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Delegations will find attached document SWD(2023) 26 final (2/5).

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PART 2/5

COMMISSION STAFF WORKING DOCUMENT

2023 Annual Single Market Report: Single Market at 30

Annex 1: Stocktaking of the implementation of the 2020 Single Market Enforcement Action Plan

Colour-coding

	Implemented / launched before December 2022
	Under preparation

Action	State of implementation
Establishment of the Single Market Programme.	<ul style="list-style-type: none"> Adopted by co-legislators in 2020.
Single Market Barriers Report.	
Single Market Enforcement Action Plan.	
Action 1. Provide more specific guidance tools for national authorities.	<p>The following guidance documents have been adopted so far:</p> <ul style="list-style-type: none"> Guidelines on the practical application of the essential functionality criterion of the definition of a ‘video-sharing platform service’ under the Audiovisual Media Services Directive 2020/C 223/02. Guidelines pursuant to Article 13(7) of the Audiovisual Media Services Directive on the calculation of the share of European works in on-demand catalogues and on the definition of low audience and low turnover 2020/C 223/03. Guidance document on Article 4 of the Market Surveillance Regulation. Guidance on the Regulation on the principle of Mutual Recognition. Guidance on the application of Articles 34-36 TFEU. Guidance document on Article 9 of the Market Surveillance Regulation. The new Guidance on Innovation Procurement was adopted on 18 June 2021 <p>A series of webinars has been organised to illustrate the key parts of the document starting from 30 September 2021. Five webinars have been organised under the series on Innovation Procurement:</p>

	<ul style="list-style-type: none"> – Innovation Partnership – Preliminary Market Consultations – Ecosystems of Innovation – Intellectual Property Rights and Innovation Procurement – Risk management <ul style="list-style-type: none"> • The notice on tools to fight collusion in public procurement and on guidance on how to apply the related exclusion ground was published on 18 March 2021. • The new guide “Buying social – a guide to taking account of social considerations in public procurement” was adopted on 26 May 2021. A series of short lunchtime talks has been organised throughout 2021 and the first half of 2022 to further promote the guide and good practices in the field of socially responsible procurement. • Works on the Recommendation on Review systems ongoing: a questionnaire submitted to Member States representatives at the meeting of the Network of First Instance Review Bodies on 29 June 2021. • Guidance on Article 17 of the Directive on copyright and related rights in the Digital Single Market was issued in June 2021. • The Communication on taking stock of and updating the reform recommendations for regulation in professional services of 2017 adopted in July 2021. • Updated Handbook on the implementation of the Services Directive has been finalized and published in December 2022. • Blue Guide on the implementation of EU for harmonised product rules published in the Official Journal on 29 June 2022. • Practical application of the new media literacy obligations of the AVMSD: media literacy toolbox was published in the form of the Media literacy report of ERGA – the European Regulators Group for Audiovisual Media Services: https://erga-online.eu/wp-content/uploads/2021/12/ERGA-AG3-2021-Report-on-Media-Literacy.pdf
	<ul style="list-style-type: none"> • Practical application of the new media literacy obligations of the AVMSD: guidelines to Member States, the adoption and publication planned in Q1 2023.
	<ul style="list-style-type: none"> • Continue to support to the transposition of the European Accessibility Act (ongoing action) and the process for its application. • Setting up a digital platform for exchange between procurement practitioners on various subjects of public

