

Opinion of the Committee of the Regions on the ‘Single Market Act’

(2011/C 166/09)

THE COMMITTEE OF THE REGIONS

- greatly regrets the overall imbalance in the three-pillar structure not only as regards the number of measures proposed, their nature, and the clarity of their content, but also regarding progress in their implementation; calls on the Commission to clarify its second- and third-pillar proposals - inter alia, by putting forward an outline for legislative proposals - so that these proposals contain the same level of detail as the proposals concerning the first pillar;
- recommends that the Commission implement - in the context of the Single Market Act - all the advances of the Lisbon Treaty that could help restore EU citizens' confidence in the single market, particularly Article 3 TEU, which establishes new social objectives for the EU in terms of combating social exclusion and discrimination, promoting social justice and protection, gender equality, solidarity between generations and protection of the rights of the child, the Charter of Fundamental Rights, the application of the ‘horizontal social clause’ as well as universal access to essential services for EU citizens in their local areas (Article 14 TFEU and Protocol 26);
- recommends that the Commission bring greater clarity in particular to the area of restoring the confidence of the European people by grouping into an initial package of measures all of the proposals on access to core services, which is one of the day-to-day concerns of the public, on the basis of the advances of the Lisbon Treaty; **recommends** therefore that the proposals on the implementation of the Charter of Fundamental Rights (No 29), the reform of the systems for the recognition of professional qualifications and the creation of a ‘European Skills Passport’ (Nos 33 and 35), improvements to the Posting of Workers Directive (No 30), simplification of the rules on public procurement and services of general interest (Nos 17 and 25), the social business initiative (No 36), elimination of the tax obstacles facing European citizens (No 42) and access to certain basic banking services (No 40) be incorporated into the first package of measures;
- proposes that territorial pacts be established where, through a flexible regional approach, local and regional authorities would focus their activities and funding on implementing the EU 2020 Strategy and the flagship initiatives. There needs to be particular emphasis on projects which promote societal innovations in the region concerned and which have the maximum possible societal impact. The use of territorial pacts and the content of such pacts are part of the criteria for allocating EU funds to projects.

Rapporteur	Mr Jean-Louis DESTANS (FR/PES), President of the General Council of the Eure
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I. GENERAL RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

1. **welcomes** the initiative taken by the Commission to hold a broad public debate on a proposal for a *Single Market Act* based on a highly competitive social market economy and underpinned by the need for Europeans to take ownership of this project; **feels** that this document is intended as a roadmap for the Commission between now and 2014 as regards the key internal policies of the EU and that the Commission's performance will be judged on the basis of achievements in this field;

2. **shares** the Commission's worrying assessment, based on the conclusions of the Monti report, that EU citizens are becoming increasingly disenchanted with the internal market; **stresses** the absolute need to remedy this by implementing the single market not as an end in itself but as a tool geared towards the objectives laid down in the Lisbon Treaty;

3. **endorses** the Commission's view that the internal market should enable the EU to reap the benefits of globalisation, remove barriers to the promotion of knowledge and innovation based on the digital economy, foster sustainable growth to create full employment and promote social wellbeing;

4. thus **backs** this move by the Commission which is underpinned by a global approach to the single market that goes beyond the objective of merely filling in the remaining gaps;

5. **calls for** the removal of barriers to the digital single market. Prompt action is needed to enable the creation of a growing, effective and vibrant pan-European market for the creation and distribution of legal digital content and online services. This would make it possible to set up new, globalised businesses, consolidate existing businesses and, therefore, bring about a rapid increase in jobs based on European culture and expertise and enable European companies to secure a growing share of the global digital market in content and services;

6. **supports** the Commission's approach of restoring balance to the single market by anchoring it on three pillars: an economic strand to support the growth of businesses; a social strand to restore the confidence of the EU citizens and an enhanced governance strand;

7. **greatly regrets**, however, the overall imbalance in the three-pillar structure not only as regards the number of measures proposed, their nature, and the clarity of their content, but also regarding progress in their implementation; **calls** on the Commission to clarify its second- and third-pillar proposals – inter alia, by putting forward an outline for legislative proposals – so that these proposals contain the same level of detail as the proposals concerning the first pillar;

