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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Identifying and addressing barriers to the Single Market**

{SWD(2020) 54 final}

## **Introduction**

35 years ago, in June 1985 the European Commission presented a White Paper to the European Council on the completion of the single market. The message was clear: press ahead with real integration, fulfilling the ambitions of the Treaty of Rome or drop back into mediocrity by allowing Europe to develop into no more than a free trade area.

The EU chose the path of closer integration and today we have the world's largest single market, with more than 447 million consumers and up to 56 million jobs that depend on trade within the single market.

By virtue of its scale and integration, the single market has boosted the standing and influence of the EU in the world. Its principles, values and standards underpin the EU's leadership and active role for a rules-based global order and a level playing field at home and abroad.

Europe is now leading the way towards the twin transition towards climate neutrality and digital leadership. The modernisation and strengthening of the single market in this context is one of the main priorities of the Commission for the next five years.

Despite the real accomplishments of the single market, businesses and consumers still report many hurdles. In October 2018, at the final European Parliament of Enterprises, almost 70% of businesses answered negatively when asked whether, in their opinion, the single market was sufficiently integrated.

This Communication takes the experiences and perceptions of businesses and consumers who try to use the single market on a daily basis ("users") as the starting point for identifying the key remaining barriers along the steps of their respective "journeys" towards cross-border activities.

Drawing on the evidence gathered in two reports<sup>1</sup>, this Communication highlights 13 key barriers from a user's perspective. It shows that barriers are not only of a regulatory or administrative nature, but also of a practical nature. In practice, a business or a consumer often faces several constraints simultaneously when operating across the EU. Finally, the users most penalised by this situation are small and medium-sized enterprises (SMEs) and professionals.

All Europeans have the right to the best and widest choice of goods, services, employment and entrepreneurial opportunities that the single market can deliver and should not be prevented from enjoying them.

To offer ways forward at both EU and Member State level, the Communication identifies five main root causes for these barriers: Regulatory choices at EU and national level, transposition, implementation and enforcement of legislation, administrative capacity and practices in the Member States, general business and consumer environment and root causes not linked to

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<sup>1</sup> Commission Staff Working Document "Business Journey on the Single Market: Practical Obstacles and Barriers"; Commission Consumer conditions scoreboard: consumers at home in the single market - 2019 edition

public policy such as language or culture. Among those, difficulties related to the general business and consumer environment are important since they affect domestic users and those from other Member States equally.

In March 2019, the European Council called on the EU and the Member States to remove remaining unjustified obstacles to the single market, while stressing that no new barriers should be created.

Addressing the barriers identified in this Communication and their root causes will have to happen through a mix of measures at both EU and national level: digitalisation of the public administration and better communication to help users' along their journey, new and improved EU legislation where necessary, better implementation and ultimately enforcement.

One key area of action, enforcement, is addressed in the “Communication on a Long term action plan for better implementation and enforcement of single market rules”<sup>2</sup>, which sets out the Commission’s priorities for a renewed partnership with Member States.

Today’s New Industry Strategy for Europe<sup>3</sup> underlines that a strong, integrated single market is a springboard and pre-condition for a competitive EU industry. To make the single market work for all, EU law puts in place common rules to eliminate barriers and facilitate the circulation of goods and services across the EU, while also protecting consumers. This report also shows that when the single market is failing to reach its full potential, SMEs and citizens are the most likely to suffer, due to their limited resources. Particularly start-ups and highly innovative SMEs are prevented from becoming competitive players on an international scale. The SME strategy for a sustainable and digital Europe<sup>4</sup> also adopted today, sets out additional targeted measures to help SMEs make better use of the single market.

This Communication also links with the European Semester, where the removal of the most problematic regulatory and administrative burdens is an ongoing concern, as well as with better regulation tools at EU level.

Adapting the single market to today’s challenges is an ambitious goal and a better functioning of the single market would unleash untapped economic potential. A recent update of the European Parliament’s “Cost of non-Europe” study<sup>5</sup> estimates that the benefits of removing the remaining barriers to a fully functioning single market for goods and services could amount to €713 billion by the end of 2029.

Delivering the benefits of the single market is a joint responsibility of the Commission and the Member States. Safeguarding the integrity of the EU’s single market from external challenges is as important as strengthening it from within. The Commission stands ready to step up its efforts and help Member States achieve a single market that delivers on its promises.

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<sup>2</sup> COM(2020)94 10.03.2020

<sup>3</sup> COM(2020)102 10.03.2020

<sup>4</sup> COM(2020)103 10.03.2020

<sup>5</sup> [https://www.europarl.europa.eu/RegData/etudes/STUD/2019/631745/EPRS\\_STU\(2019\)631745\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/631745/EPRS_STU(2019)631745_EN.pdf)

## **I. THE USER’S PERSPECTIVE: THE MOST FREQUENTLY REPORTED BARRIERS**

This Communication draws on two Commission reports<sup>6</sup>. The first one, released at the same time as this Communication, focuses on the practical obstacles and barriers to the single market as perceived by businesses. It builds on sources capturing the perceptions of businesses that intend to be or already are active in the single market. These sources include surveys of businesses, databases and analyses. In addition, a consultation of chambers of commerce was conducted to get a more comprehensive picture of different obstacles. The analysis also builds on the Commission’s in-house expertise. Obstacles are included in this report if either a significant percentage of surveyed businesses and/or if different sources consistently report them as an obstacle. The second report, the EU Consumer Conditions Scoreboard, published in November 2019, relies on an underlying survey of consumers’ attitudes to cross border trade. Both reports provide a snapshot of the barriers in the single market as perceived by its users and do not claim to be exhaustive.

Drawing on the evidence gathered in these two reports, this Communication focuses first on the top 13 barriers to cross-border activity, as most commonly reported by businesses (with regard to cross-border trade or establishment) and consumers (with regard to cross-border purchase of goods or services).

The presented barriers follow the key steps of the “journeys” that businesses and consumers make in the single market, as shown in the box below.

Key steps of the business journey include: gathering information to prepare a cross-border transaction (and/or expansion); meeting requirements to sell goods or services; marketing and selling; delivery; after sales and dispute resolution; taxes; (additional steps in case of establishment) setting up business activity; staffing; investing and financing.

Key steps of the consumer journey: gathering product/service information; purchasing; paying; obtaining delivery; after sales activities and dispute resolution.

