

TO THE COMMISSIONER FOR THE SINGLE MARKET AND INDUSTRY

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A truly integrated and competitive single market is the European Union's best asset for promoting European productivity and growth, and the best response to the challenges that Europe faces in the post-crisis environment

STATE OF AFFAIRS

Alongside the single currency, the single market is one of the key tools in the process of European integration. A truly integrated and competitive single market is the European Union's best asset for promoting European productivity and growth, and the best response to the challenges that Europe faces in the post-crisis environment. It is also a particularly attractive 'cheap' policy tool in these days of fiscal consolidation, when margins are tight for budgetary stimulus.

The single market encompasses a number of crucial areas, including product markets, energy, transport, services, public services, labour markets, taxation and intellectual property. Financial services have also traditionally been under the Directorate-General for Internal Market and Services, but post-crisis this has become an area of paramount importance to achieve stability and should be allocated to a commissioner for financial services. A separate memo is addressed to the commissioner for financial services, and we do not cover this sector in this memo.

However, the traditional responsibility of the Directorate-General for Internal Market and Services – guaranteeing the five fundamental freedoms of movement of goods, services, labour, capital and ideas – should be more closely integrated with industrial policy in order to

achieve greater competitiveness and higher growth. The previous Commission saw reversing the decline of Europe's manufacturing sector as a key element in restarting European growth after the crisis. The Commission even put forward a target of 20 percent of value added for manufacturing to be achieved by 2020. But the broader goal of EU industrial policy should be to make Europe an attractive place for higher value-added activities built on unique and innovative capabilities, in whatever sector they may be. The memo to the EU presidents notes that coordination of industrial policy should be in the hands of a vice president for growth who will be better able to mobilise the instruments for industrial policy that currently reside in different directorates-general. Among the commissioners with tools for industrial policy, you are the most important: access to large, open and interconnected markets remains a major location factor for high-end industrial activities and the single market is the major EU-level policy lever for industrial policy. Working with a vice president for growth, your position to some extent will mirror the situation at the beginning of the 1990s, when your predecessor Martin Bangemann in the Delors commission was also responsible for industrial affairs, and had great influence over the shaping of EU industrial policy.

Industrial policy

In the last five years, the initiatives launched under the Single Market Acts I and II have contributed in key policy areas such as networks, the digital economy and the mobility of citizens and businesses across EU borders. The Single Market Scoreboard also tells a story of moderate success: the latest figures on the transposition deficit, ie the gap between the number of single market laws adopted at EU level and those in force in member states, are between 0.6 and 0.7 percent (last semester 2013), after a 'peak' of 1.2 percent during the crisis of 2011. The figure is now close to the (suggested) Commission target of 0.5 percent, although the situation is quite different in different member states.

However, the single market is still characterised by a certain degree of fragmentation, with different levels of regulation for product and service markets, labour, taxation, consumer protection, red tape, contract law and health and safety regulations. Unsurprisingly, a recent survey of top European executives¹ reported that a further reduction in barriers to integration continues to be a key priority for the competitiveness of their industries.

Fragmentation

The incompleteness of the European single market results in the variation of key economic indicators, such as consumer prices or energy costs, for different countries. Economic research typically finds that the gap between traded goods prices in different European countries narrowed during the early 1990s to levels quite close to those in the United States. This was especially the case for durables. For non-tradables, such as consumer services, there was much less price convergence. Worryingly, high levels of price divergence and slow price convergence also characterise network industries, such as electricity, gas and telecommunications. For example, in terms of energy costs the European single market performs worse than the US, with a price dispersion of 31 percent (and increasing), compared to 22 percent (and decreasing) in the US. Recent evidence also points to a lack of absolute convergence in prices even in what should be a relatively integrated EU market, such as cars².

Admittedly, not all of the persistent price dispersion is a consequence of the lack of a single market. Less competitive markets, a concern for your colleague the Competition Commissioner, can lead to persistent price differences. Nevertheless, trade data confirms the unfinished nature of the single market, particularly in the services sectors. Trade integration in the single market for goods stands at approximately 22 percent of EU GDP, while for services it is about five percent³. Cross-border trade in services within the EU represents about 13.9 percent of EU GDP on average, a figure which is smaller than that for trade in goods, but larger than the share of services in exports to non-EU countries (8.3 percent). Nevertheless, over the last ten years the EU's trade in services with non-EU countries, measured as a share of GDP, has been growing much faster than the intra-EU share (4.1 percent compared to 2.7 percent, as an annual average). This hints at the unexploited potential for further integration of services markets within the EU.

