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Upgrading the Single Market: more opportunities for people and business

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1. UPGRADING THE SINGLE MARKET

The Single Market is one of Europe's great achievements. In the past 50 years, it has generated new opportunities and economies of scale for European companies that have strengthened industrial competitiveness, it has created jobs and offered greater choice at lower prices for consumers and it has enabled people to live, study and work where they want. It has contributed to better integrating EU firms into international value chains and strengthening the global competitiveness of European companies.

But the EU and the Single Market need to adapt to a changing environment. Europe is facing economic and social challenges. The economic and financial crisis has tested our economies and created immense social costs. Unemployment remains stubbornly high across Europe, particularly among the young people who should be the heart of Europe's vitality. Low levels of growth have affected people's confidence in Europe. Inadequate levels of investment and obstacles in product and services markets have hampered productivity and the competitiveness of the European economy. Businesses often feel stifled by outdated and excessively burdensome regulations and unable to find the information that they need.

At the same time, innovation and global value chains are generating major new opportunities. Digital technologies are transforming many industrial sectors, leading to more efficient production and new, innovative business models. Manufacturing and services are increasingly being merged into smart and clean business offers that provide greater value added for customers. But this innovation is also challenging traditional business models and established relationships between consumers and business operators.

1.1. A deeper and fairer Single Market

The European Commission that came into office in November 2014 is responding to these challenges. It has made increasing jobs, growth and investment its top priority and is pursuing it by deepening the Single Market across sectors and policy areas.

Within a month of taking office, the Commission launched its **Investment Plan** for Europe and the European Fund for Strategic Investments. The plan is already up and running, starting to counter the decline in investment and driving economic recovery. One of the plan's objectives is to create a better business environment for investment by providing greater regulatory predictability and further strengthening the Single Market.

In February 2015, the Commission built on this with the **European Energy Union**, aiming to ensure that consumers and businesses have access to secure, affordable and climate-friendly energy and making the internal energy market a reality across the EU.

In May, the Commission unveiled a **Digital Single Market Strategy** to meet the challenges of the digital economy. A connected digital Single Market will improve access for consumers and businesses to online goods and services while creating the right conditions for networks to flourish and maximising the growth potential of Europe's digital economy.

And last month, the Action Plan on building a **Capital Markets Union** was released. The Action Plan should result in lower costs of borrowing, improved start-up financing and a broader investor base. This will make it easier for Europe's firms to get access to the finance they need to modernise and expand by linking investors with those who need funding. The Capital Markets Union will make the financial system more stable and increase competition.

We need a Europe that is open to the world and a world that is open to Europe. As outlined in its Communication **Trade for All** adopted earlier this month, the Commission has redesigned its trade and investment policy to make it more effective and more transparent, in tune with our European values. It is working hard to secure an ambitious, fair and effective outcome to the **Transatlantic Trade and Investment Partnership**.

The planned **Circular Economy package** will create new competitive advantages for Europe. It will aim to ensure that valuable natural resources are preserved while boosting competitiveness, innovation and job creation in the design, manufacturing, use, repair and recycling of products, and in waste management.

In order to ensure a fairer Single Market, the EU must also respond effectively to the concerns of people and businesses. They must have the assurance that the Single Market is protecting and empowering them.

People need to be confident that their rights as employees are not undercut. To address those concerns, the forthcoming **Labour Mobility package** will support labour mobility through better coordinated social security systems and a targeted review of the Posted Workers Directive.

People and businesses need to see fairness also in the area of **tax**. It is crucial that companies who benefit from the Single Market are no longer able to exploit differences and loopholes in national tax regimes. The Commission is finalising in-depth investigations on tax rulings in a number of Member States and working to secure the quick implementation of the recently adopted Directive on tax rulings. With the recent Action Plan for fair and efficient corporate taxation, the Commission has rolled out an ambitious programme to ensure that taxes are paid where profits are generated.

Finally, the Commission is taking forward a number of sectoral initiatives relevant for the Single Market. For example, further measures to improve the Single Market for **road transport** will contribute to improved and more competitive transport services. The Commission will consider in particular how the rules on access to the haulage market can be made simpler and more enforceable. It will look at ways to ensure a level playing field for domestic passenger services, greater competition for the hiring of heavy goods vehicles, as well as how to strengthen the enforcement of applicable rules in the sector and ensure adequate working conditions and a level playing field.

Underpinning all these actions, the Commission has made a new start on **better regulation**. By focusing on Europe's real priorities, we are delivering better rules for better results. In many cases, one set of EU rules replaces a patchwork of 28 different national rules, making life easier for citizens and businesses, simplifying the legal framework, reducing regulatory burden across the Single Market and increasing regulatory predictability.