### **Gathering the information needed to prepare cross-border transactions and/or expansion**

#### **1. Businesses report difficulties in obtaining information, not only on market opportunities and potential business partners, but also on the relevant regulatory requirements.**

According to a recent survey<sup>7</sup>, 31% of SMEs with exporting experience and 21% of SMEs without such experience mention the difficulty to identify business partners in another Member State as a barrier to doing business across the single market. In addition, 22% and 11%, respectively, report not knowing where to find information about potential market

<sup>6</sup> Commission Staff Working Document “Business Journey on the Single Market: Practical Obstacles and Barriers”; Commission Consumer conditions scoreboard: consumers at home in the single market - 2019 edition

<sup>7</sup> Centre for European Policy Studies ‘Hidden Treasures: Mapping Europe’s sources of competitive advantage in doing business’, 2019 (Hidden Treasures report)

opportunities. European chambers of commerce also put forward that inaccessibility of information on rules and requirements ranks third in obstacles to the single market, reported by 69% of respondents among their memberships<sup>8</sup>. According to another recent survey focusing on the EU's five largest economies, not knowing the rules that have to be followed is a barrier for 31% of SMEs without exporting experience and 9% of SMEs with exporting experience in the five largest Member States<sup>9</sup>.

## **Meeting requirements and complying with procedures to sell goods or services**

### **2. Businesses report burdensome and complex administrative procedures when it comes to selling goods or services in another Member State.**

Several recent surveys consistently quote “complex administrative procedures” as one of the most serious obstacles to the single market for businesses and in particular SMEs. Among these, procedures for the posting of workers to another Member State are often singled out in the area of services and are considered a barrier by 58% of the respondents to the recent survey of the European chambers of commerce<sup>10</sup>. 22% of the respondents to the survey done by the Finnish trade organisation<sup>11</sup> consider this a significant or a very significant obstacle. 10% of SOLVIT business cases recorded in 2018 concern difficulties related to posting of workers<sup>12</sup>.

While the European Electronic Communications Code addressed a number of long-standing obstacles to network deployment, including the timely availability of spectrum for 5G, obstacles still remain. Complex and/or burdensome procedures for the granting of permits/licences have been reported in particular in a number of services sectors, including electronic communications, professional services and the building sector. Particular issues reported by businesses include a lack of electronic procedures, onerous documentation requirements (including for certified translation and copies), high fees or long decision deadlines by authorities. For instance, the companies deploying and running electronic communications networks and services, including 5G, are facing a number of difficulties (burdensome administrative procedures to obtain construction permits; high fees relative to investment needs, in particular for spectrum assignment; problems to access and lack of information on existing physical infrastructure such as ducts or poles, etc.). This situation results in a slower, more costly and less efficient deployment of electronic communications networks, which are fundamental for the development of the digital single market<sup>13</sup>.

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<sup>8</sup> Eurochambres, ‘Business survey – EU Internal Market: Barriers and Solutions’, 2019

<sup>9</sup> Centre for European Policy Studies ‘Hidden Treasures: Mapping Europe’s sources of competitive advantage in doing business’, 2019 (Hidden Treasures report)

<sup>10</sup> Eurochambres, ‘Business survey – EU Internal Market: Barriers and Solutions’, 2019

<sup>11</sup> Confederation of Finnish Industries

<sup>12</sup> Single Market Scoreboard 2018 [https://ec.europa.eu/internal\\_market/scoreboard/performance\\_by\\_governance\\_tool/solvit/index\\_en.htm](https://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/solvit/index_en.htm)

<sup>13</sup> On this issue, see root cause n.1 below

### **3. Businesses complain about uneven access to public procurement.**

In spite of the digitalisation of procurement, a perceived lack of transparency and possible discriminatory, disproportionate or non-objective behaviour from contracting authorities are a recurring concern for businesses. “Arbitrary public procurement practices” were reported as a barrier by 38% of businesses in a recent survey<sup>14</sup>. This concern seems to be reflected in data collected at EU level. Although the publication rate of procurement opportunities in the EU has improved overall, its level varies greatly across Member States: in some of them, it continues to be lower than the estimated sizes of their respective public procurement markets. In addition, the proportion of tenders with a single offer has increased between 2009 and 2018, reaching 35% in 2018<sup>15</sup>.

### **4. Businesses report inefficiencies related to additional technical requirements, standards and other rules in certain sectors at national level (as opposed to EU requirements).**

According to a recent survey, up to 71% of SMEs who tried the existing mutual recognition system for non-harmonised goods<sup>16</sup> were faced with a market access denial decision<sup>17</sup>.

Issues also arise in areas harmonised under EU law. “Different technical standards” are reported as an obstacle by 18% of self-employed in a recent report from a Dutch survey.<sup>18</sup> In the industrial machinery and/or construction product sectors for instance, particular concerns seem to be undue additional markings, rules and requirements for goods, which already comply with harmonised legislation. The electronic communications sector is another example of a situation where some bottlenecks appear to be largely due to inadequate or inconsistent regulations applied across Member States (for example setting different termination rates for voice calls markets)<sup>19</sup>. Future actions are also needed to ensure that barriers already addressed will not re-emerge (e.g. roaming).

### **5. Businesses in the services sector consistently report issues relating to entry and exercise requirements in relation to specific activities or professions.**

Service providers often need to comply with general or sector-specific requirements when expanding across the single market (providing cross-border services and/or setting up an establishment in another Member State). For presentational purposes, the rules at stake can be grouped into the two following main categories: i) rules on accessing the market (entry requirements) and ii) rules on conduct when providing the service (exercise requirements).

These national requirements in services are regularly highlighted by businesses as an important obstacle. 71% of respondents to the recent survey of the European chambers of commerce report them as significant or very significant (81% and 60% for service providers

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<sup>14</sup> Eurochambres, ‘Business survey – EU Internal Market: Barriers and Solutions’, 2019

<sup>15</sup> 2019 Single market performance report, SWD (2019) 444 final.

<sup>16</sup> Goods that are not harmonised by EU legislation, such as textile, footwear, childcare articles, jewellery, tableware or furniture

<sup>17</sup> See root cause n.2 below

<sup>18</sup> Dutch Ministry of Economy, Dutch export agency, ‘Doing Business in Europe’, 2018

<sup>19</sup> On this issue, see root cause n.1 below.

and producers of manufactured goods, respectively). Entry and exercise requirements have been identified in particular as important barriers for many regulated professions (such as accountants, tax advisers, auditors, construction trades, architects and engineers, legal professions or intellectual property agents) and for retail services. For regulated professions, entry requirements raise issues such as access to reserved activities (requiring specific qualifications and compliance with other conditions such as compulsory membership of a professional body) and authorisation requirements. Exercise requirements include restrictions on advertising, legal form or shareholding restrictions, prohibitions on joint exercise of professions or insurance requirements. In retail, businesses may face disproportionate rules on establishment of physical shops as well as on their daily activities such as rules on the location of shops or the range of products sold as well as restrictions on sales promotions and discounts.