	<p>procurement</p> <ul style="list-style-type: none"> • Setting up a central information point on practical questions that civil servants in Member States have in their daily work applying Single Market law.
Action 2. Improving access to information on rules and requirements for users.	<ul style="list-style-type: none"> • Your Europe Portal became the interface of the Single Digital Gateway on 12 December 2020 and now provides not only information on EU rules and requirements, but also on national ones, both in English and the relevant national language. • Your Europe Portal continues to add links to national websites notified by Member States. An annually updated guidance document helps Member States meet their information obligations under the SDG Regulation. • New module of Information and Communication System on Market Surveillance (ICSMS) deployed since April 2020. • Continuous improvement of Safety Gate: on one hand, the public webpages for the general public; on the other hand, the IT infrastructure for enforcement authorities. • In the framework of the SMET project on restrictive measures concerning non-harmonised construction products, information was gathered on how the procedures for mutual recognition were implemented by Member States, it was ensured that every Member States is properly connected to the mutual recognition module (ICSMS), policy officers responsible for mutual recognition participated in trainings, a number of questions have been clarified that Member States authorities had concerning the application of the mutual recognition principle and notifications in ICSMS, and Member States checked if there weren't any decisions made that were not registered in ICSMS. • Member States registered their authorities responsible for construction products in ICSMS and confirmed that they do have access to the mutual recognition module of ICSMS. Most of the authorities have already been trained for mutual recognition. Further training sessions on mutual recognition are planned. • The EU Product Contact Points are empowered by the 'Goods Package' to provide better and faster information to businesses about the rules that apply to their products.
Action 3. Online platforms facilitating compliance of products.	<ul style="list-style-type: none"> • Horizontal asymmetric due diligence obligations for online platforms allowing consumers to conclude distance contracts with traders have been included in the Commission's proposal for the Digital Services Act. The Act has been adopted by the co-legislators and entered into force on 16 November 2022. The Act includes obligations related to the traceability of traders, the design of online platforms' interfaces in a way that enables traders to comply with their obligations and a right to information for consumers in case of purchases of illegal products.

	<ul style="list-style-type: none"> The revision of the General Product Safety Directive aims to improve product safety, including in online sales. On 30 June 2021, the European Commission adopted a proposal for a new general product safety regulation. The co-legislators reached a political agreement in November 2022 and the formal adoption is planned for the first half of 2023. The Commission also facilitates a voluntary cooperation mechanism under the Product Safety Pledge which encourages and recognises the commitments of currently 11 online marketplaces that committed to go beyond the legal requirements in the interest of product safety. It is now discussed how to extend further this successful Pledge cooperation mechanism.
	<ul style="list-style-type: none"> New EU database on medical devices (EUDAMED) currently under development. Ongoing work: collection, processing and analysis of data related to medical devices in the EU, development of the IT platform with interconnected modules. EUDAMED will contain, inter alia, specific modules on devices and certificates registration, market surveillance, vigilance and clinical investigation. Three modules already released in 2020 and 2021: Actors registration, UDI/Devices registration, Notified Bodies and Certificates.
Action 4. Training and exchange of practices for national judges and practitioners.	<ul style="list-style-type: none"> European judicial training strategy for 2021-2024 adopted and European Training Platform¹ launched in December 2020. Training provided to Member State authorities on the application of the Mutual Recognition Principle for non-harmonised products. Other actions ongoing.
	<ul style="list-style-type: none"> Conference of stakeholders on European judicial training took place in May 2021.
Action 5. Capacity building for national public administrations.	<ul style="list-style-type: none"> Ongoing numerous actions under implementation by various Commissions services.
	<ul style="list-style-type: none"> The EU Product Compliance Network adopted its Work Programme for 2021-2022 and decided on the prioritisation of joint actions and first sectors (toys, radioequipment) for the establishment of Union testing facilities, eligible for funding under Article 36 of the Market Surveillance Regulation 2019/1020. The first testing facilities will be designated according to Commission implementing regulation (EU) 2022/1267 of 20 July 2022 in the first half of 2023. The joint actions implemented by the Coordinated Activities on the Safety of Products enable market surveillance

