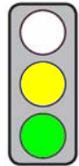


MAIN ISSUES

Objective of the Communication: The Commission presents its ideas on how existing obstacles to the EU single market can be removed and how, in the process, the targets of the strategy “Europe 2020” can be realised.

Parties affected: Businesses, consumers, employees.



Pros: Most of the planned measures reduce existing deficits in the single market, in particular in the services sector, and strengthen innovation efforts in companies.

Cons: (1) The promotion of selected investments and the instrumentalisation of public procurement for political aims reduces the potential for growth rather than encourages it.

(2) The Commission’s idea to issue project-related bonds to supplement the financing of infrastructure projects mitigates the EU ban on debt. Besides, it is superfluous; for this there is the European Investment Bank.

CONTENT

Title

Communication COM(2010) 608 of 27 October 2010: Towards a **Single Market Act – 50 proposals** for improving our work, business and exchanges with one another

Brief Summary

Note: The numbers quoted refer to the 50 proposals made in the Communication.

► **Background and objectives**

- The Commission wishes to revive the single market with the Single Market Act, incorporating it into the economic strategy “Europe 2020” for sustainable growth and increased employment. The Commission has made 50 proposals, both legislative and non-legislative, which are to be adopted by 2012 (see [CEP Overview](#), in German only).
- The idea is that by “completing, deepening and making full use of the single market” an annual potential growth of 4% of the GDP over the next ten years can be achieved.
- The Commission is very specifically taking a “social market economy approach”, which aims to integrate all market players, namely “business, consumer and workers”. In particular, the citizens’ confidence in the single market is to be restored.
- Citizens, organisations and authorities may submit their opinion on the 50 proposals by 28 February 2011. The submitted statements will be incorporated into the revised Communication. The European Parliament and Council are to adopt the final version of the Single Market Act in spring 2011, to then establish it as a “policy action plan” for 2011 and 2012.

► **Single market**

In order to deepen the single market for services and products, the Commission wishes to:

- make standard-setting procedures more effective and extend their scope to services (cp. [CEP Policy Brief](#) (No. 6);
- explore the “Ecological Footprint” as a possibility for establishing a European methodology to assess and label products, so as to prevent negative impacts on the movement of goods and services through different standards measuring the “environmental impact of products” (No. 10);
- further “develop” electronic commerce focussing, in particular on consumer aspects (No. 5);
- on the basis of the Services Directive, continue developing a single market for services, in particular for business-to-business services (No. 4).

► **Protection of Intellectual property rights**

In order to “stimulate European competitiveness” and to encourage innovation, the Commission intends to harmonise the “protection” of intellectual property rights. Therefore it wishes to:

- speed up the introduction of an EU patent and a unified European patent litigation system (cp. [CEP Policy Brief](#) on the EU patent) (No. 1);
- combat counterfeiting and piracy and adjust the legislative framework to the special conditions of the internet (No. 3);
- adopt a European framework for the management of copyrights and thus simplify access to creative online contents (No. 2).

► Network infrastructures

Since modern and well-developed network infrastructures are essential for the functioning of the single market, the Commission announces measures in the areas of transport, energy and radio spectrum.

- In order to promote a single European transport system for a “smooth movement of goods, people and services”, the Commission wishes to:
 - submit a White Paper on transport policy intended to remove obstacles between national transport systems (No. 7);
 - revise the Community guidelines for the development of the trans-European transport network; the Commission wishes in particular to prepare a global framework for the areas of “project planning and funding” related to transport as part of a multiannual financial framework (No. 26).
- Regarding the field of energy infrastructure, the Commission announces a Communication on “energy infrastructure priorities up to 2020/2030” for a better connection of national energy networks, thereby improving the integration of renewable energies (No. 27).
- EU-wide unified radio spectrums should be made available under “flexible technical conditions”. To this end, the Commission calls for the Council and the European Parliament to agree quickly on the proposed Decision establishing a European Radio Spectrum Action Programme [COM(2010) 471] (No. 28).

► Taxes

In order to facilitate cross-border business, the Commission would like to:

- propose a Directive introducing a common consolidated corporate tax base, which would create the benefit of a “single set of tax rules and deal with only one tax administration”; the Commission explicitly rejects the objective of harmonising corporate tax rates (No. 19);
- develop a concept for a new value-added tax strategy, with the objective of cutting red tape, preventing fraud and collecting VAT in a more efficient manner (No. 20) (cp. “Green Paper on the future of VAT” [COM(2010) 695]);
- revise the Energy Tax Directive (2003/96/EC) so as to better reflect the “fight against climate change” and “more efficient energy use” in the fiscal context (No. 8).