The European Semester country-specific recommendations largely echo these issues. The recommendations for some Member States explicitly concern the removal of regulatory and administrative burdens in professional services and in retail. The Commission has also designed restrictiveness indicators, focusing specifically on the regulation of a number of professions and retail. The results add to the evidence of barriers faced by businesses.

## **Cross-border purchasing of goods or services**

### **6. Consumers and businesses experience that their cross border requests for purchases are rejected or redirected.**

Before the entry into force of the Geo-blocking Regulation<sup>20</sup>, one of the most commonly reported consumer problem with online cross-border shopping was linked to geo-blocking<sup>21</sup>. The situation seems to have improved following the Geo-blocking Regulation's entry into force<sup>22</sup>, with only 14 out of 200 websites checked in a recent investigation<sup>23</sup> making an (illegal) redirection without the consent of the consumer. This does not mean, however, that all obstacles related to cross-border sales have disappeared. In 53 cases, consumers had not been informed that their purchases could not be delivered in the countries served by the trader. Furthermore, the Flash Eurobarometer 477b<sup>24</sup> reports that cross-border access to audio-visual content often does not work (in approximately half of cases), mostly due to geo-blocking practices<sup>25</sup>. The fact that content producers/right holders restrict cross-border accessibility of content in their copyright licensing agreement also seems to be a concern. In this context an evaluation report on the Geo-blocking Regulation will soon be adopted.

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<sup>20</sup> Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (Text with EEA relevance. )

<sup>21</sup> See root cause n.5 below

<sup>22</sup> Regulation (EU) 2018/302 that addresses unjustified on line and off-line sales discrimination based on customers' nationality, place of residence or place of establishment within the internal market. The Regulation benefits "customers"- both consumers and undertakings buying goods or services as end users

<sup>23</sup> Consumer Protection Cooperation Network sweep [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_156](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_156)

<sup>24</sup> <https://ec.europa.eu/digital-single-market/en/news/flash-eurobarometer-study-intra-eu-communications>

<sup>25</sup> Such content is not covered by the Geo-blocking Regulation

In some instances, businesses also face situations where they cannot source goods from the country of their choice. Retailers complain about these territorial supply constraints imposed by suppliers directing retailers to buy nationally. These practices, which may infringe competition law, can fragment the single market, with detriment to consumers as well as businesses.

#### **7. Consumers report lower levels of trust in online cross-border purchases.**

The trust gap between online cross-border purchases and online domestic purchases did not narrow between 2012 and 2018. This is despite the sharp rise in online purchases, and especially in the proportion of consumers shopping online intra-EU, which has nearly doubled from 11% in 2012 to 21% in 2018 (in comparison, domestic online purchases increased from 40% in 2012 to 52%<sup>26</sup>). Consumers are still significantly less confident when buying from a website in another EU country (48%) than a website in their country (72%). In 2012, both figures were 15 percentage points lower. Consumers are not sufficiently aware and informed of the applicability of harmonised consumer protection rules and of the existence of cross-border means of redress. Accordingly, they are more hesitant to look for better online deals outside their borders.

#### **8. Consumers are the target of fraud with a cross-border origin.**

In the EU, about 56% of consumers surveyed experienced a fraud or scam in the past two years<sup>27</sup>. Certain scams, where for example consumers are asked to pay money to collect a prize, are the most reported form of the scams with unknown geographical origin (9% of consumers have experienced such a scam without being able to identify the origin of the trader)<sup>28</sup>. This figure shows that administrative and criminal cooperation within the EU needs to be improved and stepped up, with a view to face the challenges for consumer law enforcers in the current economy including in cases with a cross-border dimension<sup>29</sup>.

### **Delivering goods and services cross-border**

#### **9. Businesses report burdensome procedures due to differences in tax systems and administrations.**

The lack of tax harmonisation remains one of the main obstacles faced by business when operating cross-border. Further efforts should be undertaken to reduce divergences in the tax systems and to reconsider the unanimity requirement in the Council. According to the Annual Report on European SMEs 2017/2018<sup>30</sup>, 63% of SMEs consider that "dealing with foreign taxation issues is too complicated" and report it as a barrier to exporting (and establishment). Recent reports from Dutch and Finnish business organisations<sup>31</sup> stress that Value Added Tax

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<sup>26</sup> Consumer Conditions Scoreboard, 2019 edition, DG Justice and Consumers, p. 66.

<sup>27</sup> Commission's survey Europeans' attitudes towards cyber security – Special Eurobarometer 499 29 January 2020.

<sup>28</sup> Consumer Conditions Scoreboard, 2019 edition, DG Justice and Consumers, p. 34.

<sup>29</sup> See root cause n.3 below.

<sup>30</sup> European Commission, 'Annual report on European SMEs 2017/2018', 2018

<sup>31</sup> Dutch Ministry of Economy, Dutch export agency, 'Doing Business in Europe', 2018 and Confederation of Finnish Industries



(VAT) compliance is a barrier to business in the single market for one respondent in five. This situation is confirmed by a Commission report, which finds that VAT compliance costs increase with cross-border activity<sup>32</sup>. The situation is similar for compliance costs related to business income taxation<sup>33</sup>. As in a domestic context, the challenge is bigger for SMEs than for large businesses. A survey estimated direct tax compliance costs at about 2% of taxes paid for large businesses, while for SMEs it was about 30% of taxes paid<sup>34</sup>. According to another survey<sup>35</sup> on the relative tax compliance burden for both direct and indirect taxes across 19 EU Member States, SMEs spend 2.5% of their turnover on tax compliance costs, while these costs only account for 0.7% of turnover for large companies<sup>36</sup>.

## **After-sales barriers**

### **10. Businesses report problems with solving commercial/civil disputes and payment collection.**

In the recent survey of the European chambers of commerce<sup>37</sup>, “different contractual/legal practices” rank fifth in obstacles to trading within the single market, reported by 66% of respondents. According to recent Eurostat data<sup>38</sup>, retailers selling online to consumers reported having faced significantly more difficulties with cross-border online sales than when selling online in general (58% vs. 38%). According to other recent Commission data<sup>39</sup>, more than 3 out of 10 retailers selling online consider that “potentially higher costs of resolving disputes and complaints cross-border” (almost 35%) are obstacles to selling online to consumers in other EU countries. The lack of information remains an issue, with nearly half of the retailers surveyed for the Consumers’ Conditions Scoreboard 2019 declaring they were not aware about alternative dispute resolution bodies in their own countries<sup>40</sup>.