1.2. A new Single Market Strategy based on opportunity, modernisation and results

These measures need to be complemented by a true European Single Market for goods and services.

For all the progress made, too many significant economic barriers remain, notably in the area of services. The Commission estimates that more ambitious implementation of the Services Directive would add 1.8 % of EU GDP.[1]

Barriers to the free exchange of products and services, inadequate enforcement of existing rules, low levels of cross-border public procurement and insufficient political support for structural reforms limit the opportunities for businesses and citizens, resulting in fewer jobs and unnecessarily high prices.

[1] http://ec.europa.eu/economy_finance/publications/economic_paper/2012/pdf/ecp_456_en.pdf

These barriers also affect other policies in key areas, such as transport, telecommunications and energy. They make the EU less attractive for internal and external investments. They stifle innovation and discourage companies from developing new products and services in Europe, from hiring additional staff and from expanding to new markets.

So the Single Market needs to be revived and modernised in a way that improves the functioning of the markets for products and services and guarantees appropriate protection for people. This Strategy aims to achieve that. It is made up of targeted actions in three key areas:

- **creating opportunities** for consumers, professionals and businesses;
- encouraging and **enabling the modernisation and innovation** that Europe needs;
- **ensuring practical delivery** that benefits consumers and businesses in their daily lives.

Its focus is on practical measures helping small and medium-sized enterprises (SMEs) and start-ups to grow and expand, promoting innovation, unlocking investments and empowering consumers. These measures complement a number of sectoral initiatives, such as for example, initiatives improving the functioning and enforcement of the Single Market for road transport. They are underpinned by economic evidence, focussing on the economically most important obstacles. The legislative actions will be subject to further impact assessment work, which will then be the basis for the Commission's final decisions.

2. CREATING OPPORTUNITIES FOR CONSUMERS AND BUSINESSES

2.1. Enabling the balanced development of the collaborative economy

The way many services and assets are provided and consumed is rapidly changing: the collaborative economy, a complex ecosystem of on-demand services and temporary use of assets based on exchanges via online platforms, is developing at a fast pace. The collaborative economy leads to greater choice and lower prices for consumers and provides growth opportunities for innovative start-ups and existing European companies, both in their home country and across borders. It also increases employment and benefits employees by allowing for more flexible schedules, from non-professional micro jobs to part-time entrepreneurship. Resources can be used more efficiently thereby increasing productivity and sustainability.

According to a recent study,[2] the five main collaborative economy sectors (peer-to-peer finance, online staffing, peer-to-peer accommodation, car sharing and music video streaming) have the potential to increase global revenues from around EUR 13 billion now to EUR 300 billion by 2025. A third of European consumers say that they will increasingly participate in the collaborative economy.[3]

However, the emergence of new business models often impacts existing markets, creating tensions with existing goods and services providers. Both sides complain of regulatory uncertainty over the application of rules on consumer protection, taxation, licensing, health and safety norms, social security and employment protection. Hasty or inadequate regulatory responses to these challenges risk creating inequality and market fragmentation.

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[2] Consumer Intelligence Series: The Sharing Economy. PwC 2015, https://www.pwc.com/us/en/technology/publications/assets/pwc-consumer-intelligence-series-the-sharing-economy.pdf

[3] ING International Survey: What's mine is yours - for a price. Rapid growth tipped for the sharing economy. http://www.ezonomics.com/ing_international_survey/sharing_economy_2015

Such difficulties and uncertainty need to be addressed. A clear and balanced regulatory environment is needed that allows the development of collaborative economy entrepreneurship; protects workers, consumers and other public interests; and ensures that no unnecessary regulatory hurdles are imposed on either existing or new market operators, whichever business model they use.

The Digital Single Market Strategy has already kick-started work to analyse the role of platforms, including in the collaborative economy. This initiative will be complemented by other cross-sector studies and active engagement with market operators, consumers and public authorities.[4]

Building on this work, the Commission will issue guidance on how EU law applies to collaborative economy business models and relevant provisions of national law. This guidance will be based on the Services Directive, E-Commerce Directive, European consumer legislation, as well as on relevant treaty provisions. It will consider international best practice and should help Member States and market operators better understand the applicable rules. It will also guide the Commission's enforcement action to ensure that national law does not hinder the development of the collaborative economy in an unjustified manner. The Commission will further assess whether and how any regulatory gaps need to be addressed. It will develop a monitoring framework helping to track the development of the collaborative economy at local, national, company and sector level.