8. **stresses** the need for the Single Market Act to be structurally linked with the Europe 2020 strategy. Indeed, the Single Market Act does not have the platform status of the 2020 strategy; rather, the Commission sees the Act as a mere 'tool' of that Strategy on a par with trade policy or the EU's general financial support. It is also regrettable that the priorities for business – 'strong, sustainable and equitable growth' – do not match the growth priorities of the 2020 strategy;

9. **recommends** that the Commission implement – in the context of the Single Market Act – all the advances of the Lisbon Treaty that could help restore EU citizens' confidence in the single market, particularly Article 3 TEU, which establishes new social objectives for the EU in terms of combating social exclusion and discrimination, promoting social justice and protection, gender equality, solidarity between generations and protection of the rights of the child, the Charter of Fundamental Rights, the application of the 'horizontal social clause' as well as universal access to essential services for EU citizens in their local areas (Article 14 TFEU and Protocol 26);

Strong, sustainable and equitable growth for business

10. **is convinced** that the single market can only operate effectively if businesses are competitive and if it produces real social benefits for EU citizens;

11. **regrets** that the part of the communication devoted to business growth seems only to take account of private businesses, whereas relaunching the single market is also of great importance for the social economy. Both the situation of local and regional authorities and the conditions for the development of local enterprises must be taken into account in planned measures;

12. **considers** that services are a crucial sector for the EU's economic recovery, accounting for over 70% of all jobs and all net job creation in the single market;

13. **highlights** the fact that the Services Directive has a role to play in completing the single market, although it is proving difficult to implement in several Member States, and **calls on** the Commission to continue the mutual evaluation process in close cooperation with local and regional authorities, as the major service organisers and suppliers, before drawing up any new legislative measure in this area;

14. **points out** the role of local and regional authorities and chambers in the introduction of 'one-stop-shops' which are a key element of the Services Directive allowing providers to obtain all relevant information and complete the required procedures through a single access point;

15. **asks** the Commission to undertake a wide-ranging review – as a matter of priority – of the consequences of the liberalisation of services in terms of service and job quality, safety at work, staff qualifications, price, territorial cohesion and accessibility, and to propose an action plan on the basis of the findings thereof in terms of the objectives of the EU 2020 strategy;

16. **supports** the Commission's proposal to establish a European Foundation Statute given the particular role played by foundations in the effective implementation of a highly competitive social market economy;

17. **welcomes** the fact that the Commission is committed to taking particular account of the needs of SMEs, which create economic growth and new and varied employment; **urges** the Commission, however, to bolster instruments facilitating setting-up of new businesses, particularly innovative and technology-based businesses, and financing instruments for SMEs and ensure that the guarantee facility under the Competitiveness and Innovation Framework Programme is maintained after the current funding period;

18. **insists** that the objective of easing the burden of red tape should not be solely for the benefit of businesses but should also be extended to local and regional authorities; **calls on** the Commission to take full account of this objective when framing its legislative proposals, particularly regarding SGEI and procedures on procurement and concessions, in line with the principles of administrative freedom of local authorities, proportionality and subsidiarity; for proposals on administrative simplification as regards procurement procedures, refers to the CoR's response to the Commission's Green Paper on the modernisation of EU public procurement policy;

19. **congratulates** the Commission on its initiatives on better regulation and on easing the administrative burden on businesses, including the work of the high-level group chaired by Mr Stoiber, in which the CoR has been involved. Points out,

however, that better regulation does not necessarily mean deregulation and that this work should not be a substitute for the democratic process;

20. **calls for** the evaluation of the Small Business Act to closely involve economic operators, the social partners and local and regional authorities, so that the best practices developed at local and regional level can be highlighted; **recommends** the drawing up with their support of a global roadmap accompanied by a precise timetable and suitable means to ensure the effective implementation of the SBA, despite its non-binding nature, in line with the objectives of the Europe 2020 strategy; **stresses** the importance of introducing a European private company statute to firmly integrate SMEs into the internal market;

21. **calls on** the Commission to press ahead in the area of EU taxation policy, which is a key element of a global approach to the single market and the pursuit of EU integration, also by clarifying the framework applicable to VAT and by proposing the implementation of a Common Consolidated Corporate Tax Base (CCCTB) to make life easier for companies; **welcomes** in this context the Commission's intention to present a proposal on the subject during the second half of 2011;