## **Setting up a business activity in another Member State**

### **11. Businesses report problems with registration of business activity in another Member State.**

Five of the nine chambers of commerce that have shared the concerns of their membership on cross-border trade with the Commission, have reported issues concerning the registration of business activity in the EU, mostly regarding the difficulties in registering a company online. A recent survey on doing business in the EU prepared by the Dutch authorities<sup>41</sup> confirms this view with 27% of respondents reporting the same problem. Commission data also seem to

<sup>32</sup> <https://op.europa.eu/en/publication-detail/-/publication/0ed32649-fe8e-11e8-a96d-01aa75ed71a1>

<sup>33</sup> Based on the 2016 CCCTB impact assessment ([https://ec.europa.eu/taxation\\_customs/sites/taxation/files/swd\\_2016\\_341\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/swd_2016_341_en.pdf))

<sup>34</sup> <https://op.europa.eu/en/publication-detail/-/publication/0ed32649-fe8e-11e8-a96d-01aa75ed71a1>

<sup>35</sup> [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/tax\\_survey.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/tax_survey.pdf)

<sup>36</sup> KPMG-GFK (2018), Study on tax compliance costs for SMEs. Study commission by the European Commission, European Commission Tender No. EASME/COSME/2015/004.

<sup>37</sup> See root cause n.1 below

<sup>38</sup> Eurochambres, ‘Business survey – EU Internal Market: Barriers and Solutions’, 2019

<sup>39</sup> Retailers’ attitudes towards cross-border trade and consumer protection (main report) – 2018

<sup>40</sup> Retailers’ attitudes towards cross-border trade and consumer protection (main report) – 2018

<sup>41</sup> Consumer Conditions Scoreboard, 2019 edition, DG Justice and Consumers

<sup>42</sup> Dutch Ministry of Economy, Dutch export agency, ‘Doing Business in Europe’, 2018

support this perception. According to the results of a 2016 public consultation linked to the preparation of the single digital gateway proposal, registration of business activity was seen as one of the three priority procedures that should be available online. Specifically on company registration, the public consultation preparing the proposals for the 2018 EU Company Law Package, now adopted, showed strong support from business organisations (70%) and Member States (64%) for the introduction of new rules on fully online registration of limited liability companies and filing of company information in business registers.

## **Staffing**

### **12. Businesses report problems with skill shortages and mismatch.**

Skill shortages hinder the integration of the single market as they may impede successful businesses in one Member State from expanding and establishing themselves elsewhere in the single market, inter alia across borders. The availability of skilled staff or experienced managers has increasingly been identified as the most important problem faced by SMEs in recent years (26% of SMEs in 2019). More specifically, in 2018, 53% of companies that recruited or tried to recruit ICT specialists reported difficulties in filling vacancies, compared to 41% a year earlier. Moreover, costly procedures for the recognition of professional qualifications in regulated professions (such as engineers in many Member States) are limiting workers mobility.

## **Language barriers**

### **13. Many surveyed businesses report language as a barrier.**

“Language barriers” were reported by 36% of businesses in the recent survey of the European chambers of commerce<sup>42</sup>. Similarly, the “lack of language skills” was reported as a barrier by 32% of SMEs without exporting experience and 10% of SMEs with exporting experience in the five largest Member States<sup>43</sup>.

## *Conclusion*

Businesses and consumers appear to experience barriers including, but often going beyond, the regulatory barriers typically addressed by EU legislation. In addition, other obstacles may not be of a regulatory or administrative nature, rather of a practical nature but they are equally important. In practice, a business or a consumer often faces several constraints simultaneously when operating within the EU. Finally, the users most penalised by this situation are SMEs and professionals.

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<sup>42</sup> Eurochambres, ‘Business survey – EU Internal Market: Barriers and Solutions’, 2019

<sup>43</sup> Centre for European Policy Studies ‘Hidden Treasures: Mapping Europe’s sources of competitive advantage in doing business’, 2019 (Hidden Treasures report)

## II. THE ROOT CAUSES OF THE TOP 13 MOST FREQUENTLY REPORTED BARRIERS AND DIRECTIONS FOR FURTHER ACTION AT EU AND NATIONAL LEVEL

Five main root causes are identified for the reported barriers described above. Some may fall under the responsibility of the EU, some under the responsibility of Member States, while some may fall under both. Others do not or only partly originate in public policy and can result from a particular behaviour of consumers or commercial decisions by businesses. Each root cause is relevant for one or more of the 13 most often reported barriers by businesses and consumers under section I above, as set out in the table below. For each root cause, priorities are provided for action addressing them, including existing and possible future initiatives.

*Table: relevance of root causes for the top 13 barriers and obstacles reported by businesses and consumers*

	Root causes											
	1. Regulatory choices at EU level and national level				2. Transposition, implementation and enforcement of EU legislation			3. Administrative capacity and practices			4. General business and consumer environment in Member States	5. Root causes not linked to public policy
<i>Reported barriers and obstacles in the “business/consumer journey”</i>	<i>Restrictive national rules and limited role of EU legislation</i>	<i>EU legislation leaves flexibility in harmonisation and/or Member States’ practice (“gold plating”)</i>	<i>Requirements justified for public policy reasons</i>	<i>Complex EU legislation</i>	<i>Imperfect transposition of EU directives</i>	<i>Inadequate implementation of EU legislation</i>	<i>Inadequate enforcement of EU legislation</i>	<i>Insufficient or incompatible e-government solutions at national level</i>	<i>Insufficient coordination between the Commission and national administrations and among national administrations</i>	<i>Insufficient staff or expertise at national, regional or local level</i>		
1 Difficulties in obtaining information (B, C) Complex administrative procedures when it comes to selling goods or services cross-border (B)	x		x	x	x	x	x	x	x	x	x	
2 Uneven access to public procurement (B) Inefficiencies related to additional technical requirements, standards and other rules in certain sectors at national level (B)	x		x				x	x		x	x	
3 Issues relating to entry and exercise requirements (B in the services sector)	x				x	x	x	x	x	x	x	
4 Cross border purchases requests being rejected or redirected (B, C)		x		x								x
5 Lower levels of trust in online cross-border purchases (C)							x		x			



proposal on the revision of the rules on VAT exemptions for SMEs<sup>47</sup>. The Commission Work Programme for 2020 also includes an action plan to fight tax evasion and to make taxation simple and easy.

