



Council of the
European Union

Brussels, 6 June 2016
(OR. en)

9915/16

MI 426
COMPET 358
CONSOM 141
PI 69
IND 131
MAP 19
TELECOM 113
AUDIO 77
EF 163
ECOFIN 560
UEM 241

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 2 June 2016

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2016) 361 final

Subject: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE
EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE
COMMITTEE OF THE REGIONS Delivering the Single Market Agenda for
Jobs, Growth and Investment

Delegations will find attached document COM(2016) 361 final.

Encl.: COM(2016) 361 final



Brussels, 1.6.2016
COM(2016) 361 final

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

Delivering the Single Market Agenda for Jobs, Growth and Investment

1. Sustaining economic recovery

Strengthening Europe's economy and stimulating investment to create jobs and growth remains the Commission's top priority. According to the Spring forecasts¹, growth in Europe is holding up despite a more difficult global environment. Employment levels are increasing, albeit still too slowly, and the general government deficit continues to decline. The conditions for investment to pick up have further improved. While these are encouraging signs, efforts need to continue to make the most of the virtuous triangle of structural reform, responsible fiscal policies and investment.

Innovation fosters competitiveness, productivity and job creation and is hence an essential force for fuelling the European growth engine. For innovation to occur, firms and entrepreneurs need the incentive and ability to invest. They need the right talent pool and an expectation that they will be able to expand and sell their products and services in a large market without facing different regulatory requirements in each Member State. We therefore need to keep a strong focus on advancing the Single Market to support sustainable jobs and growth and making Europe a more competitive and attractive place for investments.

This requires a better interaction between the EU and the national and regional dimension to remove barriers to investment and pursue structural reform. Two weeks ago, the Country Specific Recommendations have identified the most urgent priorities for action at national level to keep on the path to reform. At the same time, certain barriers have a strong cross-border element and require action at EU level. Following up on the European Council Conclusions of 17/18 March 2016, this Communication takes stock of the implementation of the Single Market agenda, highlighting those areas where strategic political decisions are urgently needed to strengthen and accelerate the necessary reforms.

The Investment Plan for Europe set in place concerted action to stimulate financing for investment, removing barriers, increasing innovation and deepening the Single Market. The European Fund for Strategic Investment (EFSI) is transforming how Europe supports investments. More funding is starting to go to innovation and infrastructure projects, as well as to local projects carried out by small companies that create the bulk of new jobs. The first EFSI results are encouraging. Total investments generated by EFSI so far amount to EUR 100 billion. More than 140 000 SMEs and mid-caps are expected to benefit from enhanced access to European Investment Fund finance. Projects in 26 Member States are already supported with more to come². To build on these achievements, the Commission aims to extend the EFSI beyond 2018, as announced in the Communication "Europe investing again – Taking stock of the Investment Plan for Europe"³, to continue supporting projects for jobs and growth that would not have happened without the EFSI.

2. A Single Market for jobs and growth

Although important in order to ensure efficient use of scarce resources, financial instruments are not enough. They need to be complemented with structural change to

¹ http://ec.europa.eu/economy_finance/publications/eeip/pdf/ip025_en.pdf

² EFSI implementation progress as of end-May 2016

³ COM(2016) 359

foster innovation and growth. The Single Market offers a larger market place and facilitates the entry of new, often innovative firms, while consumers benefit from the access to a wider variety of goods and services at lower prices. Innovation and competitive product and service markets imply constant change and transitions, be it from old to new products and services, from old to new technologies, or from old to new business models and processes.

To enable innovation and ease such transitions, we need to invest in Europe's greatest asset, its people. Significant efforts are needed to develop and adapt the skills of our people. This is vital for prosperity and growth. It will determine Europe's capacity to drive innovation in the digital age. A skilled workforce with the ability to adapt quickly in a fast-changing world of innovation can raise productivity and in turn generate higher wages.

We also need to ensure a more favourable and predictable business environment that reduces administrative burden and allows businesses and society to seize the opportunities offered by innovation, digital technologies and new business models.