22. **endorses** the Commission's view that protecting intellectual property is key to the smooth functioning of the internal market in that it fosters innovation and creativity, competitiveness and job creation; **calls on** the Commission to put forward a global strategy on intellectual property, which would guarantee wider dissemination of works and knowledge, while upholding creators' legitimate rights; it would be interesting here to explore, for instance, the Creative Commons system and its attendant licensing arrangements that are being used more and more in the digital and creative world;

23. **backs** the proposal put forward by the Commission in December 2010 opening the way for 'enhanced cooperation' between as many Member States as possible to create a unitary patent for the EU. This unitary patent protection would allow those Member States that so desired to establish a patent, valid in all participating countries, that could be obtained with a single application; **welcomes** the Council decision of 10 March 2011 which authorises the launch of enhanced cooperation in this area;

24. **stresses** the importance of moving towards a green single market for emerging green, low-carbon technologies, services and products, developing CO₂-emissions standards at EU level; **insists** that mandatory standards and clear labelling for energy-efficient products should be phased in EU-wide. When drawing up EU-wide standards the additional costs that this might entail for small and medium-sized enterprises must be taken into consideration;

25. **urges** the Commission when issuing its proposals on transport, particularly in the forthcoming White Paper on transport policy, to go beyond merely removing the remaining obstacles identified between means of transport and between national systems of transport. It should also incorporate an environmental objective, the issue of accessibility and a pan-European network, paying special attention to the situation of peripheral regions, whose connection to core European areas, interoperability and integration of networks into the European network are essential for the creation of a real, effective single market. In particular, there is a need to promote new intelligent transport innovations using digital technology, related pilot schemes and the widespread introduction of results;

26. **emphasises** that trans-European infrastructure is still generally the product of policies and development programmes implemented nationally by the Member States. As such, they remain overly circumscribed by the constraints of national geography;

27. **feels** that it is essential to be able to issue European bonds for projects (project bonds), in order to finance works on a large scale whose economic impact will be felt in the medium or long term. This device is likely to make the EU's interventions more visible and – above all – more efficient. It may have a highly beneficial leverage effect on the momentum of the internal market and help boost territorial cohesion;

28. **emphasises**, however, that project bonds should complement the role of the structural funds, rather than replace them altogether;

29. **urges** the Commission to put forward proposals without delay on how to create interconnected EU-wide energy distribution networks, with a view to securing a reliable energy supply for all EU citizens; The Committee would like these proposals to provide for coverage of the EU's geographically disadvantaged regions, e.g. islands and mountainous regions;

30. **calls for** the idea of Euro-bonds to be explored in more detail; by pooling some public debt, such bonds would enable all euro area countries to borrow money at rates close to the best on the market, limit speculation against national borrowing and improve the quality of budgetary policy coordination;

31. **thinks** that the proposals on e-commerce and e-procurement should incorporate the issues of access to fast and ultra-fast broadband and of financing the infrastructure throughout the whole EU. Particular care should be taken to secure coverage for geographically-disadvantaged regions, whose economic development could be expected to benefit significantly from the development of such networks;

32. **points out** that cooperation between local and regional authorities offers tremendous potential to boost efficiency and thus benefit the public. In line with the principles of the Treaty on the Functioning of the European Union, **calls on** the Commission to consider decisions in this area as domestic, organisational matters not covered by public procurement law;

33. **would stress** that European public procurement law is of key importance, particularly for local and regional authorities; **deplores** the fact that in its interpretative communication on public procurement contracts below the set thresholds, the Commission demonstrates a regrettable lack of sensitivity to local and regional authority needs; **insists** that in future discussions on this topic, solutions are found that guarantee legal certainty in the interests of regions and local authorities and make selection and tendering procedures as transparent and as simple as possible, especially when the tendering authorities wish to limit the number of candidates invited to tender;

34. **considers** it important to shore up the external dimension of the single market, based on the principle of reciprocity, thus making a base camp from which to face globalisation and prepare companies for international competition; thus **supports** any Commission initiative aimed at aligning international standards on EU standards, particularly social and environmental ones, as otherwise the latter could be seen as curbing the competitiveness of the EU economy;