Unanimity is also required to create European company law forms. This does not rule out EU initiatives but makes it difficult in practice to reach agreement on those<sup>48</sup>. However, some other aspects of company law are harmonised at EU level. Importantly, the 2019 Directive on the use of digital tools and procedures will soon allow entrepreneurs to set up new companies or branches fully online in all Member States and on a cross-border basis across the EU, and oblige Member States to provide information about the most important company law requirements online and free of charge. This should address some of the above-mentioned barriers, and result in important cost savings and efficiency gains for companies, in particular for SMEs. The issues of transposition and compliance are of concern to the Commission and Member States alike. Tackling them should thus build on a deepened cooperation between them. The “Communication on a Long term action plan for better implementation and enforcement of single market rules” sets out concrete initiatives on this matter.

Finally, the EU’s limited role can also be due to the need to comply with the principles of subsidiarity and proportionality in a given area.

### **EU legislation may leave flexibility in the level of harmonisation and/or Member States’ practice (“gold plating”).**

Some matters related to the single market are fully harmonized at EU level. The EU legislator has regulated a given matter exhaustively, by balancing the need for market opening with the need to pursue public interest objectives. For those matters, EU rules set both a “floor” (“baseline”) and a “ceiling”: there is no more room for adding requirements at national level<sup>49</sup>.

In many areas (such as certain aspects of consumer protection), some matters are the object of a minimum EU harmonisation, which leaves room for Member States to set standards above the identified baseline. This may lead to partly divergent rules across the single market that can impose burdens on market actors (so called “gold plating”). These divergent rules may also make it more difficult for consumers to understand the legal basis and the scope of their protection when making a cross-border purchase.

For matters that are not fully harmonized at EU level, Member States have a margin to set additional requirements at national level where justified and proportionate to pursue certain legitimate public interests. However, this often translates into additional regulatory or administrative burden for businesses, with a particular impact on SMEs. Gold plating is a particular issue in relation to the services sector. These requirements also have an indirect

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<sup>47</sup> see reform of VAT (barrier n.9)

<sup>48</sup> For instance, the 2008 Commission proposal on the statute for a European private company and the 2012 proposal on the statute for a European Foundation were subsequently withdrawn given the absence of progress in negotiations.

<sup>49</sup> The question of whether harmonization is exhaustive or not must be assessed with regard not only to an area but also to a specific matter.

impact on the consumer, to the extent that they may be denied the benefit of offers from foreign companies and, in particular, innovative SMEs.

In matters falling into the ambit of application of EU law, Member States must comply with free movement rules enshrined in the Treaty, the secondary legislation, the general principles of EU law (such as proportionality and legal certainty) and the Charter of Fundamental Rights of the EU, to ensure full effect of the free movement of people, goods, services and capital.

The Commission recalls the Member States' obligation to comply with EU law and calls on them to intensify their simplification efforts and reduce unnecessary administrative burden<sup>50</sup>. Additional national requirements must be justified by an overriding reason of public interest, be non-discriminatory, proportionate, easy to understand and compliant with the harmonized minimum rules.<sup>51</sup> Moreover, even within the legal rules, in light of the objective of the single market differences must be kept to a minimum. The Commission has under the Treaty the power to bring infringement procedures and, as mentioned in the "Communication on a Long term action plan for better implementation and enforcement of single market rules", it stands ready to assist Member States in improving compliance with EU law pursuing the common objective of a well-functioning single market.

### **Requirements justified for public policy reasons**

Some of the concerns reported by the users can partly stem from situations in which EU legislation pursues other legitimate policy objectives aiming at striking a balance between such objectives and free movement in the single market. These policy objectives include, for instance, consumer protection, workers' rights protection and protection of social rights. In certain cases, these objectives could be achieved better and with less fragmentation of the single market through a common EU legal framework. For example, the Posting of Workers Directive aimed at facilitating freedom of movement of workers, freedom of establishment and freedom to provide services by adopting a common set of rules at EU level. In addition, there is a need for better implementation of existing EU rules by Member States so that businesses do not face unjustified or disproportionate national rules and formalities.

### **Complex EU legislation**

The interaction between various pieces of legislation, often at EU and at national level, and frequently changing legislation are a challenge. This may generate legal uncertainty as well as compliance costs, and thus adversely affect the business environment and economic activities, with a particular impact on SMEs and individual consumers. In addition, a more green and digital economy requires adapted rules for products at EU level. For example, in line with the new Circular Economy Action Plan, the ecological transition will require EU product legislation, taken as a whole, to give the right incentives towards sustainability and circularity.

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<sup>50</sup> Point 43 of the Interinstitutional Agreement on Better Law-Making of 13 April 2016 lays down that Member States transposing directives into national law and choosing to add elements that are in no way related to that Union legislation, should make such additional elements identifiable through the transposing act(s) or through associated documents.

<sup>51</sup> See Communication of the Commission of 19 July 2018 on "Protection of intra-EU Investment".

The ongoing consultation on possible adaptations to safety and liability rules in the light of artificial intelligence, robotics and the internet of things may not exhaust the questions raised by digitalisation, for example as regards standardisation. To this end, the Commission will take the necessary steps to ensure that the legal regime accommodates, in a coherent manner, a more circular and digital economy for non-food products, enlarging to the extent necessary existing consultations.

At EU level, better regulation rules aim to ensure that EU legislation brings benefits to ordinary people and businesses, that it is based on evidence and a thorough impact assessment, and that regulatory burdens on individuals and businesses are kept to a minimum. A careful assessment of significant amendments to the initial Commission proposals would help minimising the risk of unintended impacts on businesses and consumers. Under its regulatory fitness and performance programme (REFIT), the Commission systematically screens existing legislation to identify where the burden on individuals, businesses or administrations can be reduced and legislation simplified without reducing its public-policy benefits. In its Work Programme for 2020, the Commission has identified 44 pieces of legislation to undergo this exercise.

In the future, the Commission will apply the ‘one-in, one-out’ approach. The purpose is to make sure that EU legislation produces benefits without imposing unnecessary burdens on citizens and businesses. A new expert group<sup>52</sup>, the Fit for Future Platform, will advise and support the Commission in its efforts to simplify legislation and reduce administrative burdens for business and individuals.

