



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

From:	General Secretariat of the Council
To:	Working Party Competitiveness and Growth
Subject:	Revised draft Council conclusions on the Digital Single Market and Governance of the Single Market

Delegations will find in Annex a revised version of draft Council conclusions on the Digital Single Market and Governance of the Single Market prepared by the Presidency. This revised version will be examined by the Working Party on Competitiveness and Growth at its meeting on 25 April 2012. At this stage all delegations have a general scrutiny reservation.

New text compared to doc. 8043/12 has been put in **bold and underlined**. Deleted text has been marked by ~~strikethrough~~.

**Revised draft Council conclusions on the Digital Single Market and
Governance of the Single Market**

THE COUNCIL (Competitiveness)

RECALLING:

- The conclusions of the European Council of **23 October 2011 and** of 1-2 March 2012¹;
- The declaration of the informal European Council of 30 January 2012;
- The Commission Communication “Single Market Act - Twelve levers to boost growth and strengthen confidence” of 13 April 2011²;
- The European Parliament’s resolution of 6 April 2011 on "Governance and partnership in the Single Market"³;
- The European Parliament’s resolution of 21 September 2010 on "Completing the single market for e-commerce"⁴;
- The Commission Communication “A digital agenda for Europe” of 15 May 2010⁵;
- The Commission Communication “A coherent framework for building trust in the digital single market for e-commerce and online services” of 11 January 2012⁶;
- The Commission document “Making the Single Market deliver - Annual governance check-up 2011” of 27 February 2012⁷; The Commission document "Reinforcing Effective Problem-Solving in the Single Market-Unlocking SOLVIT's full potential at the occasion of its 10th anniversary" of 27 February 2012⁸;
- The Commission Recommendation on “Measures to improve the functioning of the single market” of 29 June 2009⁹;

¹ doc. EUCO 52/1/11 and EUCO 04/12.
² COM(2011) 206/4.
³ P7_TA-PROV(2011)0144 adopted on 6 April 2011.
⁴ P7_TA(2010)0320 adopted on 21 September 2010.
⁵ doc. 9981/1/10.
⁶ doc. 5494/12.
⁷ doc. 7104/12.
⁸ doc. 7113/12.
⁹ doc. 11727/09.

1. SUPPORTS the view that strengthening the governance of the Single Market, including through improved implementation and enforcement, the achievement of a Digital Single Market and the ~~rapid~~ **swift** adoption of the ~~key action proposals~~ **measures** in the Single Market Act **with the most potential to boost growth and jobs** can bring the Single Market to a new stage as called for by the European Council on 1-2 March 2012; UNDERLINES the role of the European Council and the Competitiveness Council in relation to monitoring the progress achieved on key Single Market proposals, particularly the governance of the Single Market, the Digital Single Market and the key actions of the Single Market Act;

2. LOOKS FORWARD to a new round of measures from the Commission to boost growth, jobs and confidence in the Single Market in the second half of this year; STRESSES that emphasis should be laid on measures which **boost growth and competitiveness**, create jobs and bring tangible results to citizens and businesses in both short and long term and POINTS OUT the need for ambitious steps to be taken to achieve a genuine and fully-fledged Single Market and, moreover, that the Single Market must rest upon a strong economic and social basis with a view to building a highly competitive social market economy;

ENSURING THE PROPER FUNCTIONING OF THE SINGLE MARKET

3. STRESSES:

- The importance of **making every effort to** reaching the transposition deficit target of 1% on Single Market Directives **while the aim remains to have no transposition deficit**; when the majority of Member States have reached the transposition deficit of 1%, a step by step reduction of this target may be considered;
- The need to exchange best practices, **where appropriate**, in order to ensure the quality of transposition and enforcement;
- The need to introduce a benchmark of ~~18 months~~ for the duration of infringement procedures **and increase efforts from the Member States and the Commission to react within a specified time**; ~~and a self-binding declaration of the Commission to react on Member States' communication within a specified time~~;
- **The importance of consolidating a single point of access to information, based on existing structures and mechanisms, allowing citizens and businesses to find information on Single Market rights at EU level and how those rights are implemented at national and local level**; ~~The importance of a single point of entry for citizens and enterprises seeking information on Single Market rights both at Union and national level~~;
- **The importance of ensuring better quality of legislation**;