Public sector

In the public sector, a single public procurement market continues to be a distant objective. This might be addressed by new public procurement directives (which repeal Directives 2004/17/EC and 2004/18/EC), which came into force in April 2014, to be transposed by 2016. The share of direct cross-border procurement in the EU (which means that the contracting authority awards the contract to a company from a different country) is 1.61 percent of all public procurement. The share

is above 10 percent in countries such as Belgium and Ireland, but in big countries such as France and Poland, it is below 1 percent.

CHALLENGES

Your most important challenge was neatly summarised in Mario Monti's 2012 report on *A new strategy for the single market*. He wrote that *"the single market today is less popular than ever, while Europe needs it more than ever"*. This is perhaps even more true today than it was in 2012. The support of citizens and politicians for market integration has further eroded. In the midst of this 'integration fatigue', the single market needs to be deepened and further advanced. This is a challenge because this approach will push the single market into more complex areas, especially the new markets that are part of a fast-changing economy. This is particularly the case for new digital markets. To allow Europe to exploit the new global opportunities from digital technologies, new markets should be single markets from the start.

In addition, a social and cultural dimension often characterises new areas of single market policy, such as services of general interest, for example health care and education. As a result, you will have to make difficult political choices.

The fundamental challenge of being less popular than ever, while being needed more than ever, can only be tackled by taking a new approach to the monitoring of the single market.

Monitoring: a new approach

You should shift market monitoring from the current procedural emphasis on removing barriers to trade to ensuring that markets function better, benefit consumers, workers and businesses and generate sustainable and inclusive growth. To achieve this, the single market policy needs to be modernised to make it more impact-driven and results-oriented. You will therefore need to understand better the critical obstacles that prevent existing markets from functioning well and new markets from developing well. And to increase acceptability, it is crucial to provide unambiguous evidence demonstrating the overall benefits of reform and to facilitate the process of adjustment, particularly for those that are most directly affected.

Your policy would benefit from analysis and diagnosis of the results of single market measures

From this, it should be clear that your single market policy agenda would benefit from analysis and diagnosis of the results of single market measures, or the absence of them. This will enable better identification of those markets that face significant problems and identification of better, socially more sustainable, solutions. Such analysis will help you to better prioritise your efforts in the areas of greatest impact, to improve the design of policy *ex ante* and to support the *ex-post* monitoring of the results of single market initiatives.

An approach to the single market based on analysis and monitoring of impacts is often discussed⁴, but has not yet been consistently implemented. It will not be easy. A first challenge comes from the complexity of outcomes to consider in a fast-changing world. You need to look at the traditional static effects of single market initiatives, such as the impact on flows of goods and services, costs and prices. Also, and perhaps more importantly, you need to evaluate the dynamic effects on the capacity of markets to change, innovate and grow. Another analytical challenge will be to assess the multitude of influencing factors. More often than not, opening up borders alone will not do the trick. It also requires competitive product and services markets. And the success of market opening depends very much on the ability of labour markets to adjust. A results-based single-market approach will thus require much more intense coordination between single-market policies and other policies, particularly competition policy and labour market policy. Cross-policy coordination is however a challenge that the Commission so far has not been able to successfully address.

Results-based strategy

RECOMMENDATIONS

Despite the challenges posed by a results-based approach to the single market, we nevertheless recommend that you fully endorse it. It is the only way to address the challenge of the single market being “less

popular than ever, while Europe needs it more than ever". In addition to being more results based, single market policy should be simpler to implement and easier to enforce and update.

A results-based approach to the single market: market monitoring

Shifting from an emphasis on removing barriers to trade to ensuring that markets function better and benefit consumers and businesses requires identification of the obstacles that prevent markets from functioning well. The key component of a results-based approach is therefore to put in place a market-monitoring strategy. A substantial market-monitoring unit with the right mix of skills should develop your results-based approach. It would gather evidence and analyse the regulatory or enforcement barriers that most hamper market development⁵. Market monitoring should include forward-looking analysis to identify new emerging markets well in advance, particularly, but not exclusively, new digital markets.

Impact-assessment exercises when designing new regulations and evaluating existing regulations should prioritise dynamic efficiency and long-term consumer welfare and should be more closely integrated into your market-monitoring unit.