Since regulatory challenges particularly affect SMEs, the Commission is committed to considering their effect on SMEs in its impact assessments.<sup>53</sup> The SME test is already part of the regular assessment and will continue to be applied for all relevant Commission proposals, including the Green Deal. The “SME Strategy for a sustainable and digital Europe” further proposes that to ensure that new legislation is SME proof, the new EU SME Envoy<sup>54</sup> will filter EU initiatives in collaboration with SME stakeholders, to signal those that merit close attention from an SME perspective. S/he will have a specific role in the new Fit for Future Platform.

Furthermore, the “Communication on a Long term action plan for better implementation and enforcement of single market rules” identifies complex EU legislation as an area where cooperation between the Commission and Member States needs to be further reinforced to prevent non-compliance issues. Proposed actions include boosting knowledge and awareness and improving access to information on rules and requirements.

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<sup>52</sup> The group will consist of Member States’ national, regional and local authorities, the Committee of the Regions, the Economic and Social Committee and external stakeholders.

<sup>53</sup> SWD (2017) 350. Better Regulation Guidelines.

<sup>54</sup> The EU SME Envoy ensures the link between SME policy making at EU level and the national SME envoys/bodies in charge of SME policy. He/she chairs the network of national SME envoys who, in turn, make sure that national business communities, national authorities and the EU work together on SME policy.

## **2. Transposition, implementation and enforcement of EU legislation**

### **Imperfect transposition of EU Directives**

The lack of timely, complete and correct transposition of EU directives by Member States undermines the proper functioning of the single market by increasing regulatory fragmentation. Equally, the lacking application of rules ensuing from EU directives and failings in compliance in Member States create problems for individuals (consumers and businesses) in terms of violation of their rights, legal uncertainty and lack of equal opportunities, and furthermore lead to unbalances and inefficiencies within the single market.

#### *Inadequate implementation of Union Law*

In addition to correctly transposing EU directives, Member States are also responsible for the correct implementation of EU legislation. Several of the 13 most reported barriers identified above could be addressed by better implementing existing EU law.

In services, for example, large potential still lies in the better implementation of existing rules (e.g. the Services Directive and the Professional Qualifications Directive), in combination with a more vigorous enforcement of these rules.

Difficulties also arise in domains subject to the application of the mutual recognition principle. In the area of non-harmonised goods, businesses often have to meet additional requirements imposed by the Member State to which they are willing to export. The new regulation on the mutual recognition of goods lawfully marketed in another Member State under the ‘Goods Package’, which becomes applicable in April 2020, will help make mutual recognition more effective. In particular, transparency of decisions taken by the competent authorities of the Member States will be increased and businesses may obtain information on mutual recognition and national technical rules on non-harmonised goods in the product contact points<sup>55</sup>.

### **Inadequate enforcement of EU legislation**

Member States are obliged to enforce EU legislation. To that effect, they are to step up their efforts, with the support of the Commission. In particular, the Commission reminds them of their obligation to implement recent EU legislative measures, which provide Member States authorities with additional enforcement powers, such as the Market Surveillance Regulation<sup>56</sup>, the Directive on better enforcement and modernisation of EU consumer protection rules and the Consumer Protection Cooperation Regulation (which for the latter will provide consumers with better protection and redress in cross-border settings). Better enforcement of rules should also be complemented by the cooperation of individuals. This is the purpose of the whistle-blower protection Directive (to be transposed by December

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<sup>55</sup> Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008 (Text with EEA relevance.)

<sup>56</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (Text with EEA relevance)



2021)<sup>57</sup>, a new tool reinforcing the ability of national and EU enforcement authorities to detect, address and prevent breaches to key single market areas such as public procurement and consumer protection. Finally, as set out in the ” Communication on a Long term action plan for better implementation and enforcement of single market rules”, the Commission is committed to work with Member States to strengthen working arrangements and make good use of all administrative tools available to improve the speed and effectiveness of handling alleged infringements.

The “Communication on a Long term action plan for better implementation and enforcement of single market rules” sets out several new initiatives to address the implementation and enforcement of EU legislation challenges set out above. These include a more efficient detection and investigation of non-compliance (rationalisation of existing single market IT systems used to share information about illegal and non-compliant industrial and consumer goods) as well as the creation of a Single Market Enforcement Task-Force (SMET) composed of Member States and Commission, the setting up of enforcement authorities with adequate powers (role of the EU network of national enforcement coordinators and the European Labour Authority<sup>58</sup>).

### **3. Administrative capacity and practices**

#### **Insufficient or incompatible e-government solutions at national level**

Insufficient development of e-government solutions can hamper the development of the single market. This is particularly an issue for access to information on rules and requirements. This is also a root cause of the difficulties linked with national formalities or procedures to meet requirements for selling goods or services cross-border.

Where e-government solutions are being implemented, interoperability is likely to be an issue if not properly addressed. The European Interoperability Framework Implementation Strategy and Action Plan<sup>59</sup>, which was revised in 2017, provides a large number of recommendations supporting cross-border and cross-sectorial interoperability. A number of programmes support the uptake of these solutions<sup>60</sup>. Initiatives such as the cross-border recognition of electronic identifications and trust services (laid down in several pieces of EU legislation such as the eIDAS Regulation (EU) 910/2014)<sup>61</sup> and the ‘once only’ principle (Article 14 of the single digital gateway Regulation (EU) 2018/1724) have been supporting cross-border digital public services. In the new Digital Strategy, the Commission calls for a reinforced EU Governments

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<sup>57</sup> Directive (EU) 2019/1937 provides for a high level of protection from retaliation for persons who report information on breaches of Union law acquired in the context of their work-related activities. This directive reinforces the ability of national and EU enforcement authorities to detect, address and prevent breaches in key single market areas, such as public procurement, financial services, anti-money laundering, the EU’s financial interests, and consumer protection

<sup>58</sup> Regulation (EU) 2019/1149 of the European Parliament and the Council of 20 June 2019 establishing a European Labour Authority

<sup>59</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - European Interoperability Framework – Implementation Strategy COM(2017)134)

<sup>60</sup> The Connecting Europe Facility and their Digital Service Infrastructures building blocks and interoperability solutions from the ISA<sup>2</sup> programme.

<sup>61</sup> Under review with the objective of increasing effectiveness in commercial settings.

interoperability strategy<sup>62</sup>. It also calls for a revised eIDAS Regulation to improve its effectiveness, extend its benefits to the private sector and promote trusted digital identities for all Europeans.

As of 12 December 2020, with the implementation of the single digital gateway<sup>63</sup>, the Your Europe portal will provide access to comprehensive information on operating within the single market. It will also direct users to the most relevant assistance service. The gateway also foresees the digitalisation of 21 frequently used administrative procedures, full cross-border accessibility of all online procedures and the implementation of a cross-border once-only system by December 2023.