Furthermore,

4. UNDERLINES the high importance of making the Single Market work on the ground in order to secure the rights and benefits of citizens and enterprises **businesses**; **STRESSES that clear and consistent EU legislation setting rules that substantially improve the functioning of the Single Market is a pre-requisite for effective governance**; accordingly AGREES on the need to focus on concrete initiatives that will further improve the transposition, ~~application~~ **implementation** and enforcement of the rules and principles of the Single Market, **considering, where appropriate, a wider use of Regulations instead of Directives whenever Member States have no discretion in the transposition (i.e. in case of modification of technical annexes to Directives)**; and LOOKS FORWARD TO the Commission report on Single Market governance;
5. STRESSES the importance for improving the governance of the Single Market by the transposition of Single Market legislation, monitoring **and analyses** of the functioning of the Single Market and **linking Single Market** instruments to ensure that citizens and businesses can make use of their Single Market rights and find effective solutions when Single Market rules are not implemented correctly;
6. ACKNOWLEDGES that targets and benchmarks for the transposition, application and enforcement of Single Market legislation are of importance in making the Single Market work on the ground; however, RECOGNISES that targets and benchmarks have to be realistic and have to be supplemented by other measures in order to ensure timely transposition **and good outcomes**;

7. UNDERLINES that timely transposition also requires the necessary political will, **effective national monitoring structures**, realistic transposition deadlines and assistance, especially in relation to complex Directives; therefore CALLS UPON the Commission to continue and enhance its assistance to Member States in the transposition phase, ensuring quality of transposition and enforcement, **including through the use of Commission package meetings and / or workshops in Member States**, INVITES the Commission to **and to** arrange the exchange of best practices; ~~and the use of mutual evaluation where appropriate and on that background to further assess unnecessary and disproportionate national requirements and to propose appropriate solutions where necessary;~~
8. STRESSES the importance of correct transposition of Single Market Directives and in this respect the need of commitment from both the Commission and the Member States in order to secure fast and efficient remedies for breaches of Single Market legislation, RECOMMENDS ~~the introduction of a self-binding declaration of the Commission to react on Member States' communications within 3 months;~~ **of** a benchmark on Member States' compliance deficit and **of** a benchmark ~~of maximum 12 months~~ on compliance with the Court rulings;
9. EMPHASISES the political need for systematic monitoring and in-depth analysis of the functioning of the Single Market; RECOMMENDS an extended annual Governance Report and Internal Market Scoreboard that includes the new benchmarks, horizontal Single Market themes and where appropriate best practices from the Member States;

10. STRESSES the need of listing ~~barriers~~ **concerns** that prevent citizens' and businesses' access to the Single Market, which should be done on a regular basis as a way to put shortcomings of the Single Market on the political agenda; **INVITES the Commission to arrange the use of mutual evaluation, where appropriate, and on that background to further assess unnecessary and disproportionate national requirements and to propose discuss with Member States appropriate solutions where necessary in order to improve the quality of the transposition of Single Market legislation;**
11. STRESSES the importance of bringing the Single Market closer to citizens and businesses and raising the awareness of the opportunities and instruments available in the Single Market and the need to explore, **create**, streamline **and apply** synergies between existing instruments in order to make them more effective; ~~and resource efficient;~~
12. Therefore SUPPORTS the SOLVIT strategy ~~and its ten sets of action~~ **and** STRESSES the importance of SOLVIT as ~~the first port of call~~ **as an easy and accessibly means of solving problems** ~~when~~ individuals and businesses encounter ~~problems~~ in the Single Market **due to incorrect application and implementation of Single Market legislation;** EMPHASISES in this respect the importance of ensuring the necessary support from Member States for the national SOLVIT-centres to deal effectively with the cases received, the importance of the necessary support from the Commission to the SOLVIT-centres, **the need to continue discussions on the proposed cooperation and exchange of information, the purpose of which is to ensure that complaints are dealt with as effectively and speedily as possible without overlap or duplication with other redress mechanisms, including the EU-Pilot;** ~~SOLVIT-centres, and the need to ensure a close cooperation and exchange of information between SOLVIT and the EU-Pilot, hereby ensuring that information in the database which is of importance for the functioning of the Single Market is used properly and that complaints are dealt with as fast and efficiently as possible;~~