A results-based strategy for the single market has to recognise the need to work better in tandem with complementary market-opening policies. Single market regulatory design and competition policy should be deployed so that each instrument complements the other rather than having to compensate for the other. To this end, the different market-monitoring exercises taking place in different directorates-general should be coordinated.

A more nimble single market

The inflexibility of the existing procedures for new single market regulations in the face of globalisation and fast-changing markets and technologies is a major potential problem unless new, more nimble decision-making procedures can be adopted. That could be done through greater devolution of the most technical parts of directives to technical committees, a strategy which however implies even stricter supervision of the discretionary power of the same committees, and thus calls again for a stronger market-monitoring exercise.

Single-market policy needs to be made simpler in its implementation and enforcement

Single-market passport

In addition, the single-market policy needs to be made simpler in its implementation and enforcement. A way to quickly address obstacles arising from uncoordinated enforcement in different member states would be a ‘single market administrative passport’, or mutual recognition of administrative procedures: those companies that are administratively cleared to operate (eg have received a licence or authorisation) in one member state following the implementation of a new directive should be provisionally authorised to act in all the other member states, pending an *ex-post* check by the competent national authorities.

Network sectors

A deeper and a broader single market

The full potential of the single market for goods and services cannot be released without the support of interconnecting infrastructure for the single market (cross-border transport, communication and logistic channels), as well as access to skills, ideas and finance for cross-border transactions. This means that the single market for network sectors has a central role. Safeguarding and furthering the single market in sectors such as transport, telecommunications, energy, finance and business services should be particularly high on your industrial policy agenda. For manufactured goods which are increasingly produced by global value chains, access to efficient international network infrastructures and support services is important to build globally competitive positions through European value chains.

For most of the market-services sectors, the single market needs to be further deepened. You should take action to ensure uniform implementation of the Services Directive. This means not refraining from challenging the abuse of ‘proportionality requirements’ by member states or ‘gold plating’ – the imposition of unnecessary requirements to protect national professions. Bold legislative action should be envis-

For public services, measures to reduce fragmentation in Europe are extremely important

aged to address loopholes in the current regulation, such as ‘country of origin’ measures that *de facto* prevent seamless cross-border supply of professional services. Manufacturing and service sectors are increasingly intertwined and furthering the single market for services matters as much to industry as it does to services, and is therefore a pivotal part of your industrial-policy agenda.

For public services, measures to reduce the fragmentation in Europe are extremely important. Areas you will need to work on include health services and education. Particularly relevant in furthering the integration of public services will be to ensure the rapid, correct and effective implementation of the new directive on public procurement (2014/24/EU). You will need to play an important follow-up role: it will be your responsibility to ensure that the new directive is correctly implemented, through accurate monitoring of national legislation and practices. You should also be ready to promote further measures if you realise that the new directive is not meeting expectations, such as the introduction of a ‘public procurement passport’ to simplify the submission of companies’ credentials to contracting authorities.

Public services

You should take special care of new innovation-based markets, many of which will have a digital component, to ensure that they are configured from the start with minimum fragmentation, so that they can develop more quickly and develop world-leading status, riding on a single European market for new ideas. The following policy areas are of particular importance for supporting innovation:

Innovation support

- *Patents*: progress has been made during the past mandate on a single European patent, but further action is needed. The European patent adds a new layer in addition to national patent offices and the European Patent Office,

and so runs the risk of further complicating the intellectual property system in Europe. You should carefully monitor whether the costs of securing intellectual property (including enforcement) decline and converge across member states. In parallel, you should continue to improve the quality of the unitary patent system, including particular measures for young small firms to facilitate patent application, maintenance and enforcement.

- *Copyright*: the other key innovation-related area is copyright, especially for new digital markets. Your concerted action together with the Digital Agenda Commissioner will be much needed. You will need to push forward an overall revision of the copyright framework that would ensure a homogeneous approach throughout Europe. Today, fragmentation in the regulatory system and territorial restrictions tend to benefit distributors. A primary concern should be to ensure fair rewards to content producers while allowing final users to easily access content, no matter where they are in Europe.
- *Standard-setting rules* can be improved, particularly by ensuring the right balance between preservation of incentives to innovate for essential patent holders and protection of implementers from potential antitrust abuse. Rules should be designed with a technology-neutral and open perspective, supporting multiple innovation paths, which will allow future innovators to continue to compete. Rules should also be designed with a global perspective, enabling firms to build leadership in world markets.