35. **calls for** the EU's market access commitments under the WTO Agreement on Government Procurement (GPA) to be transposed into EU law; this would provide vital clarity and legal certainty to contracting authorities;

36. **points out** that the single market offers real possibilities in terms of jobs, growth and competitiveness especially as regards trade in services; to fully tap this potential, strong structural flanking policies need to be harnessed. **Would urge** that this aspect be rapidly incorporated into the Act for relaunching the single market by drawing on a strengthened cohesion policy, which is itself a support policy for EU competitiveness, as well as being the vital corollary to the single market, the key to upwardly converging living standards and an essential tool for interlinking territorial development strategies with the Europe 2020 Strategy policy priorities;

37. **stresses** the importance of industry to the EU economy; it alone accounts for 85% of R&D expenditure by business and constitutes the main driver of service demand; **asks** the Commission to bolster this aspect in its final proposal for the Single Market Act and duly tie it in with the flagship initiative on *An industrial policy for the globalisation era*;

38. also **believes** that competition policy plays a decisive role in the ability of EU businesses to face the challenges of globalisation, as regards, for example, mergers and concentrations, cooperation between businesses, know-how and technology transfer, and aid for exports and innovation, as well as the bureaucratic and administrative burden on SMEs; **deplores** the absence of any reference to competition policy in the communication, and of any link between the objectives of that policy and the Single Market Act; **stresses** the need to place competition policy at the service of a highly competitive social market economy;

39. **considers** that the benefits of the internal market are not evenly distributed among the different regions in Europe. The outermost regions are one example: due to the serious constraints which affect them, they find it harder to access the benefits of the internal market. The Committee therefore advocates differentiating European policy in relation to the Single Market, based on Article 349 of the Treaty on the Functioning of the European Union (TFEU), particularly in terms of the provision of services of general interest and clarifying the applicable VAT framework;

Europeans at the heart of the single market

40. **regrets** that this strand of the communication does not focus enough on the daily concerns of EU citizens where they live (jobs, housing, education, health, transport, etc.) and **greatly regrets** that the Commission does not take full advantage of the advances of the Lisbon Treaty;

41. **believes** that the European model, and in particular the social dimension of this model, is a source of competitiveness in the long term: being able to call upon skilled, motivated, fit workers along with entrepreneurs, employers and researchers will increasingly provide the key to long-term competitiveness based on innovation and quality;

42. **recognises** the key importance of education and skills in setting up businesses with the capacity to generate growth, jobs and social integration, which are a *sine qua non* for the success of the internal market;

43. **supports** the proposal to draw up a quality framework for traineeships, which can provide the key to labour market entry and mobility for Europe's young people. This framework, drawn up with the social partners' support, should consist of a minimum set of rights and obligations in respect of working conditions and social protection and make provision for remuneration or other forms of compensation for trainees, which would vary in line with incomes in the respective Member States;

44. **considers** that it is vital to encourage communication gateways and the recognition of qualifications between Member States, without, however, trying to develop a unified European model for education. **Believes**, however, that the intention of the Commission to bring the Professional Qualifications Directive (Directive 2005/36/EC) up-to-date should be put into effect only after a thorough evaluation of the existing system; the objective must be to simplify the existing rules and further integrate the professions into the single market;

45. **points out**, in this context, that global competition and the orientation towards knowledge- and services-based economies creates new challenges for skills development and education. Low-skilled and low-paid jobs should not create a new group of 'working poor'. It is therefore necessary to focus social provision in particular on assisting those concerned through education and training, fair pay and working conditions for all, and provisions for increased social mobility;

46. **emphasises** that it is vital to take account of the specific nature of public service missions. The primacy accorded to services of general economic interest, including social services, as public goods is an asset in pursuing a successful and highly competitive social market economy; **stresses** the fact that local and regional authorities play a strategic role in promoting European growth particularly since the sub-national public sector accounts for 17.2% of EU GDP and investment totalling EUR 221 billion, and consequently the development of such services should be supported by the EU;

