review of the regulatory framework and decision making based on sound impact assessments are important pillars of the Commission's Better Regulation Policy and in particular of the REFIT programme. The day to day operation of the Internal Market legislation requires the Commission to take legal actions and decide on technically complex issues, for example on safeguard clauses, decision to publish or not to publish harmonised standards, etc. As the required technical expertise is not available in house the Commission must have recourse to external sources. More specifically, this also concerns the Construction Product Regulation (CPR) implementation and on-going review which require relevant feasibility and other studies.

<b>Challenges</b> <b>Programme/line</b>	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States Enforcement at national level	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
Internal market for goods and services budget line	N/A	√ Enhance Member States' capacity to enforce EU harmonised product rules.  Facilitate administrative cooperation of MS in several areas: market surveillance, mutual recognition, prevention of technical barriers, services, public procurement.	N/A	N/A
√ -relevant to the objective, N/A not relevant				

#### Candidate for

<b>Candidate for</b> <b>Programme/line</b>	<b>Flexibility</b> (moving funds from one IMP programme to other)	<b>Simplification</b>	With which other IMP programmes there are potential <b>synergies</b>	
Internal market for goods and services budget line	√ The budget for medical devices and cosmetics currently is part of the Health Programme run by DG SANTE (for medical devices) and the Consumer	√ / N/A	√ Consumer Programme, Food programme, Competition programme on enforcement.	

	Programme run by DG JUST (for cosmetics).  Both should move under GROW management			
V - relevant to the objective, N/A not relevant				

## 2.2. Objectives of the programmes of the next MFF

The Single Market cannot be supported with non-budgetary policy only. Co-investment in a better functioning Single market thus needs more sustained financing and more flexibility to address unforeseen challenges, as shown in the case of car emissions or dangerous products. EU and the national levels should also co-invest in strengthening advisory and assistance functions to develop administrative capacities of Member States.

The Single Market Strategy is the plan to unlock the full potential of the Single Market, enabling people, services, goods and capital to move more freely, offering opportunities for European businesses and greater choice and lower prices for consumers. However, sometimes, these benefits do not materialise because Single Market rules are not known or implemented or they are undermined by other barriers. And in a rapidly changing environment, the Single Market needs to adapt to new ideas and business models.

- **Horizontal support for the Single market of goods**

The "Goods Package" adopted on 19 December 2017, addresses many shortcomings of mutual recognition and market surveillance that were identified in the Single Market Strategy and corroborated by the accompanying evaluations. Yet, there are many problems that cannot be solved by law but that require closer cooperation between Member States, better integrated networks, trainings, information campaigns and other actions that integrate the internal market on the ground.

Cooperation and trust are necessary for the successful functioning of **mutual recognition**. They will help to increase a mutual understanding of the different national approaches and concerns. This will be fostered by trainings, exchanges of officials and enhanced administrative cooperation. In addition, the Commission will work more closely with specific countries and sectors to make mutual recognition work. An online platform will allow authorities to connect with each other.

While Member States are best placed to monitor their market and impose sanctions, the current **market surveillance** landscape is too fragmented to effectively enforce EU product legislation without EU support. Therefore the current lack of resources (staff, budget, laboratory capacity) needs to be addressed. Increased EU funding will provide the necessary vehicle to facilitate coordination and an effective enforcement. This is to be done through an EU Product Compliance Network within the Commission. There will be administrative support for joint investigations that are necessary to coordinate the

500 national authorities' enforcement. The Network will allow authorities to pool knowledge, organise exchanges of officials, develop a common intelligence picture, create efficiencies so that controls are based on a more targeted and strategic approach. The Network will also provide standardised training on priority areas and assist in joint procurement of testing facilities. The Network will be a quality catalyst for a common European perspective on market surveillance. Enforcement authorities will coordinate better to share more information about investigations and illegal products through regular meetings and common IT tools. Capacity building support to strengthen national market surveillance would be based on comprehensive national enforcement strategies, rather than ad-hoc co-funded projects.