Your revamped results-based single-market strategy will enable you to provide the vice president for growth with the most powerful tool that the EU has for industrial policy and for delivery of the Europe 2020 growth strategy.

Coordination

However, securing growth, innovation and productivity for Europe also requires the leveraging of other policy areas, including at national level. To obtain the support of citizens, a revamped single market needs to be completed by effective social policies to deal with the human consequences of rapid economic adjustment. This is the way

to safeguard the single market from the risk of economic nationalism. You will need to target the required measures for further deepening and extending of the single market at key areas for Europe's growth, and you will need to build an adequate degree of consensus around your plans. Closer coordination with your Employment Commissioner colleague could help to ensure better deployment of instruments such as the European Globalisation Fund to address any negative consequences for the labour market of deeper market integration.

NOTES

01 EU PRESIDENTS

1. 'Strategic agenda for the Union in times of change', European Council conclusions, 26-27 June 2014.
2. Also, the President of the European Parliament should accept that national parliaments use the subsidiarity review more often.

04 COMPETITION

1. The antitrust definition of a market is conventionally based on tests that identify the boundaries of a market by measuring the degree of competition that different products exert on each other. If two products are very good substitutes – such that a significant proportion of demand and/or of supply would shift to one product if the price of the other is changed – then the products are considered to belong to the same market.

2. All figures quotes are up to April 2014.

3. See Mario Monti (2010) *A new strategy for the single market*, report to the president of the European Commission José Manuel Barroso, available at http://ec.europa.eu/bepa/pdf/monti_report_final_10_05_2010_en.pdf.

05 SINGLE MARKET

1. The European House – *Ambrosetti, 2014 European Business Leaders Survey*, June.

2. Eyal Dvir and Georg Strasser (2014) 'Does Marketing Widen Borders? Cross-Country Price Dispersion in the European Car Market', mimeo, available at <http://fmwww.bc.edu/EC-P/wp831.pdf>.

3. Trade integration of goods (or services) as a share of GDP is defined as the average of imports and exports of goods (or services) divided by GDP.

4. See for instance the series of reports accompanying the 2007 Single Market Review exercise http://ec.europa.eu/citizens_agenda/single_market_review/index_en.htm

5. Some initial steps towards a framework for implementing a market monitoring exercise in the Commission were already developed in 2008, laid down in Commission Staff Working Document SEC(2008) 3074.

06 DIGITAL AGENDA

1. Sources: Domo.com: www.domo.com; onesecond.designly.com; and Intel: <http://www.intel.com/content/www/us/en/communications/internet-minute-infographic.html>.

2. Scott Marcus, J., I. Godlovitch, P. Nooren, D. Elixmann, B. van der Ende, and J. Cave (2013) *Entertainment x.0 to boost broadband deployment*, ISBN: 978-92-823-4760-7.

08 MIGRATION

1. This memo is written to a European Commissioner responsible for EU mobility, international migration, border management and asylum. In the past, these competences were divided between DG Home, DG Justice and DG Employment. A few points raised in this memo cut across other portfolios (European External Action Service, DG Development and Cooperation). The author would like to thank Elizabeth Collett, Robert Holzmann, Khalid Koser and André Sapir for their helpful comments.

09 TRADE

1. Global trade in goods fell by 12.2 percent in 2009, by far the largest decline since 1950.

2. The direction of trade and ordering of trade partners varies for exports and imports. In 2013, the EU28's top three import sources were (in descending order) China, Russia and the US, while the top three export destinations were the US, Switzerland and China. All the data in this Memo excludes intra-EU trade.

3. As of 31 January 2014, 435 physical RTAs (counting goods, services and accessions together) were notified to the GATT/WTO, of which 248 are currently in force. The overall number of RTAs in force has increased steadily since the 1990s, a trend likely to be buttressed by the many RTAs currently under negotiation.

4. US domestic law permits targeted energy exports only to countries with which the US has free-trade agreements.

10 ENERGY

1. That is, it should discuss the schemes to remunerate electricity, the roll-out of renewables, networks, demand response, capacity, system services, etc, and assign the responsibility for the development and operation of networks, renewables, etc.

2. There is some legal issue with delegating powers from the Council and the Commission to community agencies ('Meroni Doctrine') that has been widely discussed in the context of the institutions of the 'banking union'.