47. **points out** that the *Protocol on services of general interest* and Article 14 of the Treaty on the Functioning of the European Union recognises both the specificity and the diversity of general interest services, including social services of general interest (SSGI), and the primary competence of Member States to provide, carry out and organise them; **underlines**, however, the fact that the wide discretion which regional and local authorities must have under the Lisbon Treaty requires, for its implementation, a legal basis of secondary legislation defining interactions with other EU policies; **regrets** in this connection that the Commission has not yet taken any initiative in this direction on the basis of Article 14 TFEU, thus leaving it to the European Court of Justice to rule on matters which would nevertheless warrant clarification by the legislator in accordance with the principle of democratic responsibility;

48. **notes** that EU law has wide and varied repercussions for national social benefit systems. In the past, EU law in areas of public procurement, competition and State aid also impacted strongly on the shape of local general interest service provision, without ensuring any real legal certainty for the providers or recipients of such services;

49. **points out** that the 3rd forum on social services of general interest (SSGI), organised by the Belgian presidency of the EU, issued 25 concrete proposals on adapting EU law to the specific nature of the organisation and funding of SSGI, inter alia with regard to State aid control and outsourcing procedures; **recommends** that the Commission embrace these proposals, particularly in the context of the revision of the Monti-Kroes package, with a view to simplifying the relevant EU law and taking account of the intrinsically local nature of these services and the complex web of players responsible for promoting them locally to local communities;

50. **regrets** the absence in the Single Market Act of any reference to the European Associations Act, since associations are key social and economic players, particularly in the field of social services of general interest;

51. **stresses** that, according to the case-law of the EU Court of Justice, service concessions are excluded from the scope of the public procurement directives, but rather must comply with the general principles laid down in the Treaty on the Functioning of the EU (ban on discrimination, principle of equal treatment and transparency), and that it must remain open to public contracting authorities to ensure the provision of services by way of a concession if they consider that to be the best method of providing the public service in question, and that the risk (however limited) involved is transferred in full⁽¹⁾; thus **deems** that this case-law offers the necessary basis for legislative consolidation to perpetuate this status quo; **is opposed to** a single procedure for the award of concessions that would hinder local authorities' organisational and administrative freedom by requiring compliance with the EU requirement for adequate prior publicity;

52. **maintains** that the free movement of workers and services should not lead to social dumping. The four freedoms of the single market should be brought into line with the horizontal social clause introduced by the Lisbon Treaty (Article 9 TFEU);

53. **calls on** the Commission to carry out forthwith, in application of Article 9 of the Treaty on the Functioning of the European Union and in keeping with proposal 29 of the Single Market Act, an in-depth prior analysis of the social impact of all proposed legislation concerning the single market; is prepared to support the Commission by contributing its local and regional expertise to these impact assessments, inter alia by means of its Europe 2020 strategy monitoring platform and subsidiarity network;

54. **notes** that the current interpretation and implementation of the Posting of Workers Directive raises problems in terms of respect for fundamental rights and the principle of the free

movement of workers; **welcomes** the fact that the Commission is involved, jointly with the Member States and social partners, as observers, in a high-level group of experts on the implementation of this directive, which will examine the current difficulties; **believes** that the revision of this directive should take account of the conclusions of the high-level group of experts and clarify the level of protection that is deemed adequate and the room for manoeuvre to be left to social partners and Member States in the case of temporary worker mobility;

The keys to good governance of the single market

55. **deeply regrets** the disconnect between the stated aim of good governance and the measures proposed. It is self-evident that coordinated work aimed at strengthening the internal market should take account of relations with the local and regional level and not be mainly focused on relations between national and EU-level administrations;

56. **underlines** that local and regional authorities have a dual role when it comes to the single market: firstly, their powers, remit and policies mean that they play a major role in implementing the single market. They are also involved at the level closest to the people in delivering services to EU citizens. They are thus well placed to identify any confusion thrown up by the single market and to pass on the people's concerns. Local and regional authorities should not therefore be seen as merely a downstream conduit in delivering the single market (implementation), but should also play an upstream conduit role in channelling the people's concerns, to help strike a balance in the internal market and ensure ownership by the people. This goes for both framing the global strategy on relaunching the single market and for the subsequent examination of each of the fifty proposals that the Commission has promised;

57. **feels** that, given the range of actors involved at various tiers of government and the variety of regulatory instruments concerned, the implementation on the ground of the Single Market Act provides an appropriate political space in which to properly implement the principles of multilevel governance;

58. **supports** the Commission's intention to extend the mutual evaluation process used for the Services Directive to other key single market legislation, while specifying that, for this to be effective, the process must be systematically extended to the stakeholders, including local and regional authorities (in those sectors concerning them) to make it a multilateral process; **recommends** that this process be extended as a matter of priority to all Commission initiatives on public procurement, service concessions, services of general interest, the implementation of the Charter of Fundamental Rights and worker mobility;

⁽¹⁾ Judgment in Case C-206/08 of 10 September 2009, points 72-75.