**Accreditation** is an important tool for the implementation of the EU policies related to the Internal Market, consumer safety and international cooperation. In this respect all stakeholders must ensure that the latest state of the art is always incorporated into the accreditation process. As accreditation is based on Harmonised Standards, EU, EA and the European Standards Organisations have the additional mission to ensure that these Harmonised Standards used for Accreditation of **Conformity Assessment** Bodies continue to be in line with the International Standards. The increased responsibility and trust placed in accreditation brings a great responsibility for EA itself and its members. Therefore it is essential that EA continues to receive a wide EU support in order to be able to implement its tasks. Furthermore communication is pivotal to achieving the consistent implementation of Regulation 765/2008.

- **Prevention of technical barriers for goods and information society services**

The translation budget is essential to guarantee the proper functioning of the SMTD and thus contribute to the full potential of the internal market of goods and information society services. Indeed, it would be virtually impossible to keep the deadlines for reaction imposed by the SMTD should the translations into all EU languages be provided either by the notifying Member State or by each Member State for its own assessment needs. Moreover, the risk of diverging translations and of lack of accuracy would increase exponentially. Ultimately, the potential lack of timely availability of the draft national acts into all EU languages would discourage the Member States from reacting formally within the deadlines prescribed by the SMTD and would have an impact on the ownership of internal market by Member States.

- **Automotive**

Increased market surveillance activities in the area of cars **by the Commission** are a necessity in the aftermath of the emissions scandal. Only with regular surveillance activities will the products be kept in conformity and cases of defeat devices uncovered.

- **Services**

To keep the Single Market functional the Commission needs to ensure that the regulations are fit for purpose and adhered to by the Member States.

This requires information on evolving national regulations and other policy measures as well as economic assessments to support our policy and to maximise EU added value. The international dimension of trade in services is increasingly important, and there are more and more requests for entering into specific arrangements with third countries. In

view of the staff limitations, improving the Single Market has become more dependent on the availability of external contractors to provide factual support in terms of surveys, regulatory mapping and promotional activities.

The Commission will continue to monitor the regulatory environment, and economic and business developments of collaborative economy. It will ensure that existing EU law is consistently applied across the Single Market and will continue to look for ways to encourage the balanced development of the collaborative economy alongside existing ways of doing business.

Since 2014, the Commission has coordinated a process of mutual evaluation of regulated professions requiring EU countries to assess and possibly reform existing frameworks. The Commission will continue to support the recognition of professional qualifications through detailed rules for countries to use when reviewing existing professional regulations or proposing new ones. Countries will also need to demonstrate that public interest objectives cannot be achieved through means other than limiting access to, or conduct in, the professional activities in question.

The Commission needs to review the regulatory environment that has contributed to the flat productivity growth of the retail sector. The Commission will suggest best practices based on well-functioning solutions in different EU countries that will contribute to reducing barriers and making it easier for retailers to open outlets across the EU.

The international dimension of trade in services is increasingly important, and there are more and more requests for entering into specific arrangements with third countries. In view of the staff limitations, improving the Single Market has become more dependent on the availability of external contractors to provide factual support in terms of surveys, regulatory mapping and promotional activities.

- **Public procurement:**

The governance of the procurement systems needs to be improved in the EU; further efforts are still required to ensure the efficiency, transparency and integrity of the process. Some of the main missing links are the lack of relevant quality data, the inability to match related data from different databases, the insufficient sharing and reuse of data, and a shortage of skills and tools for analysing available information.

- **Legal framework for harmonised products**

Maintaining Internal Market and product legislation fit and up-to-date with the digital age and limiting administrative burden requires investing in evaluation and impact assessment studies, cumulative cost assessments, feeding into Better Regulation and REFIT exercises. There is a continued need to ensure that legal actions of the Commission are based on sound technological evidence and analysis.

Challenges Programme/line	Empowerment of citizens, consumers and businesses	Administrative cooperation and integration among Member States	Rule-making, standard setting and enforcement at EU institutions level	Health as a resources for the society and the internal market
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Internal market for goods and services budget line		Support the completion of the single market of goods and services.		
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Candidate for

Potential for Programme/line	Simplification of your programme, and/or synergies and/or flexibility
Goods and Services budget line	The budget for medical devices and cosmetics currently is part of the Health Programme run by DG SANTE (for medical devices) and the Consumer Programme run by DG JUST (for cosmetics). Both should move under GROW management
Goods and Services budget line	There are several synergies between the market surveillance activities and those of the Consumer Programme, Food Programme and Competition Programme in the area of enforcement.