► Access to capital

In order to facilitate private investments and to bridge financing gaps the Commission wishes to:

- adopt an action plan for improving small and medium-sized enterprise (SME) access to capital by adapting “listing and disclosure requirements” to SMEs (No. 12);
- create incentives in order to support “long-term, sustainable and responsible investment” from private investors contributing to the achievement of the Europe 2020 strategy targets (No. 16);
- ensure that venture capital funds set up in Member States can “operate and invest freely” throughout the EU (No. 16);
- introduce “project bonds” serving to facilitate capital procurement for European infrastructure projects, in particular in the transport and energy sector, by granting improved ratings where the EU is involved (No. 15).

► Mobility

In order to foster the mobility of workers in the single market, the Commission wishes to:

- reform the Directive on the recognition of professional qualifications (2005/36/EC) based on an evaluation of the *acquis* in 2011 (No. 33);
- amend the Posting of Workers Directive (96/71/EC) to improve its “implementation, application and enforcement”, in order to remove obstacles to the posting of workers such as “complex national administrative procedures” and “double-taxation problems” (No. 30);
- re-examine the Directive on the activities and surveillance of pension funds (2003/41/EC) and to develop other proposals based on the Green Paper on pensions [COM(2010) 365; cp. [CEP Policy Brief](#)] (No. 31).

► Public Procurement

In order to promote public procurement the Commission would like to:

- propose a legislative act on public/private partnerships regulating the procurement of services concessions for the performance of public contracts through private parties (No. 18);
- review the option of “simplifying and updating” of European rules for public procurement (No. 17);
- improve the use of public contracts “in support of other policies”, such as innovation, environment protection and employment (No. 17).

► Dispute resolution and collective redress

In order to facilitate out-of-court settlement procedures to deal with cross-border consumer disputes, the Commission wishes to develop alternative dispute resolutions in the EU (No. 46), for instance:

- make a recommendation for the cross-border network of alternative dispute settlement schemes for financial services (FIN-NET);
- establish a European online system for dispute settlements of digital transactions;
- carry out a “quick” public consultation on collective redress.

Statement on Subsidiarity by the Commission

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Policy Context

The Single Market Act is a follow-up to the [Report](#) “A new strategy for the single market” submitted on 9 May 2010 by the former Competition and Internal Market Commissioner, Mario Monti. According to the Report, the main challenge to the single market is a “sense of disillusionment” caused by a loss of confidence, the integration of new businesses into the single market, shaping the single market so as to give room to “all parties” and the general attitude that takes the single market for granted (p. 6 et sqq. Monti-Report). In its resolution to “establish a single market for consumers and citizens” [2010/2011(INI)], the European Parliament also refers to the fact that the single market urgently needs new impulses (No. 12 of the Decision).

The Single Market Act is accompanied by the “EU Citizenship Report 2010 – Dismantling the obstacles to EU citizens’ rights” [COM(2010) 603].

Some of the 50 proposals are identical with those made in the flagship initiatives of the “Europe 2020” strategy (cp. [CEP Policy Brief](#)). This applies in particular to the Digital Agenda (cp. [CEP Policy Brief](#)), the Innovation Union (cp. [CEP Policy Brief](#)) and Industrial Policy in the Age of Globalisation (cp. [CEP Policy Brief](#)).

On 14 December 2010, the Commission submitted a draft Council Decision for a uniform patent protection to be adopted in the framework of the reinforced cooperation [COM(2010) 790].

Options for Influencing the Political Process

Leading Directorate General:

DG Single Market and Services

Consultation procedure:

The [Consultation](#)’s deadline is 28 February 2011.

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

The single market is one of the EU’s greatest achievements. By intensifying competition between companies and, at the same time, enlarging their market, on the one hand it sets even greater innovation incentives for companies. On the other hand, however, it enables companies to benefit from economies of scale and synergies so that scarce resources can be deployed in a more efficient manner. European consumers benefit from this in particular, as they can buy cheaper products and, at the same time, choose from a wider range of products. European workers, too, benefit from the single market. It enables them to work in those Member States where their skills are most wanted and best paid. Investors also benefit, for they have a greater choice of investment possibilities and thus can either select the best investment option or better diversify their investments.

There are, however, a number of fields where the positive effects of the single market could not come fully to fruition, as restraints continue to exist. **Most of the measures proposed in the Single Market Act are appropriate for furthering the integration of the single market. Some of them, however, do not really contribute to deepening the single market but are motivated by industrial and social policy targets.** Other projects remain very vague and therefore need substantiation soon.

Impact on Efficiency and Individual Freedom of Choice

Also appropriate is the proposal to further develop cross-border online trading (No. 5). However, the Commission’s expectations should not be too high, since as well as language barriers, different national consumer protection rights also constitute an obstacle (cp. [CEP Policy Brief](#) Contractual Consumer Rights). A full harmonisation of consumer rights, which would revive online trading, is not to be expected however (cp. [CEP Monitor](#) in German only).