The interconnection of business registers system (BRIS), available since 2017, links business registers of Member States and EEA countries and allows companies and entrepreneurs to search and obtain free information on EU limited liability companies in a multilingual and user-friendly way through the e-Justice Portal<sup>64</sup>.

Several proposals to address these issues are also included in the Multiannual Financial Framework proposal for 2021-2027. For instance, actions under the Digital Europe programme will aim to promote the uptake of e-government solutions and interoperability. The Goods Package<sup>65</sup> broadens the mandate of the EU product contact points to provide better and faster information to businesses about the rules that apply to their goods.

### **Insufficient coordination between the Commission and national administrations and among national administrations.**

This particular situation is a major factor undermining effective enforcement, trust and fair competition in the single market. Businesses or professionals who wish to lawfully grow their business in another Member State would benefit from a more efficient and effective coordination.

This issue is particularly relevant in the area of product market surveillance, where the divergent views of market surveillance authorities have been identified as an obstacle to cross-border activity. Reinforcing coordination through a smooth mutual assistance cooperation mechanism for competent market surveillance authorities will lead to a safer single market and improved competitive conditions for businesses.

Also in the area of services, insufficient or ineffective cooperation between national authorities often result in restrictive regulation and procedures being imposed on service providers. Because of limited exchange of information between Member States, national

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<sup>62</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions COM/2020/67 final.

<sup>63</sup> Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (Text with EEA relevance.)

<sup>64</sup> [https://e-justice.europa.eu/content\\_business\\_registers\\_at\\_european\\_level-105-en.do](https://e-justice.europa.eu/content_business_registers_at_european_level-105-en.do)

<sup>65</sup> Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008 (Text with EEA relevance.)

Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (Text with EEA relevance)

procedures often do not take account of requirements that service providers have already complied with in their home Member State. This happens despite existing obligations for national authorities to apply the mutual recognition principle, under the Treaty and in secondary legislation (for example under the Services Directive). As a result, there may be unnecessary duplication of controls and complexities for service providers coming from other Member States.

The EU has developed administrative cooperation tools such as the internal market information tool, which allows the transmission of information between administrations on individual situations in a secure environment. The tool is currently applicable to 14 different areas and is constantly being expanded and improved. Member States are supposed to use it regularly and fully.

The Consumer Protection Cooperation Regulation (2017/2394), in force since 17 January 2020, provides national authorities with stronger enforcement powers and a framework for cooperation among themselves and with the Commission<sup>66</sup>.

Addressing this root cause in areas where there is no specific or enough cooperation is a prominent feature of the “Communication on a Long term action plan for better implementation and enforcement of single market rules”. In particular, it recalls the importance of setting up the EU Product Compliance Network to enhance cooperation between market surveillance authorities in the non-food harmonised sector<sup>67</sup>.

### **Insufficient staff or expertise at national, regional or local level.**

Insufficient administrative capacity dedicated to implementing single market rules, including at regional and local level, does not enable to reap the benefits of the single market. It undermines public trust in the single market and fair competition between businesses. This root cause is relevant when businesses or professionals want to grow their business in their home or another Member State (including in the field of public procurement), as repeatedly raised in the European Semester country-specific recommendations for a number of Member States.

The Commission has created a comprehensive framework to assist Member States’ administrations, including improving administrative capacity. The Commission also continues to support the professionalisation of procurement practitioners with different programmes, for instance training for SME-friendly policies in central purchasing bodies.

The Commission’s proposal for a single market programme under the 2021-2027 Multiannual Financial Framework suggests prioritising capacity-building of national administrations and consumer associations to assist them in developing their enforcement activities. In addition, new actions are proposed in the “Communication on a Long term action plan for better implementation and enforcement of single market rules”, in particular the setting up of a

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<sup>66</sup> This should help boost consumer trust when carrying out cross border purchases (barrier n.7) or improve protection against scams originating from other geographical locations.

<sup>67</sup> As a result of the new 2019 market surveillance regulation.

cooperation network between national enforcement coordinators in the field of the single market, or stepping up training of legal practitioners in charge of enforcing single market legislation.

#### **4. General business and consumer environment in Member States**

Many reported barriers in this Communication are often common to domestic consumers and businesses and to those active across borders. They result from causes that have no specific cross-border element and are instead linked to the general business and consumer environment. They include dealing with construction permits (for instance in the area of telecoms infrastructure), entry and exercise requirements for certain activities or professions, getting electricity, solving business disputes in and out of court and paying taxes. The analysis of the World Bank's "Doing Business Survey"<sup>68</sup> reflects this reality: Member States can rate strongly on the dimension of "trading across borders", but poorly on other obstacles to doing business.

In 2019, the European Semester country-specific recommendations concerned the removal of the most problematic regulatory and administrative burdens, weaknesses in public administration and in the business environment, and the lack of predictable regulatory frameworks in 16 Member States. The Semester analysis also emphasises the need to improve the quality of governance and institutions and the effectiveness of justice systems and public administrations. Similarly, and as mentioned earlier, the Commission's Single Market Performance Report mentions a series of restrictiveness indicators in a number of areas of economic importance, such as regulated professions and retail services.

The Commission has also introduced instruments to prevent the adoption of unnecessarily restrictive national rules. One recent example is the Proportionality Test Directive, which Member States need to transpose by 30 July 2020. The directive will require Member States to assess beforehand the proportionality of any new or amending legislative, regulatory or administrative provisions that impose restrictions on the entry or exercise of regulated professions.

Skills-related policies also have a role to play in improving the business environment, both in terms of matching skills to those sought by businesses, and in improving skills intelligence and increasing their visibility and transparency across borders. The forthcoming reinforced skills agenda for Europe will suggest a number of actions relating to these objectives. In addition, the forthcoming European Pact on Migration and Asylum will specify the approach to legal migration management in order for the EU to better attract the skills and talents that the EU labour market needs. Relaunching and concluding swiftly the negotiations of the Blue Card Directive to attract highly skilled workers will remain a priority.

The SME Strategy for a sustainable and digital Europe addresses the need to improve domestic national environments through specific initiatives. These include strengthened

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<sup>68</sup> The World Bank Group. Doing Business 2020

cooperation with Member States in implementing the “think small first” principle and the reinforcement of the SME envoys network, as well as the completeness and efficiency of national one-stop-shops to further support SMEs wishing to operate cross-border.