### 3. PROGRAMME STRUCTURE AND PRIORITIES

The general internal market budget line combine small amounts and high added value. They result from legal commitments, are used for the provision of services to citizens and businesses or are indispensable to the completion/ deepening of the Single market. EU added value includes co-investing in common goods for which action at EU level is not only relevant but indispensable in the EU beneficiaries' eyes. Protection of consumers, health and safety, innovation are domains where European citizens expect the EU to act and to deliver. So this line should not only be shielded from possible cuts, but a moderate increase would improve the enforcement of harmonised product rules, EU citizens' and businesses' satisfaction, giving visibility to the EU's positive role in the citizen's daily lives or allowing companies, especially SMEs to reap the benefits of the Single market.

- **Horizontal support for the Single market of goods**

Given the necessity to address **conformity** of the level of product safety required in goods when pursuing the goal of a deeper and fairer Single Market, the Goods package envisages a considerably increased budget for market surveillance. In fact, increased funding is essential if the measures foreseen in the Goods Package are to make a meaningful difference for EU product safety and the principle of mutual recognition. The administrative support structure of the EU Product Compliance Network that provides continuous support to national authorities in the coordination of their market surveillance tasks and exchange of information is necessary in fulfilling the EU' goals for the Single Market for products. The necessary funding from the operational budget for this Network, including ADCO groups and ICSMS, would amount to 21M€ for the set-up phase of 2020-2022 and 10M€ operational budget annually from 2023 onwards<sup>311</sup>. Over the life-span of the MFF this network needs to be consolidated and expanded and consequently its cost will evolve. In addition, funding should foresee expenses related

<sup>311</sup> The total costs, human resources and operational budget of the Compliance and Enforcement initiative aimed at strengthening the Market Surveillance framework of Regulation (EC) N° 765/2008 are estimated at around **22M€ per year** (financial statement of COM (2017)795).

to expert groups, evaluations, public consultations, studies. In addition, to strengthen market surveillance, direct aids to Member States enforcement capacities will constitute an important financial need. Another important financial need is digital compliance and traceability of products including of imports from third countries, in order to support industrial stakeholders to develop the practical and technical tools to meet their obligations under EU law. Over the period 2021-2027 around 157M€ would be needed for the continuation of the measures launched by the Compliance and Enforcement initiative. However, additional funding needs would need to be further assessed in order to extend support for national enforcement capacity building, digital compliance and traceability. A continued financing of accreditation and conformity assessment should maintain the current levels of reliability of accreditation in the EU. Expenses should also cover organisation of meetings of notified bodies and the maintenance of NANDO IT system.

Improving the application of the mutual recognition principle would include additional expenses related to trainings, exchanges of officials, enhanced administrative cooperation, etc.

- **Prevention of technical barriers for goods and information society services**

The continuation of the current translation budget will allow continuing the efficient management of the SMTD taking into account the perspective of (i) an increase in the number of notifications and (ii) the additional needs related to the translation of final texts. Indeed, the translations into all EU languages are essential for the assessment by the Member States of the draft national acts notified within the prescribed deadlines. In the broader perspective, the smooth operation of the SMTD will foster the active contribution of Member States in preparing reactions, thus supporting Member States in taking ownership of their participation in the internal market.

- **Automotive**

Appropriate funds should cover the full extent of the planned market surveillance activities (checking of around 120 vehicles per year, i.e. to a level similar to the US).

- **Services**

The current level of budget is the minimum allowing for analysis of existing legal frameworks, gathering of data and assessing the economic impact of the existing restrictions and reforms, with an inclusion of a limited number of new initiatives and reviews.

As the Members States expect more and more evidence for policy initiatives, and as cuts in headcount make external tendering the preferred way of performing many tasks, there are pressures to increase the budget even in the absence of major new policy initiatives. Such initiatives will require funds on top of the current budget level.

