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NOTE

From: HLG Trio Presidency Chair
To: High Level Working Group on Competitiveness and Growth

Subject: Long-term action plan for better implementation and enforcement of Single Market rules

Delegations will find in Annex a note by the HLG Chair on the long-term action plan for better implementation and enforcement of Single Market rules, in view of the meeting of the High Level Working Group on Competitiveness and Growth on 14 February 2020.

Enforcement in the Single Market

Introduction

The European Council invited the Commission in March 2019 to develop a long-term action plan for better implementation and enforcement of Single Market rules in close coordination with the Member States. There is overall agreement that citizens and businesses still encounter many obstacles in the Single Market. Limited awareness of existing rules and access to relevant information, lack of compliance and insufficient enforcement are diminishing the functioning of the Single Market. An enhanced partnership between the Member States and the Commission to tackle existing barriers and to improve compliance and enforcement will create trust in the Single Market and will improve opportunities for citizens and businesses.

This paper intends to inform the Member States about the approach envisaged for the Action Plan currently under preparation. It builds on the discussion from the High Level Working Group meeting of 7 November 2019, to ensure that Member State's views on implementation and enforcement of Single Market rules are duly considered. Furthermore, Member State representatives discussed implementation and enforcement at the EU law network meeting in December 2019.

Approach

The Action Plan aims to propose a number of concrete Actions to tackle specific enforcement problems. These Actions are grouped into two sections: a preventive part, encouraging a culture of compliance, and a part on enforcement tools and cooperation to enable better enforcement based on a real partnership between the Member States and the Commission.

With regard to prevention, specific actions aim to address the existing knowledge and awareness gaps, providing a better understanding of Single Market rules for actors and enforcers. The Single Digital Gateway should be very useful in this context. Guidance on the correct application of Single Market rules is essential to avoid infringements. The Commission is envisaging to present new guidance tools, and intensify existing guidance updated and exchanges of expertise with national authorities.

A coordinated effort of Member States and the Commission is essential. The partnership approach is also instrumental for the transposition and implementation of Single Market law: too many rules vital for the functioning of the Single Market require years before they create benefits for citizens and businesses. There are huge efficiency gains in stepping up cooperation and ensuring proper transposition and implementation based on a high level of trust. Equally, the cooperation between Member States and the Commission before enacting national rules affecting Single Market rights can be improved, namely by improving the use of the different notification mechanisms. Existing networks could be more involved in issues related to the proper implementation of Single Market rules.

On enforcement, it could be envisaged to use the EU-Pilot more consistently and to improve its functioning. The role of SOLVIT could be enhanced, for instance by making it the default tool for dispute resolution and improving its interoperability with the Commission's complaint system. Other instruments with known positive impacts, such as package meetings, could also be used more systematically. The Commission intends to maintain its commitment to focus its enforcement activities on breaches of EU law of a considerable impact on the Single Market as outlined in the Communication "EU Law: Better Results through Better Application" of December 2016. When prioritising enforcement activities, the Commission sees great possible benefits from closer cooperation with the Member States authorities to develop a proactive policy to advance enforcement. In this context, enforcement authorities at European and national level could play an important role and require adequate powers to ensure effective compliance. The role of Single Market coordination bodies is equally vital and could be improved to ensure that the partnership approach works at all administrative levels in all Member States. The role of the Single Market Scoreboard as a useful tool to monitor compliance could also be enhanced.