## **5. Root causes not linked to public policy**

Root causes of underlying barriers are not always linked directly to public policies, whether national or EU. Markets in different Member States exist within broader cultural contexts. Different consumer preferences or languages throughout the EU make cross-border activities more complex. Commercial choices by private parties - or logistical issues can explain certain difficulties reported by businesses, such as in the case of rejection of business opportunities or territorial supply constraints on retail businesses. In this regard, the results of the Commission’s e-commerce sector inquiry (10 May 2017) show that more than 11% of retailers report that their suppliers impose contractual restrictions on cross-border sales.

General macroeconomic and microeconomic conditions can also play a role. Moreover, geographical and infrastructural conditions can create barriers to market access, for example due to increased transport times and distances or natural barriers to entry.

The fact that these root causes do not originate directly from public policy does not mean that the EU cannot play a role in addressing some of them. This is the case inter alia for barriers whose root cause lies in the commercial choices of private parties, since these, when not justified for objective reasons, can lead to an artificial partitioning of the single market. A recent example of the EU addressing these issues is the Geo-blocking Regulation<sup>69</sup>. Competition rules are another example. The Commission has recently tackled certain companies’ anti-competitive agreements that partitioned the single market as follow-up to the sector inquiry<sup>70</sup>.

Regarding territorial supply constraints, in addition to requiring full compliance with competition law, following the 2018 Communication on retail<sup>71</sup>, the Commission asked suppliers to change their approach voluntarily. In addition, and before considering possible next steps, the Commission is currently looking into how widespread the use of territorial supply constraints is, what products are affected, what reasons might be given by suppliers for their use, how competition between retailers may affect occurring territorial supply constraints and what the economic impact is at different levels of the supply chain and on consumers. Based on the results, the Commission will consider the need for further policy action.

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<sup>69</sup> The aim of this regulation is to address the situations described under barrier n.6 described above. Regulation (EU) 2018/302 entered into force on 22 March 2018 in all EU Member States and applied as from 3 December 2018..

<sup>70</sup> To name but a few: the practices of four consumer electronics manufacturers (Asus, Denon & Marantz, Philips and Pioneer) that the Commission fined for resale price maintenance (“RPM”) in relation to a number of widely used consumer electronics products and (in the case of Pioneer) also in relation to restrictions to cross-border trade between EU Member States, the practices of the US clothing company Guess that the Commission fined for imposing, among others, restrictions of cross-border sales to consumers (contractual geo-blocking) and RPM, and the practices of three brand-owners and licensors of rights for merchandising products (Nike, Sanrio and NBC Universal) that the Commission fined for their licensing and distribution agreements restricting cross-border and online sales of merchandising products such as bags, toys, school accessories and clothes, notably for children.

<sup>71</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A European retail sector fit for the 21st century, COM/2018/219 final

The Erasmus programme contributes to improving language knowledge among students. Similarly, European structural and investment funds contribute to improving infrastructure and reduce geographical bottlenecks within the Member States. They will be complemented by other EU programmes, with in particular € 42.3 billion proposed for the new Connecting Europe Facility programme under the new Multiannual Financial Framework.

### **III. KEY ACTIONS**

This Communication, and the new policy initiatives adopted today, set out priority actions to be taken forward jointly by the Member States and the Commission.

In particular, the Commission calls on the Member States and the European Parliament:

- to swiftly adopt all single market, and e-government-relevant Multiannual Financial Framework proposals to finance new standards, IT tools (such as the Internal Market Information system (IMI)), citizen and business services (such as SOLVIT) or awareness-raising campaigns, in particular the Digital Europe programme and the Single Market programme;
- to swiftly adopt pending legislative proposals which aim to tackle the root causes of the barriers identified in this Communication, in particular the priority pending proposals set out in the Commission Work Programme 2020.

In addition, it calls on the Member States:

- to fulfil their legal duties and take their responsibility to address the root causes that are within their remit such as burdensome regulation and procedures, and ensure that their negative impact, both present and future, on the single market is compliant with EU law and in any event limited;
- to step up efforts to comply with single market legislation, abating existing barriers and avoiding the creation of new ones
- to direct enough resources to those administrations that are key for implementing the single market, such as authorities coordinating the single digital gateway, market surveillance authorities, competition authorities and authorities responsible for consumer protection, assistance services such as points of single contact, product contact points or SOLVIT centres;
- to ensure the effectiveness of one stop shops with a view to assisting in particular SMEs with coordinated answers on applicable rules and regulations that they need to comply with to do business in the single market (cross-border and domestically) as well as on investment opportunities/programmes offered by the EU.

On its part, the Commission:

- adopts today a Long Term Action Plan for better implementation and enforcement of single market rules<sup>72</sup> to address barriers reported in this Communication, whose root cause lies in insufficient enforcement of EU law. In this context, a joint Single Market

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<sup>72</sup> COM(2020)94 10.03.2020

Enforcement Task-Force (SMET) will be set up, composed of Member States and the Commission.

- will assess the need of further regulatory action to address the barriers depending on other root causes which can be addressed at EU level. The Commission will report on the results of this analysis next year, also in order to be able to take into account the impact of the first year of application of the Long term action plan for better implementation and enforcement of single market rules.
- will continue to work together with Member States to address the root causes of national barriers, including in terms of prevention under, for example, the Single Market Transparency Directive<sup>73</sup> and the Proportionality Test directive. The European Semester provides another relevant framework for monitoring and addressing the root causes of barriers and hurdles identified in this Communication;
- will strengthen the REFIT programme, including through the application of the ‘one-in, one-out’ approach, with full involvement of stakeholders. The Fit for Future Platform will look at how to simplify existing legislation and at how to make sure that it can cope with future challenges; the ambition is that all future legislation, at European and national levels, is made with the end user in mind, by identifying potential barriers and mitigating them early on in the process, for example by the use of digital tools.

#### **IV. CONCLUSION**

With this Communication and its accompanying reports, the Commission takes a different perspective on the functioning of the single market: that of its users. What it shows is that today too many barriers continue to hamper the functioning of the single market. This makes the business and consumer journeys difficult. We need political will and determination, as in 1985, to work jointly and hand in hand at EU and Member State level to address remaining barriers through their respective root causes. The package of initiatives adopted today – a New Industry Strategy for Europe, an SME Strategy for a sustainable and digital Europe, a “Communication on a Long term action plan for better implementation and enforcement of single market rules” and this Communication – provide a basis on which we can relaunch our partnership to ensure that Europe can deliver growth, prosperity and stability for its citizens and businesses at home and globally.

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<sup>73</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services. OJ L 241, 17.9.2015, p. 1.