¹ https://e-justice.europa.eu/content_european_training_platform-37158-en.do

	<p>authorities to participate in joint testing campaigns. Additionally, horizontal discussions on topics of common interest, such as online market surveillance or risk assessment and management further contribute to develop a common European approach.</p> <ul style="list-style-type: none"> • The Commission also finances a capacity building activity, “the e-enforcement academy”, targeting market surveillance and consumer enforcement authorities. This project supports authorities in implementing and using their new digital investigation and enforcement powers by sharing best practices, discussing practical implementation issues and providing topical trainings and manuals. Moreover, this project also supports strongly a community building amongst online enforcers and keep them informed about the latest market and technological developments.
Action 6. Building capacity of public procurement professionals and strengthening the cooperation between national bodies.	<ul style="list-style-type: none"> • Regular meetings of the Network of First Instance Review Bodies on Public Procurement - ongoing (on line meeting in June 2021), hybrid meeting organised together with the Belgian Conseil d’Etat in Brussels in June 2022 and together with the Czech Office for the Protection of Competition in Prague in September 2022). • High-level training programmes covering the period 2021-2023 to improve administrative capacity of Central Purchasing Bodies
Action 7. Structured dialogue for better transposition of Single Market Directives.	<ul style="list-style-type: none"> • Ongoing monitoring of transposition of the European Electronic Communication Code (EECC) through the Communications Committee and through regular meetings with competent authorities in the Member States. • Regular meetings of the Contact Committee on the Audio-Visual Media Services Directive. • Ongoing cooperation of media regulators within the European Regulators Group for Audiovisual Media Services (ERGA) with voluntary cooperation mechanism put in place at the end of 2020. • Regular meetings of the Copyright Contact Committee. • In 2020, the Commission revamped its IT monitoring system on transposition. • Regular workshops with national authorities in the Company Law Expert Group (CLEG) to support the transposition of the Directive on Digital Tools in Company Law (2019/1151) and of the Directive on Cross-border Conversions, Mergers and Divisions (2019/2121), Capital Requirements Directive (CRD V) (2019/878/EU), Bank Recovery and Resolution Directive (BRRD II) (2019/879/EU), Investment Firms Directive (2019/2034/EU) and Covered Bonds Directive (2019/2162/EU) and Motor Insurance Directive (2021/2118/EU). • Under preparation – transposition workshop with national authorities planned in 2023 to support Member States in their transposition work for Directives 2021/2167/EU (Non-performing loans).

Action 8. Implementation partnership for Single Market Regulations.	<ul style="list-style-type: none"> • Setting up of a dedicated IT tool (KOEL - Knowledge Online on European Legislation) to monitor implementation of Regulations in the financial services area.
	<ul style="list-style-type: none"> • Ongoing, numerous actions under implementation by various Commissions services.
Action 9. Improving ex-ante assessment of restrictive regulation under the Proportionality Test Directive.	<ul style="list-style-type: none"> • Guidance document on the Proportionality Test Directive has been finalised and published in December 2022.
Action 10. Streamlining the operation of the Single Market Transparency Directive (SMTD).	<ul style="list-style-type: none"> • Development of the strategic implementation of the SMTD, including reinforced participation of and cooperation with Member States <ul style="list-style-type: none"> ◦ Dialogue with MS focused on identification and joint addressing of problematic trends in the SMTD implementation initiated in the Technical Regulations Committee ◦ Implementation of an action reinforcing transparency of the notification process under the SMTD launched in 2022
	<ul style="list-style-type: none"> • Development of a new TRIS IT system (ongoing).
Action 11. Preventing new barriers to providing services in the Single Market	<ul style="list-style-type: none"> • Ongoing actions including the upgrade of the IMI module used for services notifications, guidance and training provided to Member States, a detailed annual report on the implementation of the procedure and awareness raising. • Other ongoing actions: <ul style="list-style-type: none"> – Workshops/trainings organised on the notification procedure under the Services Directive to increase awareness of Member States. – Implementation of an action reinforcing transparency of the notification process under the SMTD initiated in 2022, to be launched in 2023.