- **Public procurement**

The continuation of the current budget would allow for, more support tools and policy measures could be developed by the Commission, covering the six priority areas recently defined by the Procurement Strategy (COM (2017) 572). Therefore, a substantial improvement in procurement practice by contracting authorities in Member States can be achieved.

- **Legal framework for harmonised products**

Internal Market legislation requires constant evaluation, reviews and related study. Therefore, we need to ensure the continuity of the available budget to address our obligations to implement the Internal Market legislation, ensuring that it is well-designed, up-to-date and based on sound evidence and analysis.

- **Cosmetics and medical devices**

When it comes to the Single market for goods, another area of improvement identified concerns two key sectors for EU industry which, put together, represent more than 2.5 million jobs and more than EUR 190 billion of sales: cosmetics and medical devices. Following past internal reorganisations, the budget for activities related to rules harmonising these sectors (expert groups, technical supports and IT databases<sup>312</sup>) **does not fall under the internal market budget line** and is currently part of the Health Programme run by DG SANTE (for medical devices) and the Consumer Programme run by DG JUST (for cosmetics). From both a practical and risk minimisation reasons it would be an advantage to have the financing of both activities (EUR 8 million on an annual basis) operated by the DG to which the policy area belongs, ie DG GROW<sup>313</sup>.

### **Added value**

The internal market for goods ensures that economic integration does not stop at reducing border barriers but aims to achieve a deeper level of integration. Mutual recognition, conformity assessment, accreditation, and market surveillance are **cornerstones for a fair single market for goods**. Without them, there can be no fair competition between businesses and consumer protection and safety cannot be guaranteed. Therefore, all of the activities currently carried out under the single market budget line should continue.

Market surveillance is carried out by the authorities of the Member States by checking and testing products both on the market and arriving at the external border of the Union. Internal borders do not exist for products – it is vital that they do not exist for national market surveillance authorities either. Improving cross-border action and cooperation is the key to making market surveillance more effective.

The EU aspects of neither accreditation nor market surveillance could be financed exclusively by Member States. In both cases, EU financing is provided in addition to national financing and supports aspects that go beyond merely national tasks and that are to do with cross-border effects of their work, such as recognition of test results or the coordination of market surveillance inspections.

The mutual recognition principle is being applied primarily by national authorities. But to make the principle effective, action at EU level in terms of training, awareness, cooperation and coordination is essential. To be effective, the application of the

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<sup>312</sup> e.g. the CosIng database for information on cosmetic substances and ingredients, which is one of the most consulted databases of the Commission with almost 1.5 million visits per year.

<sup>313</sup> Similarly, with regards to internal market governance tools, it would make sense to transfer the COSME appropriations used to finance Your Europe business to the internal market budget lines.

principle needs to be based on common solutions to be applied equally by all national authorities. Only such common procedures can guarantee that national authorities will apply the principle in the same manner, thus allowing companies to benefit from an equal treatment regardless of the country where they try to market their product.

The prevention mechanisms introduced by the SMTD are at the heart of the internal market. The objective of the Directive, i.e. the avoidance of potential barriers to the internal market deriving from national technical regulations for products and for information society services, needs for its own nature to be achieved at EU level. Moreover, the availability of draft national technical regulations in all EU languages within a reasonable time frame is key for Member States to react formally to potential barriers to the internal market, thus taking full ownership in their contribution to its development.

For the automotive sector, the legal basis for EU intervention is Article 114 TFEU insofar as the preparation of new legislative proposals is concerned. The proposal for a new type approval regulation of 27/01/2016 includes provisions providing for an active role of the Commission (JRC) in the supervisory system of type approval legislation. If adopted by the co-legislator and providing for an active role for the Commission, it will provide the legal basis for activities of the JRC in this respect.

However, the Single Market is not an area with fully harmonised rules. Beyond the basic principles and the areas in which fully harmonised rules have been agreed, citizens and businesses will still need to comply with national rules whenever they exercise their Single Market rights. Therefore it is essential for the functioning of the Single Market that citizens and businesses can easily find out what these rules in any of the Member States are. It is equally essential that the procedures for compliance with such rules should not entail a significant additional regulatory burden for foreign users compared to domestic users.

