



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: General Secretariat
to: Council (Competitiveness)

Subject : Digital Single Market and Governance of the Single Market
- *Adoption of Council Conclusions*

1. On 11 January 2012, the Commission published a Communication entitled “A coherent framework for building trust in the digital single market for e-commerce and online services”.
On 27 February 2012, the Commission published a document entitled “Making the Single Market deliver - Annual governance check-up 2011”.
2. The Working Party on Competitiveness and Growth responded to the above documents with draft Council Conclusions on the Digital Single Market and Governance of the Single Market. The Working Party examined the draft Conclusions on 11 and 25 April and 8 May 2012.

3. On 16 May 2012, the Permanent Representatives Committee examined the Presidency compromise text and solved a number of outstanding issues. Remaining issues were solved by bilateral contacts and the balanced text was found accommodating all delegations' concerns.

 4. The Competitiveness Council is invited, at its forthcoming meeting on 30 May 2012, to adopt the conclusions set out in Annex to the present note.
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**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 Single Market for Intellectual Property Rights, Boosting creativity and innovation to provide economic growth, high quality jobs, and first class products and services in Europe” of 24 May 2011⁶;
- The Commission Communication “A coherent framework for building trust in the digital single market for e-commerce and online services” of 11 January 2012⁷;
- The Commission document “Making the Single Market deliver - Annual governance check-up 2011” of 27 February 2012⁸;

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 COM(2011) 287.

⁷ doc. 5494/12.

⁸ doc. 7104/12.

- 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 2012⁹;
 - The Commission Recommendation on “Measures to improve the functioning of the single market” of 29 June 2009¹⁰;
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 swift adoption of the 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;

⁹ doc. 7113/12.

¹⁰ doc. 11727/09.

ENSURING THE PROPER FUNCTIONING OF THE SINGLE MARKET THROUGH BETTER GOVERNANCE

3. STRESSES:

- The importance of making every effort to reach the transposition deficit target of 1% on Single Market Directives while the aim remains to have no transposition deficit; when a large 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 shorten the duration of infringement procedures and increase efforts from the Member States and the Commission to act and react within an adequate time-frame considering the specific circumstances of the individual case;
- The importance of consolidating a single point of access to information, such as Your Europe, 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 ensuring better quality and consistency of legislation for achieving a more integrated Single Market;

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 businesses; STRESSES that clear and consistent EU rules that substantially improve the functioning of the Single Market are crucial for effective governance; accordingly AGREES on the need to focus on concrete initiatives that will further improve the transposition, implementation, application and enforcement of the rules and principles of the Single Market, considering the use of the most appropriate legal form in line with the Treaties and the principle of subsidiarity; STRESSES THE NEED to avoid administrative burdens for Member States, including as regards delegated acts, implementing acts or other forms of amendments relating to technical aspects of existing 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 best 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, implementation 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 monitoring structures in Member States, 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 and consistency of transposition and enforcement, including through the use of Commission package meetings and workshops in Member States; and to arrange the exchange of best practices where appropriate;
8. STRESSES the importance of correct transposition and implementation 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, and RECOMMENDS, on the basis of thorough analyses and in consultation with Member States, the introduction of new benchmarks, where appropriate;

9. EMPHASISES the political importance of systematic monitoring and in-depth analysis of the functioning of the Single Market and the leading role of the Competitiveness Council in this regard; RECOMMENDS an extended annual Governance Report and Internal Market Scoreboard, which measures performance, discusses horizontal Single Market themes and where appropriate best practices from the Member States;
10. STRESSES the need of listing concerns and problems 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 propose the use of mutual evaluation, where appropriate, and on that background to further assess unjustified or disproportionate national requirements and to discuss with Member States appropriate solutions where necessary in order to improve the quality of the transposition of legislation and the functioning of the Single Market;
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;
12. Therefore SUPPORTS the SOLVIT strategy and STRESSES the importance of SOLVIT as an easy and accessible means of solving problems individuals and businesses encounter in the Single Market; 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 importance of ensuring that information in the database, which is significant for the functioning of the Single Market, is used properly and 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;

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 improving the quality of information and procedures that Points of Single Contact offer; 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;
14. STRESSES the need for raising awareness among national authorities about the Internal Market Information system (IMI) in order to emphasise the importance of IMI for the efficiency of administrative cooperation, complying with data protection rules, among competent authorities of 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 where 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 in cooperation with 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 promote in close partnership with Member States a more resolute transposition assistance and enforcement policy to make sure that Single Market rules are timely and correctly applied and enforced on the ground;
17. STRESSES furthermore the need for timely transposition and full implementation of the key action proposals in the Single Market Act and the need for the Commission to perform conformity checks on the implementation of Single Market legislation and in particular the Single Market Act key proposals; 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 AND BUILDING TRUST IN 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, to create jobs 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, secure 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 transition to e-procurement by 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;
 - The principle of non-discrimination of 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 assessment of the Directive on enforcement of intellectual property rights; and LOOKS FORWARD TO the forthcoming Commission proposals on copyright;
 - 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 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 across the Union and its regions, including in the outermost regions;

Furthermore,

20. UNDERLINES the need to foster growth by enhancing confidence and improving opportunities and access to online goods and services for all businesses and citizens, including all 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; ACKNOWLEDGES the Public Sector Information proposal and its importance for transparency and growth;
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;
23. LOOKS FORWARD TO the adoption by the Commission of guidance on the principle of non-discrimination of service recipients on grounds of nationality or residence laid down in Article 20(2) of the Services Directive and to the Commission's Staff Working Paper on the outcome of the performance check of the Single Market for services;
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 in this respect HIGHLIGHTS the new agreement on the Roaming III Regulation; SUPPORTS the improvement of the digital provision of information and guidance through Enterprise Europe, reinforcement of the European Consumers Centres-Network (ECC-Net) and the Consumer Protection Cooperation (CPC) network; 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 by June 2012;

25. UNDERLINES the potential of innovative payment services for 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 crucial element for the Digital Single Market to become fully operational;
27. CALLS FOR an agreement on the proposal for online dispute resolution by the end of June 2012;
28. ACKNOWLEDGES that postal services are an integral and essential part of cross-border e-commerce and LOOKS FORWARD TO initiatives from the Commission on improved delivery and parcel delivery services;
29. 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;
30. STRESSES that the simplification of the Procurement rules should be agreed before the end of 2012, in order to further encourage the use of digital solutions to the benefit of all businesses, and to support e-procurement in the Union, as well as the importance of standardisation and interoperability as key conditions for the implementation of the Digital Single Market; REITERATES the call of the European Council for an agreement on the Standardisation Regulation by the end of June 2012;

31. HIGHLIGHTS the need to co-ordinate and better plan the use of available EU funding for Digital Growth and for high speed internet infrastructure in 2012;

In conclusion,

32. STRESSES the need to complete the Digital Single Market, which would give consumers, citizens and businesses access to a wide 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; UNDERLINES that any new regulation should take due account of the specificities of online trade and new business models and CALLS FOR RAPID progress on the concrete legislative files that can increase confidence in the Digital Single Market.
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