Many of the Commission's key priorities drive these objectives.

The European Energy Union, our Trade for All strategy as well as the Circular Economy package all aim to create new opportunities, at home and in international markets, and foster sustainable economic growth across different sectors.

The forthcoming New Skills Agenda for Europe will seek to improve the quality and relevance of skills formation, make skills and qualifications more visible and comparable to facilitate mobility and improve skills intelligence and information for better career choices.

The better Regulation Agenda also contributes to better policies which reflect the real priorities of people through a strong emphasis on transparency and evidence based policy making.

The Single Market Strategy, the Digital Single Market Strategy and the Action Plan on Building the Capital Markets Union are at the heart of this European reform agenda. They aim at lowering barriers, including new barriers in the digital economy, and at removing unnecessary fragmentation. They are complementary and designed to reinforce each other's impact. They have been very well received by the European Parliament, by the Council and by Member States. This strong support provides a unique opportunity and essential precondition to make a qualitative step towards a stronger and more competitive Europe.

3. Delivering the Single Market agenda

With the different strategies in place and widely endorsed by the relevant players, the focus is now on delivery. Work is being undertaken in all areas and a number of initiatives have already been proposed.

In rolling out this programme, the Commission follows its better regulation principles. Prior to taking a decision on a particular initiative, it actively engages with stakeholders, including citizens, industry and social partners, analyses the performance of existing legislation and carries out a comprehensive analysis of possible impacts the initiative may have. Whenever possible, existing rules are being simplified to facilitate compliance and reduce regulatory burden as much as possible. To ensure that citizens and businesses can fully

enjoy the benefits of the Single Market, the Commission also continues its support to Member States in improving their enforcement capacity.

Work is however not completed with the Commission presenting its proposals. Success will ultimately depend on the swift and determined follow up given by the co-legislators, and on complementary action at national level, including in terms of transposition, implementation, enforcement and monitoring. The June European Council provides a good opportunity to take stock of progress achieved, to confirm the commitment to complete the Single Market and to agree the necessary steps to make the Single Market Strategy, the Digital Single Market Strategy and the Capital Markets Union Action Plan fully operational.

The implementation agenda for the Single Market should:

- reiterate the importance of a deeper and fairer Single Market to create jobs, growth and an attractive investment climate;*
- strongly support the profound reforms proposed by the Commission to ensure that the Single Market enables businesses and society at large to seize the opportunities offered by innovation, digital technologies and new business models;*
- take forward swiftly the urgent and ambitious implementation of the Single Market Strategy, the Digital Single Market Strategy and the Capital Markets Union Action Plan, in close cooperation between the European institutions and Member States at national, regional and local level, in view of ensuring that all initiatives under the strategies are in place and operational by the end of the Commission's mandate, at the latest.*

3.1. Supporting investments in the wider economy

The Capital Markets Union seeks to better connect savings to investment. It proposes a programme of measures to enhance the flow of private capital to companies and infrastructure investment. Now that the new rules for the banking, markets and insurance sectors have made the European financial system safer, the Capital Markets Union will strengthen Europe's funding escalator for growing firms that need a wider range of options to finance their expansion. By making investments more attractive and by creating new financial circuits, the Capital Markets Union will facilitate access to financing, reduce its cost, and remove barriers to cross-border flows of investment. The Commission has already delivered a number of initiatives and set in motion work on longer-term issues. To build confidence and momentum, the European Parliament and the Council should move quickly on the pending proposals to deliver their benefits for the real economy.

This is particularly true for the securitisation package, which sets out criteria for simple, transparent and standardised securitisation and lays the ground for the development of a sound European securitisation market. Any delay in the legislative process needs to be avoided since once adopted, the package will help attracting a greater range of investors and free up bank balance sheets for new lending. Returning – safely – the securitisation market to pre-crisis level could provide an additional EUR 100 billion of credit to the economy. The capital charges for banks and insurers that invest in standardised securitisations will be reduced to reflect the lower risks. The overall package will increase financial stability by

retaining the protections put in place after the crisis and promoting simplicity, transparency and a broader investor base.