59. **proposes** that regional internal market forums be held focused on the core needs of the European people and on conditions for accessing the services concerned – in respect of employment, training, housing, education, transport, health, etc. – in the areas where they live;

60. **believes** that the EGTC would be particularly suitable for piloting innovative cross-border practices regarding the internal market and meeting the core needs of the European people;

61. **points out** that informal dispute-resolution tools such as the Solvit network are still not sufficiently known about among businesses and the public. A structured communication campaign should thus be embarked on targeting SMEs and the public and aimed at publicising these facilities and the opportunities they provide for resolving disputes out of court; they should also be given additional funding and staff;

62. **calls on** all local and regional authorities to register in the Internal Market Information System, which facilitates the smooth functioning of the internal market by providing a forum for cooperation and exchange between authorities across the Member States; and encourages the Commission to extend the use of this system beyond the Services Directive and the Professional Qualifications Directive;

II. CONCLUSIONS

Towards a pact on tackling the major strategic challenges of our time

63. **believes** that the strategic nature of the current challenges make it necessary to go beyond what the Commission is proposing and, as Mr Monti suggested in his report to President Barroso, enter into a veritable pact between all of the EU institutions, the Member States, the local and regional authorities, the European people and business, as the only way to build together a highly competitive social market economy that is capable of providing long-term responses;

64. **suggests** that this pact could be concluded on the basis of the principles of equilibrium established by the Treaties between exercising the fundamental freedoms of the single market, guaranteeing the European people's fundamental rights, upholding the principles of cohesion and solidarity between the peoples of Europe and the proper performance of the missions assigned by public authorities, including local and regional authorities, regarding services of general interest ensuring universal access to essential services;

65. **believes** that the European people and SMEs must be able to understand this pact and that the Commission should thus set out a limited number of high-profile flagship measures in its package of fifty proposals targeting the public and SMEs, particularly flagging up the real impact of these measures on their daily living and working conditions, in the areas where they live and work;

66. **proposes** that these flagship measures could be specifically monitored in terms of implementation and real impact on people's lives and on SMEs; there should also be a public information campaign to help people understand the pact and its main implementation strands;

67. **recommends** that the Commission bring greater clarity in particular to the area of *restoring the confidence of the European people* by grouping into an initial package of measures all of the proposals on access to core services, which is one of the day-to-day concerns of the public, on the basis of the advances of the Lisbon Treaty; **recommends** therefore that the proposals on the implementation of the Charter of Fundamental Rights (No 29), the reform of the systems for the recognition of professional qualifications and the creation of a 'European Skills Passport' (Nos 33 and 35), improvements to the Posting of Workers Directive (No 30), simplification of the rules on public procurement and services of general interest (Nos 17 and 25), the social business initiative (No 36), elimination of the tax obstacles facing European citizens (No 42) and access to certain basic banking services (No 40) be incorporated into the first package of measures;

68. **proposes** that, alongside the pact applicable to all parties described above, territorial pacts be established where, through a flexible regional approach, local and regional authorities would focus their activities and funding on implementing the EU 2020 Strategy and the flagship initiatives. There needs to be particular emphasis on projects which promote societal innovations in the region concerned and which have the maximum possible societal impact. The use of territorial pacts and the content of such pacts are part of the criteria for allocating EU funds to projects;

69. **considers** that on the basis of Article 349 TFEU, the Commission should carry out an additional, realistic study, taking account of the disadvantages and difficulties faced by the outermost regions when participating in and attempting to take advantage of the benefits offered by Europe's internal market and in order to meet the goals set by the 2020 Strategy.

Brussels, 1 April 2011.

*The President
of the Committee of the Regions*
Mercedes BRESSO