Action 12. Unlocking the full potential of the notification mechanism under the e-commerce Directive.	<ul style="list-style-type: none"> • In 2021, the Commission issued a report on the outcome of the Internal Market Information System (IMI) pilot project in the area of e-commerce. While IMI has been supporting the direct, quick and easy communication of competent authorities from different Member States since 2013 by providing a secure and multilingual online platform, there are certain technical improvements to be further analysed and investigated based on generic features of the system when continuing the pilot project.
Action 13. Rationalising Single Market IT systems and setting-up a platform for online enforcement (e-enforcement lab).	<ul style="list-style-type: none"> • The e-enforcement lab for the consumer protection authorities (EU eLab) was approved by the Commission's Information Technology and Cybersecurity Board in December 2021. After additional development, it is available and in use as of Q3 2022 as a voluntary tool. It is currently used by the authorities in 23 EU/EEA countries.
	<ul style="list-style-type: none"> • New interface in IMI for submission of posting declarations in Road Transport sector & information exchange to enforce posting rules in road transport sector in 2022.
	<ul style="list-style-type: none"> • Establish a single European information entry point for authorities for controls on non-food products, where the existing systems such as ICSMS and RAPEX will be reachable.
	<ul style="list-style-type: none"> • Integration of the Regulated Professions Database in IMI is being finalised and will be launched in 2023 in Q1.
	<ul style="list-style-type: none"> • Implementation of the new platform 'Annual Report Official Controls' (AROC) in IMSOC to allow Member States to upload their annual reports using the new electronic version of the standard model form. In 2021, for the first time, all Member States used this platform to upload their annual reports for 2020. • Commission Notice on a guidance document on how to fill in the standard model form in the Annex to Commission Implementing Regulation (EU) 2019/723 published on 1 March 2021 (2021/C 71/01).
Action 14. Strengthening the fight against counterfeit and illegal products.	<ul style="list-style-type: none"> • Contribution to the EU Toolbox against counterfeiting. • Cases against imports of illicit or non-compliant medical devices and protective equipment. • Pilot cases against food fraud – Ongoing cooperation between SANTE, OLAF and national authorities. • Development of OLAF's operational activities targeting imports of substandard products, particularly those linked to the Covid-19 pandemic, and continuing active support for activities addressing fight against IPR infringement.

	<ul style="list-style-type: none"> • Project to verify the implementation of arrangements put in place by Member States to fight fraud in the agri-food chain in accordance with the provisions of Regulation (EU) 2017/625. Two pilot missions were carried out in 2020, followed by 6 fact finding studies in 2021-2022. • Pilot project in the framework of the Coordinated Activities on the Safety of Products (CASP) in 2021, focused on challenges associated with suspected dangerous counterfeit products.
Action 15. Strengthening enforcement in the agri-food chain.	<ul style="list-style-type: none"> • Systematic follow-up of audit recommendations to ensure that Member States implement the actions necessary to correct identified shortcomings by the competent services (continuous) General Follow-up Audits (GFAs) on 8 Member States carried out in 2021 and further 11 GFAs are planned for 2021. • Continuation of ‘Better Training for Safer Food’ training programme. • Ongoing work on monitoring implementation of Multi-Annual National Control Plan (MANCP) and the review of obligations on Member States and new requirements for MS annual reports.
	<ul style="list-style-type: none"> • Commission Notice on a guidance document on the implementation of the requirements for the multi-annual national control plans as set out in Articles 109 to 111 of Regulation (EU) 2017/625 published on 8 March 2021 (2021/C 78/01). • Regular meetings of the National Audit Systems (NAS) network. • Commission Notice on a guidance document on the implementation of the provisions for the conduct of audits under Article 6 of Regulation (EU) 2017/625 of the European Parliament and of the Council published on 26 February 2021 (2021/C 66/02). • Inception Impact Assessment on the review of the Geographical Indications (GIs) published on 28 October 2020. GIview database launched on 25 November 2020 • Ensuring that national schemes in favour of local products in some Member States are compatible with the principle of non-discrimination. • Development of OLAF’s operational activities targeting imports of substandard products and continuing active support for activities addressing fight against food fraud.
Action 16. Development of labelling and traceability systems.	<ul style="list-style-type: none"> • Evaluation of the need to update the digital labelling and traceability requirements started in 2020. • New customs equipment capable of reading and checking the encoded information will be developed as part of the