The co-legislators should also reach swift agreement on the Commission's proposal for a simpler, faster and cheaper prospectus regime, which will be particularly helpful for companies that want to raise capital. To unlock funding for smaller companies a new framework for small issuers will be created.

The introduction of new prudential rules for insurance companies (Solvency II) should help to support infrastructure investments through a significant reduction of capital charges. These changes have already entered into force. In preparing its review of the Capital Requirements Regulation later this year, the Commission will explore lowering the risk weights for infrastructure projects for banks in a similar way.

Bank loans remain the staple source of working capital for micro-enterprises and small firms. Equally in the context of the Capital Requirements Regulation review, the Commission will seek to preserve the capacity of banks to issue loans to SMEs by retaining and possibly expanding the favourable capital treatment for loans to SMEs.

As set out in the first Status Report⁴, follow-up will also be needed for the other actions of the Capital Markets Union Action Plan, starting with a strong focus on venture capital. The Commission will shortly propose an amendment to EU venture capital legislation to build up scale, diversity and choice in order to increase their market penetration, enabling more companies to benefit from this alternative source of funding. In parallel, the Commission will propose to establish a Venture Capital Fund-of-Funds that will combine public finance with private capital to bring scale and stimulus for the support of the most promising new enterprises.

As part of its agenda to help companies - and SMEs in particular - expand and grow in Europe, the Commission recently launched a public consultation to prepare a new legislative initiative on business restructuring and insolvency. This initiative will bring legal certainty for cross-border investors, remove barriers to the free flow of capital and help companies recover when they face financial distress. It will provide better debt restructuring rules, benefiting both creditors that will receive speedier recovery of assets and companies that deserve a second chance.

Investment funds play a growing role in allocating retail and institutional savings to productive use. Assets managed by the European fund industry doubled to EUR 10,000 billion between end 2003 and end 2013. The Commission just launched a wide consultation on ways to improve efficiency and competition in markets for these critical investment vehicles, and to drive down costs for firms and investors.

Likewise, a European market for voluntary personal pension products could lower costs for consumers due to economies of scale and help them build an adequate retirement income but could also increase investment in the European economy by mobilising extra capital available for long-term investment opportunities. The Commission will launch a public consultation to analyse national experiences across the EU to identify the conditions for these markets to flourish.

⁴ SWD(2016) 147 final

Alongside new work to build a Capital Markets Union, the Commission is working to enhance the existing legislative framework for financial services. The financial crisis required many new rules which needed to be put in place within a short time to ensure financial stability. While the overall framework put in place is considered appropriate, this might have led to overlaps, gaps, inconsistencies or disproportionate burden. The Commission is currently finalising the analysis of the almost 300 responses to its Call for Evidence on the cumulative impact of Europe's financial services legislation, which will feed into forthcoming reviews of financial legislation.

The implementation agenda for the Single Market should:

- stress the urgency of reaching agreement on the securitisation package and the need for swift progress on the prospectus proposal so that businesses can start reaping the benefit of these changes quickly;*
- support upcoming Capital Markets Union work-streams, such as on venture capital, personal pensions, debt restructuring and insolvency;*
- mobilise action by Member States to address single market barriers that have their origin in national regulatory or tax provisions that deter or penalise cross-border investment.*

3.2. Stimulating new business opportunities

A strong and high-performing industry is an essential part of the European economy. The industry is faced with new opportunities and new challenges, notably including digital transformation⁵, decisive progress in connectivity, and robust, coordinated EU-wide cybersecurity arrangements.

Whilst it is for business to take the lead in adapting to market realities, the Commission's package on Digitising European industry and digital public services will help transform Europe's traditional economic strengths into competitive digital businesses. The measures include action to support and link up national initiatives for the digitisation of industry and provide more and better digital innovation hubs which help businesses, in particular SMEs, transition to the data economy. The package also includes the European Cloud Initiative for building a world class cloud and data infrastructure aimed at providing scientists and engineers in the EU with wide computing and data handling capacity.