Actions: *The Commission will develop a European agenda for the collaborative economy, including guidance on how existing EU law applies to collaborative economy business models. It will assess possible regulatory gaps and monitor the development of the collaborative economy.*

2.2. Helping SMEs and start-ups to grow

SMEs are the backbone of the European economy. Yet far too many obstacles remain for SMEs, start-ups and young entrepreneurs looking to grow in the Single Market. Many SMEs cater for a local or regional market. Few consider the EU their home market or set out with pan-European ambition. This limits innovation and job creation.

In particular, SMEs complain about:

- the complexity of VAT regulations;
- uncertainties over company law;
- understanding and complying with regulatory requirements;
- a lack of access to finance;
- the fear of punitive bankruptcy laws;
- barriers to innovation.

The Commission is determined to address key difficulties that SMEs – start-ups in particular – face in all phases of their lifecycle.

Many entrepreneurs complain about the **complexity of VAT regulations** when looking to operate cross-border. In the Digital Single Market Strategy, the Commission announced a legislative VAT simplification measure to help small e-commerce businesses in particular to operate cross-border. In addition, the Commission will bring forward, as part of its Action Plan for a fraud-proof VAT system, a comprehensive simplification package for SMEs, with

[4] A public consultation on the regulatory environment for platforms, online intermediaries, data and cloud computing and the collaborative economy was launched in September 2015.

the intention of reducing the administrative burdens experienced by such businesses. This is critical for their growth and will enable cross-border trade.

Entrepreneurs also complain about **uncertainties surrounding company law**. The Commission's Single Member Company proposal, which should be adopted by the co-legislators without delay, will reduce the costs of company registration and simplify procedures. Building on this initiative, the Commission will consider further ways of achieving simpler and less burdensome rules for companies — while continuing to act against letterbox companies — including making digital solutions available throughout a company's lifecycle, in particular in relation to their registration and to the filing of company documents and information.[5] In light of the great difficulties which small companies, in particular, face when carrying out cross-border operations, the Commission will also examine the need to update the existing rules on cross-border mergers[6] and the possibility to complement them with rules as regards cross-border divisions. This could make it easier for SMEs to choose their preferred business strategy and better adapt to changes in market conditions, without weakening social and employment protection.

Start-ups also find it difficult to **identify and meet regulatory requirements**. This is why the Commission, when considering policy solutions or evaluating legislation, is paying particular attention to rules that affect SMEs, starting from the principle 'think small first'.[7] Member States have been working on the creation of 'one-stop-shops' to provide information on all the regulatory requirements that anyone starting a business in any sector of the economy will encounter. To complement these efforts, the Commission will launch a Start-up initiative to engage all relevant players, including entrepreneurs, start-up communities, social partners and regional and national authorities, with the aim of improving the environment for start-ups in Europe. As part of that initiative, it will organise a public consultation to get the ideas of entrepreneurs. The Commission can also benefit from the 'REFIT Platform'[8] to provide ideas to inform its decisions. It will examine in conjunction with stakeholders how the Single Digital Gateway, initiated as part of the Digital Single Market Strategy, can best address the requirements of start-ups. Together with the participants of the Start-up initiative, the Commission will develop specific features for the Gateway to facilitate the cross-border operations of start-up companies and help them to scale up across Europe.

SMEs and start-ups also find it difficult to **secure funding**. SMEs have already been placed at the heart of the Investment Plan for Europe. For instance, a quarter of the European Fund for Strategic Investments (EFSI) guarantee will be used to support innovative SMEs and midcaps, to ensure more and faster access to risk finance for start-ups.[9] In addition, the Capital Markets Union is taking forward a range of measures in support of venture capital and risk capital financing in the EU. In this context, the Commission will bring forward proposals for a European venture capital fund of funds, supported by the EU budget and open to others

[5] Possible solutions would seek to achieve these objectives through legislative and/or non-legislative measures, but without relating to any particular type of company.
[6] See Directive 2005/56/EC on cross-border mergers of limited liability companies.
[7] See the Commission's Better Regulation Guidelines, SWD(2015) 111.
[8] http://ec.europa.eu/smart-regulation/better_regulation/key_docs_en.htm
[9] The EU financing instruments for start-ups and SMEs include EFSI and InnovFin (EU Funding for Innovators), which have a strong risk finance aspect for innovation, in part due to their links to Horizon 2020. The SME Initiative - ESIF and Horizon 2020/COSME (EU programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises) - via the European Investment Bank (EIB) Group, provides uncapped guarantees for loans to SMEs and small midcaps; ESIF also supports a great number of incubators and is trying to motivate regions to cooperate across Europe in investing in smart specialisation and into key enabling technologies (KETs).

in order to attract private capital, in line with the Investment Plan. The fund would be dedicated to promoting the creation and the upscaling of start-ups in the Single Market.