13. UNDERLINES the importance of more accessible and user-friendly Points of Single Contact **provided for in the Services Directive**, especially for users from other Member States, where in particular the cross border completion of e-procedures needs to be improved, ACKNOWLEDGES the importance of ~~widening the scope~~ **improving the quality of** information and procedures that Points of Single Contact offer; ~~URGES INVITES~~ the Commission to make best-practice recommendations which in particular should **focus on ways to raise awareness and encourage that relevant necessary information is available in a multilingual format for business**; ~~focus on ways to encourage multilingualism and awareness among businesses~~;
14. STRESSES the need for raising awareness among national authorities about the Internal Market Information system (IMI) in order to **emphasise** ~~ensure more effective case handling~~ and the importance of **IMI for the efficiency of administrative** cooperation ~~between~~ **among competent authorities of** the Commission and the Member States **or between competent authorities of the Member States and the Commission** in this respect; UNDERLINES the importance of using IMI in other Single Market legislative areas whenever appropriate **and in accordance with the envisaged Regulation on administrative cooperation through the IMI System**;
15. UNDERLINES the importance of continuously updated and multilingual information through Your Europe by the Commission and the Member States;

In conclusion,

16. STRESSES the need of continued political focus on governance and INVITES as a necessary follow up the Commission to ~~develop~~ **promote** in close partnership with Member States a more resolute enforcement policy to make sure that Single Market rules are actually **and correctly** applied and enforced on the ground;

17. STRESSES furthermore the need for timely and full ~~transposition~~ **implementation** of the key action proposals in the Single Market Act and the need for the Commission to perform conformity checks on the ~~transposition~~ **implementation** of the Single Market Act; and WELCOMES plans on having a Single Market Week in order to celebrate in a proactive and dynamic way the 20th anniversary of the creation of the Single Market;

COMPLETING THE DIGITAL SINGLE MARKET BY BUILDING TRUST IN THE DIGITAL SINGLE MARKET FOR E-COMMERCE AND ONLINE SERVICES

- 18. REAFFIRMS, in times of economic challenges, its commitment to further improve the Single Market, including the completion of the Digital Single Market, and its functioning; in this respect UNDERLINES the need to promote long-term growth and competitiveness and contribute to Europe's economic recovery;**

19. STRESSES:

- The importance of **completing the Digital Single Market and** the objective of doubling online sales and the share of the internet economy in the Union's GDP by 2015
- The significance of efficient and innovative payment means for e-commerce and efforts to make e-invoicing the primary mode of invoicing by 2020;
- The importance of pursuing the full transition to e-procurement by ~~2017~~ **2016** in order for it to generate significant savings;
- The e-commerce Directive as the framework for ensuring and enhancing the legal supply of online services and products in a well-functioning Digital Single Market as well as the principle of non-discrimination of consumers **recipients of services** on the grounds of nationality or residence;

- The importance of a rapid implementation of the European Strategy for intellectual property rights including the revision of the Directive on enforcement of intellectual property rights; and LOOKS FORWARD TO the forthcoming Commission proposals on copyright; and ~~ACKNOWLEDGES the Commission's proposals on modernisation of Europe's copyright regime, taking into account cultural diversity in order to develop the full potential of the digital economy;~~
- The need to improve the information and guidance given to consumers and businesses through existing networks and the need to ensure effective solution of online disputes as a pre-requisite for **in order to increase** trust in the Digital Single Market;
- The significant impact of high speed communication networks on the development of the Digital Single Market;