In view of the crucial role of standards in promoting innovation, including digital innovation, and removing trade barriers, the Commission has set out to modernise, prioritise and speed up the European standardisation system. To this end, it has brought together the European standardisation community in the framework of its Joint Initiative on Standardisation, which is accompanied by guidance on service standards to extend the standardisation expertise also to the area of services. A streamlined ICT standard-setting approach should provide faster common ground rules in order to ensure the interoperability of new digital technologies.

⁵ According to Innobarometer 2016, only 11% of EU companies use digital intelligent manufacturing technologies.

'Big Data' and the 'Internet of Things' are catalysts for economic growth, innovation and digitisation across all economic sectors, particularly for SMEs and start-ups. To benefit fully from the potential of digital and data technologies, the Commission will through its 'Free Flow of Data' initiative to be adopted later this year address technical and legal barriers to data flow for reasons other than the protection of personal data within the EU and unjustified restrictions on the location of data for storage or processing purposes. It will address the emerging issues related to liability, ownership, interoperability and use of data such as business-to-business, business to consumer, machine generated and machine-to-machine data. To help achieve the highest standards in cybersecurity, the Commission will shortly present actions to enhance preparedness and response to cyber incidents and nurture industrial capabilities in the field of cybersecurity.

Europe's future digital society requires wide-spread, affordable and secure high performance connectivity infrastructure. If adopted soon, the Commission's current legislative proposals for the timely release of spectrum for use by mobile services will provide a major opportunity for EU leadership in the fifth generation (5G) wireless technologies. More generally, the forthcoming reform of the EU telecoms rules will aim to bring a more consistent approach to spectrum management, tackle regulatory fragmentation, ensure a level playing field for market players while stimulating competition and incentivising investment.

The rise of new business models, facilitated by online platforms, creates tremendous new opportunities for growth, innovation and consumer choice. At the same time, it raises new challenges for authorities and operators. With its Communication on the collaborative economy, the Commission is supporting a balanced development of new business models by providing guidance on the application of EU rules as well as recommendations for authorities and market operators. Furthermore, the Communication on online platforms sets out the Commission's approach to supporting the development of online platforms in Europe while acknowledging certain regulatory challenges and protecting the legitimate interests of consumers.

Internet and other digital technologies have revolutionised the production and distribution of creative content like books and films. They also fundamentally changed the way consumers accede and enjoy such content. In order to enable all market players and citizens to seize the opportunities of this new environment, the EU regulatory framework for copyright needs to be adapted. As set out in the Communication 'Towards a modern, more European copyright framework', the main objectives of the copyright proposals are to ensure wider availability of creative content, to adapt copyright exceptions to new online usages and to support a well-functioning and fair copyright market. The Commission is also reviewing the framework on the enforcement of intellectual property rights (IPRED), focusing on commercial-scale infringements (the 'follow the money' approach) and its cross-border application.

We need to empower businesses to innovate and compete in the digital world, and to promote the EU's creativity and cultural diversity together with protection of consumers and society at large, including the most vulnerable, from harmful and illegal content. To that end the Commission has proposed to review the **Audio-Visual Media and Service Directive**.

The implementation agenda for the Single Market should:

- *invite the co-legislators to reach swift agreement on the proposal concerning copyright portability submitted in December 2015 as well as on the proposal for the*

timely release of spectrum for use by mobile services (UHF frequency band) in the Union;

- quickly take forward the audio-visual media and the forthcoming copyright-related proposals, any possible follow up to the review of the IPRED, as well as the proposal for reform of the telecoms rules;*
- encourage a strong partnership between Member States and the European level to support the digitisation of European industry and the balanced development of the collaborative economy and of online platforms.*

3.3 Making life easier for consumers, businesses and public administrations

Combined efforts at EU and national level are necessary to tackle regulatory and administrative barriers, including in the area of taxation. Low levels of investment and barriers in services and financial markets hamper growth and innovation. They also imply less choice and higher prices for consumers. Increased legal certainty and streamlined rules will reduce compliance costs, boost cross-border trade and encourage new investments.