	<p>Integrated Border Management Fund 2021-2027.</p> <ul style="list-style-type: none"> • The Commission will seek the digital submission of compliance information for industrial and consumer products. • External study on cybersecurity of connected products in the Single Market launched in August 2020.
	<ul style="list-style-type: none"> • Dedicated module in the EU database on medical devices (EUDAMED) for the identification and traceability of medical devices via Unique Device Identification system (UDI) released for voluntary use in 2021. The use of the module will become compulsory according to the transitional provisions set out in Regulations (EU) 2017/745 and 2017/746.
Action 17. EU Product Compliance Network.	<ul style="list-style-type: none"> • The EU Product Compliance Network adopted and carried out its Work Programme for 2021-2022. • The EU Product Compliance Network and the Consumer Safety Network established a structured and effective cooperation, in particular with the organisation of joint meetings, with the aim of preserving the coherence of market surveillance in Europe.
Action 18. Making SOLVIT the default tool for Single Market dispute resolution.	<ul style="list-style-type: none"> • SOLVIT training to European Labour Authority (ELA) staff (including National Liaison Officers). • The Mutual Recognition problem solving procedure became operational on 19 April 2020. • First Commission Opinion adopted on the application of the Mutual Recognition Principle on 30 September 2021. • ELA Mediation Working Group (Member States, Social Partners and Commission (including EC SOLVIT) drew up European Labour Authority - SOLVIT Cooperation Agreement (covering cooperation generally and cooperation on mediation) in the course of 2021. It was finalised and agreed on both sides in January 2022. The agreement will allow SOLVIT to refer unresolved cases concerning the EU labour mobility rules to ELA for mediation. The ELA mediation procedure is expected to be up and running as from mid-2022.
	<ul style="list-style-type: none"> • SOLVIT is considered as part of a problem solving initiative in the area of VAT double taxation. In this area, as part of the Action Plan for fair and simple taxation supporting the recovery, adopted on 15 July 2020, the Commission is examining all possible options to prevent and solve disputes concerning the implementation of the VAT Directive, including a mechanism to prevent and solve VAT double taxation disputes. It is presently also

	considered as a model to be used for the eventual setting up of a dispute resolution mechanism in the field of cross border EU investment problems. No other initiatives presently that require our attention.
Action 19. Better prioritisation of enforcement action.	<ul style="list-style-type: none"> • Action 19 is addressed by the Annual Single Market Report. • Continued quarterly reports about structural and recurrent issues detected through the SOLVIT application. • Ongoing work to improve the use of SOLVIT evidence by European Commission services for policy and enforcement actions. • Ensuring consistent and comprehensive approach in different ecosystems/cross-cutting areas (e.g. public procurement, health products, late payments, construction, authorisation of economic activities, automotives, restrictions to export and access to energy and fuel etc).
	<ul style="list-style-type: none"> • The SOLVIT database is reworked. One of the aspects under scrutiny is how to ensure an easier access and overview about systemic issues (being the structural and recurrent cases detected through SOLVIT) to allow for more efficient reporting to policy makers. SOLVIT is also a pilot project in DG GROW for the use of the power BI system to have an easier way to visualise the data there are in the SOLVIT.
Action 20. Clarity and consistency in case handling.	<ul style="list-style-type: none"> • The Commission's complaint handling system was adjusted to reflect the new requirements on preliminary assessment of complaints, and internal guidance was issued in January 2021.
Action 21. Better use of the EU Pilot system.	<ul style="list-style-type: none"> • In order to better target and structure the EU Pilot system as a rapid and effective tool, the Commission issued new EU Pilot guidelines on 30 July 2020 resulting in an increase of the use of EU Pilot.
Action 22. Systematic periodic package meetings.	<ul style="list-style-type: none"> • Package meetings have been organised with all Member States in the areas of responsibility of DG GROW/CNECT/DEFIS (2020-2021). • Package meetings with selected Member States will continue to be organized in areas of responsibility of CNECT.
Setting up a Single Market Enforcement Task-Force (SMET), composed of Member States and the	<ul style="list-style-type: none"> • Ongoing: Inaugural meeting took place on 7 April 2020. • Based on a strong partnership with the Member States, SMET made real progress quickly and efficiently in addressing some of our major Single Market concerns. • The first SMET Report was published and presented to EU Ministers during the Competitiveness Council on 29

Commission (GROW/SMP).	<p>September 2021.</p> <ul style="list-style-type: none"> • The second SMET report was published on 28 November 2022 and discussed by EU Ministers during the Competitiveness Council of 1 December 2022.
Cooperation network between national enforcement coordinators.	<ul style="list-style-type: none"> • First meeting took place on 24 November 2020. • Online trainings provided in the Single Market area for national judges and national administration in Denmark, Lithuania and Croatia.
Single Market Scoreboard.	<ul style="list-style-type: none"> • Being updated to better reflect the needs of end users in the Single Market and to support the European Semester. Single Market Scoreboard 2022 edition covering 2021 published in January 2023.