In addition, several EU funding programmes, such as Horizon 2020, COSME and the European Structural Investment Funds, include initiatives supporting SMEs and start-ups.[10] EU programmes also finance advice and support for SMEs and start-ups for their funding options and cross-border operations.[11] The Commission will use COSME funds for information campaigns targeting young innovative SMEs to encourage them to expand cross-border and make use of the possibilities.

The effects of **bankruptcy** also deter people from entrepreneurial activity. The fear of the social stigma, legal consequences and the inability to pay off debts is stronger in Europe than in many other parts of the world, for example because of much longer debt discharge periods. This is a significant disincentive for entrepreneurs to start up a business. Entrepreneurs need to know that they will have a **second chance**. Building on existing work,[12] the Commission will support *bona fide* entrepreneurs and put forward a legislative proposal on business insolvency, including early restructuring and second chance,[13] to ensure that Member States provide a regulatory environment that is able to accommodate failure without discouraging entrepreneurs from trying new ideas.

There are also **barriers to innovation**. The Commission Better Regulation framework sets out the tool needed to assess the possible impacts on innovation of new policy proposal and to identify existing barriers and possible ways to remove them. The REFIT platform can contribute advice on issues identified in the course of its work. In this context, the Commission will also seek to identify innovative markets where innovative regulatory approaches could be piloted to verify the feasibility and sustainability of innovative solutions and their ability to contribute to stimulating investment and hence job creation.

Europe would also benefit from **attracting** more **innovators** from the rest of the world. As highlighted in the European Migration agenda,[14] rules on attracting entrepreneurs, combined with support measures helping them to operate in the Single Market, could make Europe a more attractive destination for innovators from outside the EU. This could boost the creation of start-ups in Europe.[15]

Actions: *The Commission will put forward a legislative proposal on business insolvency, including early restructuring and second chance, to address fear of failure and make sure that entrepreneurs have a second chance. It will aim to further remove administrative burdens to the starting and scaling-up of companies' activities, including through initiatives to facilitate the use of digital technologies and cross-border mergers and divisions. The*

[10] These initiatives help leverage finance for companies through loan guarantees and risk finance in collaboration with the EIB Group. Their aim is to assist the establishment and expansion of innovative start-ups and SMEs by de-risking private investment and creating a more enabling ecosystem. This includes support for incubators at regional level and the strategic cross-border connection of value chains as a priority in the context of smart specialisation.

[11] For example, via the Enterprise Europe Network.

[12] Commission Recommendation of 12 March 2014 on a new approach to business failure and insolvency, C(2014) 1500.

[13] Cf. also the Capital Markets Union Action Plan, COM(2015) 468.

[14] COM(2015) 240.

[15] Entrepreneurs from non-EU countries have great potential for innovation and job creation. OECD (2011) figures show that migrants from non-EU countries are more likely to start a new business (13.5 % self-employed versus 12.6 % for those born in the country) and contribute to job creation (foreign-born self-employed people who own a small or medium firm create between 1.4 and 2.1 additional jobs).

Commission will launch a Start-up initiative, to initiate a broad assessment of requirements for start-ups and

ways to reduce such requirements and, where this is not possible, to facilitate compliance. This will include the development of specific features for the Single Digital Gateway to facilitate the cross-border operations of firms, in particular of start-up companies. The Commission will use COSME funds to provide targeted information to encourage young innovative SMEs to expand cross-border and make use of the possibilities offered by the Single Market. Through the Investment Plan and the Capital Markets Union, the Commission will ease access to finance for entrepreneurs in Europe. The Commission will ask the REFIT platform to focus on barriers to innovation and discuss how they can be removed or reduced. Finally, the Commission will examine further possible measures to help attract innovators, such as the possible extension of the Blue Card approach to entrepreneurs.

2.3. Making the market without borders for services a practical reality

The 2006 Services Directive led to a welcome modernisation of the economy across a variety of sectors. Member States adopted more than a thousand measures abolishing unjustified barriers to the provision of services by businesses and professionals.

Despite this, businesses and professionals still face too many difficulties operating across borders. They are hindered by differences — and sometimes inconsistencies — in the regulation of professions and ‘reserved activities’ across the EU, unnecessary regulatory barriers to the provision of services and a lack of clarity and predictability in certain key sectors for those who want to provide a service in other Member States.