Intellectual property rights must be effectively protected, so that the single market’s effect on promoting innovation can fully unfold. Otherwise innovation efforts would be impeded by companies and creatives. **The action programme to combat piracy and counterfeiting** is therefore to be fully welcomed and **should be implemented promptly** (No. 3). **The same holds true for the intention to establish a European framework for copyrights** (No. 2). For the different national rules currently form an obstacle to cross-border online trading with music, books and other cultural works. **The Commission’s aim to fast-track the introduction of an EU patent and a European patent litigation is to be welcomed**, too. The former reduces patenting costs, while the latter reduces law enforcement costs and increases legal certainty (cp. [CEP Policy Brief](#)).

The Commission’s proposals regarding the development of network infrastructures are indispensable for the completion of the single market (Nos. 7, 26 and 27). They basically reiterate familiar policy projects of the Commission, which have already been presented under the Energy Strategy 2020 (cp. [CEP Policy Brief](#)) and a Green Paper on the revision of the trans-European transport networks (cp. [CEP-Analyse](#)).

Impact on Growth and Employment

Venture capital is indispensable for extensive innovations and, to this end, a prerequisite for high economic growth. Appropriate is the Commission’s project to increase inner-European mobility of venture capital, as this

can then be deployed in a more efficient manner (No. 16). For it is much easier for venture capital investors to specialise in certain sectors due to the larger market. Small Member States benefit from this in particular.

To be rejected is the planned issuing of project bonds through the Commission to supplement the financing of long-term transport and energy infrastructure projects (No. 15). Although the provision of European infrastructure is also under the responsibility of the EU, **the financing of such projects is subjected to the European Investment Bank (EIB)**. Hence, the Commission could be suspected of searching for a way to mitigate the total ban on state debt in order to open up financial room for manoeuvring.

Damaging to growth is the Commission's attempt to promote "long-term, sustainable and ethical investments" and thus to privilege areas which have been politically chosen by the strategy "Europe 2020" (No. 16). The Commission should leave investment decisions to the entrepreneurs own discretion, as they can on the one hand best foresee future trends **and** at the same time account for chances and risks. Any exertion of influence through policy makers increases the risk that sub-optimal investments are made. For this reason, the Commission's proposal to **use public procurement as a lever for innovation, green policy or employment** is to be rejected (No. 17). There is a risk inherent in such measures of steering resources to sectors where they generate less productivity than is possible. Moreover, there is a danger of deadweight effects.

To be welcomed, however, is the fact that the Commission wishes to simplify the recognition of professional qualifications (No. 33). For only if a Member State recognises the professional qualifications gained in another Member State can workers use the advantages of the single market. Also appropriate is the removal of obstacles to the mobility of workers in the field of pension schemes – for instance in the case of not recognising claims obtained abroad – which might keep workers from taking up jobs abroad (No. 31). However, there is reason to fear that the Commission's plans will go far beyond this aim. In its Green Paper on Pension Schemes [COM(2010) 365; cp. [CEP Policy Brief](#)], for example, the Commission proposes minimum payment guarantees and annuities for funded pension schemes.

Impact on Europe as a Business Location

The planned harmonisation of a consolidated corporate tax base (No. 19) **has a positive impact on the quality of Europe as a business location. It** cuts red tape on the one hand and **increases** the transparency of **tax competition between Member States** on the other hand. This leads to a more efficient use and/or reduction of taxes. **The Commission is right to not strive to harmonise tax rates**, as this would eliminate tax competition.

To be principally welcomed is the aim to revise the Energy Tax Directive to the extent that CO₂ emissions can be better taken into consideration (No. 8). However, the Commission's statements remain very vague and should be substantiated quickly. Otherwise private investors might feel insecure and investments be delayed or even avoided.

Legal Assessment

Legislative Competence

Unproblematic: the aim of the Single Market Act is to remove obstacles to the free movement of goods, persons, services and capital (Art. 26 TFEU; Art. 3 (3) TEU).

Subsidiarity

Unproblematic, provided the initiatives aim at cross-border cases.

Compatibility with EU Law

Currently not foreseeable

Compatibility with German Law

Collective redress is not in line with the legal system of many Member States – including the German system – as they pertain to the individual concern of the plaintiff.

Conclusion

The majority of measures proposed by the Commission are qualified to advance the integration of the single market, for example the measures regarding the protection of intellectual property rights and the harmonisation of the consolidated corporate tax base. Motivated by industrial policy, however, and therefore to be rejected, is the Commission's attempt to privilege investments which have been politically chosen by the strategy "Europe 2020" and the proposal to use public procurement as a lever for innovation, green policy or employment. To be equally rejected is the planned issuing of project-related bonds through the Commission, as in fact, this falls under the responsibility of the European Investment Bank.