Furthermore,

20. UNDERLINES the need to foster growth by enhancing confidence and improving opportunities for business, notably entrepreneurs and small and medium-sized enterprises, and for citizens, **including consumers and vulnerable consumers;**
21. UNDERLINES the urgent need for ambitious steps to be taken to achieve a genuine and fully-fledged Digital Single Market; WELCOMES the Commission's Communication "A coherent framework for building trust in the digital single market for e-commerce and online services" of 11 January 2012 and the action plan contained therein; and ~~REITERATES the call of the European Council for its rapid implementation;~~

22. **CALLS FOR the modernisation of Europe’s copyright regime and promotion of best practices and models, while fighting piracy more effectively and taking into account cultural diversity in order to deploy the full potential of the digital economy;** ~~SUPPORTS the strengthening of the framework for intellectual property rights; facilitating the availability of online content and promoting the development of new digital products to the benefit of consumers and businesses;~~
23. ~~WELCOMES~~ **LOOKS FORWARD TO** the ~~Commission's intention to adoption by the~~ **Commission of guidance** guidelines on the principle of non-discrimination of consumers **service recipients of services** on grounds of nationality or residence laid down in Article 20(2) of the Services Directive and ~~LOOKS FORWARD~~ to the Commission’s **Staff Working Paper on the outcome of** ~~communication on~~ the performance check of the Services Directive;
24. STRESSES the need to place consumers and businesses at the heart of the Single Market and to increase trust in the Digital Single Market and; SUPPORTS the improvement of the digital provision of information and guidance through Enterprise Europe, reinforcement of the ECC-Net and the CPC network; ~~WELCOMES the Commission’s intention to present an action plan on administrative co-operation and consumer protection; and~~ **LOOKS FORWARD TO** the adoption by the Commission of a “European Consumer Agenda”; RECALLS the suggestion from the European Council and URGES the Commission to submit the new proposal on e-signature, e-identification and e-authentication ~~before~~ **by** June 2012;

25. UNDERLINES the potential of ~~that barriers for~~ innovative payment services for ~~means hinder~~ the development of e- and m-commerce as well as of new forms of proximity payments in Europe and therefore ATTACHES GREAT IMPORTANCE TO the integration of a European market for payments by credit card, internet or mobile phone in order to ensure the transparency, security and adequate protection for businesses and consumers; and ENCOURAGES an evaluation of the barriers in the market for card, internet and mobile payments;
26. ACKNOWLEDGES that addressing the problems arising online is a key pre-condition for the Digital Single Market to become fully operational; ~~ACKNOWLEDGES that efforts undertaken to address the problems that might arise online is a key pre-condition for can trust in the Digital Single Market and~~ RECALLS FOR ~~the call of the European Council for an agreement on the proposal for online dispute resolution by the end of June 2012;~~
27. ACKNOWLEDGES that postal services are an integral part of cross-border e-commerce and ~~WELCOMES~~ LOOKS FORWARD TO initiatives from the Commission on improved delivery and parcel delivery services;
28. WELCOMES the intention of the Commission to strengthen and facilitate the development of information and communication structures and adopt an overall strategy on cloud computing in order to stimulate the sector and provide the legal certainty with economic operators;
29. STRESSES that the revision of the Procurement Directives should be agreed before the end of 2012, in order to further encourage the use of digital solutions to the benefit of businesses, and to support e-procurement in the Union; REITERATES the call of the European Council for an agreement on the Standardisation Regulation by the end of June 2012;

30. HIGHLIGHTS the need to co-ordinate the use of available EU funding instruments¹ and to prepare plans for Digital Growth and for high speed internet infrastructure (NGA) already in 2012 to support good planning of these measures for the new programming period (2014-2020);

In conclusion,

31. STRESSES the need to ~~continuously focus on completing~~ **complete** the Digital Single Market, which would give consumers, **citizens and businesses** access to a wider range of goods and services and provide businesses with a marketplace of a much greater scale, hence contributing to competitiveness, **the development of the European digital industry, the creation of jobs** and growth in Europe; WELCOMES the yearly Digital Agenda Assembly as a platform for furthering discussions on this important agenda and CALLS FOR RAPID progress on the concrete legislative files that can increase confidence in the Digital Single Market.

¹ Through the EU Cohesion and Rural Development policies, Horizon 2020, and the Connecting Europe Facility.