Addressing the most problematic restrictions would have a positive impact on entrepreneurship and employment, lead to lower prices and a more effective resource allocation in Europe. This means acting on both professions and service provision.

Professional services generate 9 % of EU GDP and regulated professions accounted for around 20 % of the EU labour force.[16] Professional services are strongly connected with other sectors.[17] A more competitive and efficient professional services sector would therefore help industrial competitiveness and the economy as a whole.[18]

Today, Europe has over 5 000 regulated professions,[19] involving over 50 million people. While regulations on the access and exercise of these professions were designed to protect both public interest and the beneficiary of the service provided, many of these regulations are now disproportionate and create unnecessary regulatory obstacles to the mobility of professionals, lowering productivity.

Recent studies[20] show that reforms implemented by a number of Member States to further open regulated professions led to job creation and better prices for consumers.[21]

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[16] Measuring the prevalence of occupational regulation, a survey and a study contracted by the Commission in 2014, 2015, publication forthcoming.
[17] Canton E., Ciriaci D. and Solera I., ‘The Economic Impact of Professional Services Liberalisation’, European Economy, Economic Papers 533, 2014.
[18] *Ibid.*
[19] European Database of Regulated Professions: http://ec.europa.eu/internal_market/qualifications/regprof/index.cfm?fuseaction=home.home
[20] Koumenta M., Humphris A., ‘The Effects of Occupational Licensing on Employment, Skills and Quality: A Case Study of Two Occupations in the UK’, Queen Mary University of London; Pagliero M., ‘The effects of recent reforms liberalising regulated professions in Italy’, University of Turin & Carlo Alberto College; Athanassiou E., Kanellopoulos N., Karagiannis R., Kotsi A., ‘The effects of liberalisation of professional

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MEPs left cold by Moedas' fund of funds idea

Éanna Kelly, Science|Business

Henkel and Ehler tell Research Commissioner to put basic research first, venture capital second

Christian Ehler

EU Research Commissioner Carlos Moedas' ambition to boost the availability of venture capital by creating one or several fund of funds was rebuffed in the European Parliament last Thursday, with German MEPs Christian Ehler and Hans-Olaf Henkel telling Moedas his first priority should be ensuring enough money is flowing to basic research.

Moedas argued there is a shortage of venture capital (VC) to support technology start-ups which is why he is backing the creation of several fund of funds, run by professional external fund managers, to gin up investment across Europe.

But Christian Ehler, who has already seen the research budget raided once under President Jean-Claude Juncker's Commission in order to furnish a similar investment scheme, challenged the focus, saying basic research is of foremost importance.

If the logic is cannibalising research in order to back venture capital, the Commissioner is putting the cart before the horse, Ehler said. "You're right when you describe the problem of VC capital. [But] if you don't fund research you don't have to seek out venture capital."

The Commission says its new European Fund for Strategic Investment, which is partly financed by €2 billion originally earmarked for research, will mobilise total spending of €315 billion. In addition to sprucing up European transport, digital and energy grids, the fund managers will allocate some money to new research infrastructures.

Moedas did not say how the new fund of funds idea would be financed, but the scheme should not put any more research money in jeopardy, said Ehler, who sits with the centre-right European People's Party bloc.

If more money is taken from Horizon 2020, success rates will go down further, Ehler claimed. "There is no hope [and] no willingness to participate in a programme whose success rate is below 10 per cent. Additional cuts to research are politically offensive and, for the Parliament, not acceptable," he said.

Meanwhile Henkel, who sits with the centre-right European Conservatives and Reformists group, suggested the Commission's efforts to trigger research investment was inspired by flawed economic thinking.

"The logic which is put forward by Commission President Herr Juncker goes like this: he says if I take €1 from the Horizon 2020 budget, I get €15 of additional economic activity," said Henkel. "As a by-product we get more research and development. I'd like to challenge that logic."

"I know basic research is not done by industry, and especially not by small or medium-sized companies. The logic is flawed," Henkel said.

Support for text and data mining

During his back and forth with MEPs, the Commissioner also threw his support behind giving researchers free rein to use computer programmes to data mine research papers, a practice which to date has been tightly controlled by journal publishers in Europe. "I'm for, and will always be for, an exception in text and data mining," he said.

Moedas also announced he wants to simplify the way the Commission measures research and innovation performance. "I really think we should review somehow the Innovation Scoreboard," he said. "We have too many indicators of innovation. It's a little bit scattered. I'm trying to get one indicator … we're working on that."