#### **4. DELIVERY MECHANISMS OF THE INTENDED FUNDING**

The activities subject to this impact assessment do not form part of a programme: several sectoral units are using this budget line for support to the internal market.

Instruments: grants, procurement or any other intervention necessary are used to achieve the objectives

Channels of intervention: direct support to the main beneficiaries



## 5. HOW WILL PERFORMANCE BE MONITORED AND EVALUATED?

### Summary for the main IA text:

The evaluation of Regulation (EC) No 765/2008 and the preparation of the proposal on compliance and enforcement revealed important gaps in available information and the quality of data reported by Member States. It will be essential to establish a robust system to verify whether and to what extent the proposal has been effective in reaching its objectives, and whether the objectives have been met efficiently (i.e. at least cost), as well as the reasons for its success or shortcomings. Meanwhile, a number of the current reporting requirements for market surveillance authorities need to be simplified in order to alleviate the administrative burden for authorities.

The most efficient scheme for a future evaluation is to use ICSMS as a main source of information and, on the basis of the indicators, to assess whether the proposal was effective and efficient, relevant given the needs and its objectives, coherent both internally and with other EU policy interventions and achieved EU added-value. The monitoring through ICSMS would be completed by the work of the EU Product Compliance Network and the provision by Member States of more reliable and more comprehensive information on compliance rates and enforcement activity as part of their national enforcement strategies.

By using ICSMS the monitoring of operational activity could take place on an ongoing basis at least yearly (e.g. number of mutual assistance requests, restrictive measures taken). The review of Member States enforcement strategies, market studies, user surveys and the identification and implementation of common priorities by the EU Product Compliance Network would allow on a yearly to bi-annual basis an analysis of progress towards higher level indicators (e.g. control levels in Member States, compliance gaps, usage of compliance assistance schemes). In this regard, an important task for the EU Product Compliance Network would be to set up and monitor overall performance indicators and perform peer reviews.

To provide an adequate basis for the monitoring and evaluation of the initiative, reference levels will be established to form a consolidated baseline. The methodology to monitor trends in (non)compliance will be examined, to complete the information from market surveillance controls where possible with surveys based on sampling, across sectors or in a selection and for special supply channels (e-commerce, imports). An evaluation by the Commission of the functioning of the new legislative framework could be foreseen in the mid-term (e.g. after 5 years of implementation).

Periodic assessment of the impact and implementation of the Services Directive and the Professional Qualifications Directive are legal obligations. For postal services we have the responsibility to collect statistical data.

For the services markets, we rely on the indicators of restrictiveness in services markets. There are a series of such indicators produced by OECD (PMRs, STRI and now also intra-EU STRI). The Commission has also developed its own indicators, starting from the indicator of barriers in business services and on construction and continuing with the restrictiveness indicator. Restrictiveness can be indirectly measured by measurements such as sectoral business churn rates and gross operating rates. Services markets performance can also be measured by looking at the key economic metrics, such as

productivity growth, cross-border trade and cross-border investments.

Since 2014, the European Commission has been collecting data on postal services in cooperation with the Postal National Regulatory Authorities (NRAs) in the context of the 'EU Postal Survey'<sup>314</sup>. The aim of these postal statistics is to provide the Commission, regulators and national policymakers with comparable data on the main postal and parcel developments across the European Union. The data is collected annually from 33 countries that participate in the data collection exercise on a voluntarily basis including the 28 EU Member States, the Former Yugoslav Republic of Macedonia, Serbia, Iceland, Norway and Switzerland.

Better information regarding national regulations and other policy measures as well as economic assessments will continue to be necessary to support policy and to maximise EU added value. Further, analysing the effects of digitisation and supporting firms to adapt to change are important to enhance employment and growth.