Work is ongoing at EU level to tackle barriers in key services sectors in order to enhance the competitiveness of EU services markets. A public consultation launched in May will provide feedback to ensure that the proposal for a services passport will reduce administrative burden for service providers seeking to expand across borders. The consultation also covers action to address specific regulatory barriers for business services and for construction services, which may stand in the way of cross-border trade and investment across Member States.

The Commission will also shortly publish a summary of the more than 400 contributions to the Green Paper on retail financial services. Responses confirm that consumers find it too complicated to use financial services in another EU Member State. Fees for payment cards or insurance products vary drastically. In some cases, a lack of competition prevents consumers from having the best choice. Based on further analysis of the feedback, the Commission envisages taking follow-up measures after summer 2016. The assessment will consider whether retail investors can access suitable products on cost-effective and fair terms, and whether we are effectively harnessing the potential offered by new possibilities in the context of online-based services and other technologies to make financial services more efficient (FinTech).

Internet has radically transformed our societies and individual lives while having a profound impact on integration across all sectors of our economy. The new General Data Protection Regulation strengthens fundamental rights and facilitates business in the Digital Single Market and the Commission will now continue to work together with Member States, notably the supervisory authorities, business and other relevant stakeholders to ensure its full and coherent implementation. With its proposal on wholesale roaming charges the Commission will soon provide the last building block to deliver on its promise to remove roaming charges across Europe by June 2017. The combination of no more roaming, portability of copyrighted content, and a ban on unjustified geo-blocking will directly benefit millions of consumers in the Digital Single Market. However, the full potential of the European e-Commerce market has not yet been reached and a number of barriers to a borderless digital Europe remain.

In its May e-Commerce package the Commission has therefore launched a comprehensive approach to removal of barriers to cross-border online activity in Europe. This includes a ban on unjustified geo-blocking and other forms of discrimination based on nationality or residence, measures to improve regulatory oversight and reduce the costs of cross-border parcel delivery, effective cross-border consumer protection as well as updated guidance for the application of the Directive on Unfair Commercial practices to ensure better enforcement. Together with our proposals to harmonise rules for digital contracts adopted in December 2015, and upcoming VAT⁶ simplification proposals, these measures will give consumers better and cheaper access to online goods and services across Europe.

Great attention is also being given to achieving a simpler, modern-and fraud-proof VAT system. VAT raised almost EUR 1 trillion of revenue in 2014, corresponding to 7% of EU GDP. Almost all businesses have to deal with VAT, and most of them find it excessively burdensome and too fragmented. The follow-up initiatives to the VAT Action Plan⁷ adopted in April will remove administrative barriers and reduce regulatory costs inside the Single Market. This will create an environment conducive to growth and favourable to trade as it will drastically simplify cross-border e-commerce and provide for a lighter SME regime., Consumers and businesses will benefit from this as well as national treasuries.

By accelerating the implementation of e-procurement and other measures, the E-Government Action Plan will make interaction between industry and governments more efficient, and will also contain measures to stimulate the demand for innovative digital products and services. In addition, by opening up public sector data, administrations facilitate the creation of new business opportunities. The Single Digital Gateway will set up an online one-stop entry point for citizens and businesses to Single Market-related information, assistance, advice and problem-solving services, as well as to national and EU-wide procedures needed to operate in the EU.

The implementation agenda for the Single Market should:

- encourage the widest possible participation in ongoing public consultations on issues like the services passport and the Single Digital Gateway and call for ambitious follow up;*
- aim for swift agreement between the co-legislators on the Commission's e-Commerce proposals, including for digital contracts, and the forthcoming proposals on wholesale roaming, as well as support the implementation of the E-Government Action Plan;*
- support the creation of a simple, modern and fraud-proof VAT system in order to fight fraud, remove administrative burdens, improve cross-border trade and meet the expectations of consumers and businesses.*

3.4 Enforcement and practical delivery

⁶ Value Added Tax

⁷ COM(2016) 148

Smart and efficient enforcement is crucial for delivering the benefits of the Single Market. Non-compliance distorts the level-playing field, hampers innovation, and undermines the confidence of consumers and businesses.