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<sup>314</sup> [http://ec.europa.eu/growth/sectors/postal-services/statistics\\_en](http://ec.europa.eu/growth/sectors/postal-services/statistics_en)

Specific Objective	Indicator	Definition	Unit of measurement	Source of data	Frequency of measurement	Baseline	Target
<ul style="list-style-type: none"> <li>Increased cross-border and coordinated market surveillance for harmonised non-food products<sup>315</sup></li> </ul>	Joint market surveillance campaigns	Joint market surveillance campaigns in the area of harmonised product legislation with 80% or more participating MS	Number of campaigns	ICSMS	yearly	5-7 campaigns/year with over half MS participating (2017)	<b>2021-2023 :</b> 15 <b>2023-2027:</b> 30-40
	National enforcement strategies building enforcement capacities		Number of strategies supported	ICSMS	yearly	- limited, ad-hoc best-practice exchange measures (2017) - 3 pilot strategies (2020)	<b>2021-2023:</b> 7 <b>2023-2027:</b> 10
	Peer reviews of Member States' enforcement strategies and performance	In-depth peer reviews of member states' market surveillance conducted by the EU Product Compliance Network	Number of peer reviews	EU Product Compliance Network	yearly	None (2017)	<b>2021-2023:</b> 3 <b>2023-2027:</b> 5

<sup>315</sup> Regulation n° (EC) 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, Proposal for a Regulation on Compliance and Enforcement of Union harmonisation legislation on products (COM(2017)795, 19.12.2017)

## **Sub-Annex 1: Evidence, sources and quality**

### **6. EVIDENCE, SOURCES AND QUALITY**

IA on Enforcement and Compliance; Evaluation of Regulation (EC) No. 765/2008; Meetings of the Market Surveillance Group, etc.

IA on the revision of the Mutual Recognition Regulation, Evaluation of the functioning of mutual recognition, Meetings of the Mutual Recognition Committee

Stakeholder workshops on businesses' experience (2014-15) of the Services Directive  
Work plan for reporting on national reforms in services markets  
Access to insurance for services provided in another Member State  
Commission staff working document - A Single Market Strategy for Europe - Analysis and Evidence - Accompanying the document Upgrading the Single Market: more opportunities for people and business

Study on the economic impact of the Services Directive (and its update)  
Assessment of barriers in business services and their economic impact  
Study on administrative formalities and costs involved in accessing markets cross-border for provisions of accountancy, engineering and architecture services  
Study on simplification and mutual recognition in the construction sector under the Services Directive  
Market access requirements in the short-term accommodation rental sector  
Public consultations on the proposals in the Single Market Strategy, for example on notifications proposal  
Impact assessments on the proposals in the Single Market Strategy, for example on e-card proposal

Article 23 of Directive 2008/6/EC requires the Commission to report on the application of the Directive to the European Parliament and Council every four years, providing appropriate information on developments in the sector. The last report has been adopted in November 2015. This Application Report summarises how the Postal Services Directive (Directive 97/67/EC as amended by Directives 2002/39 and 2008/6/EC) has been implemented across the European Union and the main developments that have taken place in the postal market since.  
[https://ec.europa.eu/growth/content/report-application-postal-services-directive-adopted-0\\_en](https://ec.europa.eu/growth/content/report-application-postal-services-directive-adopted-0_en)

Ecodesign + Energy Labelling]

Review of the Ecodesign EU Regulation 548/2014 on power transformers

Impact Assessment study for an ecodesign regulation on machine tools and welding

equipment

Impact Assessment study for an ecodesign regulation on enterprise servers

Evaluation of Machinery Directive

Evaluation of Lifts Directive

Evaluation of Aerosol Dispenser Directive

Evaluation of Low Voltage Directive (planned for 2018/19)

Evaluation of EMC Directive (planned for 2019/2020)

Impact Assessment Review Noise Emissions Directive

Impact Assessment Road circulation of self-propelled machinery

Impact Assessment Delegated Act Software Defined Radio

[CPR]

Analysis of implementation of the Construction Products Regulation

Supporting Study for the joint evaluation and impact assessment for the Construction Products Regulation (CPR) review

Supporting study for the evaluation of the relevance of EOTA tasks

Fitness check on the construction sector

Study on the information needs of users of construction products

Study on the Economic Impacts of the Construction Products Regulation

Report on the operation of Directive 2015/1535 (2014-2015) –adopted by the Commission on 20 December 2017

TRIS database