In order to change this, enforcement aspects need to be integrated in policy design from the beginning, including through better collection of relevant market information and stronger partnership with Member States. The transposition of European legislation should also consider that going beyond what is strictly required to implement such legislation can create new obstacles and fragmentation arising at national level.

The Commission will give high priority to ensuring compliance with the whole body of EU law. It will step up enforcement and strengthen the partnership with Member States. As part of its strategic approach, the Commission will seek to reinforce existing problem-solving tools.

The revision of the Consumer Protection Cooperation Regulation, adopted as part of the e-commerce package, will boost the ability of Member States to address infringements of consumer law, in particular in the online environment where it is important to cooperate across borders. At the same time, it provides a one-stop-shop for the implementation of consumer rules for traders engaged in cross-border activities.

The forthcoming proposal for a new single market information tool will enable the Commission to collect information directly from selected market players when designing new or enforcing existing Single Market legislation. Support from Member States will be essential to ensure that a well targeted and efficient instrument is put into place.

The Commission will in the autumn propose a legislative initiative to improve the functioning of the notification procedure for services. This initiative will further enhance transparency on new measures envisaged by Member States in the field of services and allow the Commission and other Member States to better intervene before the adoption of such national measures if they were to create disproportionate obstacles to the Single Market for services. The Commission is currently analysing the results of the public consultation and preparing a proposal for the autumn.

With the revision of the Mutual Recognition Regulation in 2017, the Commission intends to propose making it simpler for businesses to demonstrate that their products are lawfully sold in a Member State and hence make it easier for companies to market their products across borders. This will help avoid higher costs for economic operators and lost business opportunities resulting from adaptation of products to diverse national regulations or additional tests in order to obtain access to other Member State markets.

At the same time, it will propose a comprehensive set of actions to tackle the increasing number of products which are illegal or do not comply with essential product safety requirements. The Commission is preparing to launch the public consultations and has started work on a comprehensive evaluation of the existing legal framework. In this context, the Commission will further analyse a number of high profile product market cases that revealed weaknesses in our general Single Market surveillance architecture going beyond their sectorial relevance.

The implementation agenda for the Single Market should:

- *recall that a proper implementation, compliance with and enforcement of EU rules is a prerequisite to realising the benefits of the Single Market for citizens, consumers and businesses;*
- *strengthen the partnership with Member States to ensure a smart, targeted and efficient enforcement;*
- *encourage the co-legislators to quickly examine the forthcoming proposals linked to the enforcement of the single market rules, notably the changes to the notification procedure for services, the improvements to the functioning of the single market in goods and the creation of a single market information tool.*

4. Conclusion

As the Commission is proposing to extend the European Fund for Strategic Investment beyond 2018, it is essential to advance on the other aspects of the Investment Plan for Europe and step up structural reform. In a joint effort by Member States and the EU, we need to create a business environment that fosters innovation, and invest in people and their lifelong skills development. With the Single Market Strategy, the Action Plan on Building the Capital Markets Union and the Digital Single Market Strategy, the Commission has put forward a comprehensive and mutually reinforcing programme to strengthen job creation, boost investment in growth and improve Europe's competitiveness.

The focus must now shift to delivering the benefits of these strategies for the interest of consumers, businesses and society as a whole. A number of initiatives have already been adopted by the Commission. The support of co-legislators and Member States will be indispensable for ensuring these proposals can have an effect on the ground as soon as possible. In other areas, preparatory work is well under way. In line with Better Regulation principles, public consultations, evaluations and impacts assessments will tell us what best to target, and how to ensure that we effectively tackle those problems that need to be addressed at the European level.

The European Council is therefore invited to endorse this Communication and to invite the European Parliament and the Council to agree the necessary legislative measures as rapidly as possible. The progress of this implementation agenda should be monitored regularly, in view of ensuring that all initiatives under the strategies are fully in place and operational by the end of the Commission's mandate. Working together, at European, national and local level, we can bring these reforms to life and reap its benefits for Europe's citizens and businesses.