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Delegations will find attached document COM(2020) 94 final.

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Brussels, 10.3.2020  
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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Long term action plan for better implementation and enforcement of single market rules**

## INTRODUCTION

The single market is one of the EU's greatest achievements. It is at the heart of the European project, has fuelled economic growth in the past decades and made the life of European consumers and businesses easier. The EU accounts for 18% of global economic output, second only to the United States. A well-functioning single market allows EU citizens to enjoy a wider choice of services and products and better job opportunities. The single market gives EU economic operators a large domestic market, stimulating trade and competition, and improving efficiency. This is fundamental for achieving the EU's green and digital transformations and serves as a springboard to compete globally.

The New industry strategy for Europe adopted today<sup>1</sup> puts the single market at its core, as one of the fundamentals of Europe's industrial transformation. To make the single market work for all, EU law puts in place common rules to eliminate barriers and facilitate the circulation of goods and services across the EU, while also protecting consumers.

These rules can only deliver the intended effects if they are properly designed and enforced. However, compliance with single market rules falls short. The Communication on barriers to the single market shows the many barriers that still exist<sup>2</sup> – and in too many cases they derive from incorrect or incomplete application at national level of already agreed EU legislation. The free movement rights of market operators and investors still encounter many regulatory and administrative barriers and Europeans are exposed to illicit or dangerous products and services due to lack of practical surveillance, inspection, detection and sanctioning of economic operators when they violate single market rules.

All along the regulatory lifecycle, Member States and the Commission share the responsibility to ensure that single market rules are complied with and that citizens' rights are enforced.

Member States have an obligation to apply correctly what they have agreed as European legislators. They also have the responsibility to ensure detection of and remedy violations of single market rules in their own territory. The Commission, as guardian of the Treaty, has the responsibility to be vigilant that all Member States implement and comply with single market rules, and to act decisively through infringement procedures if the rules are not respected.

In March 2019, the European Council invited the Commission to develop **a long-term action plan for better implementation and enforcement of single market rules**, in close coordination with the Member States. Since then, Member States have repeated their commitment to stronger enforcement<sup>3</sup>. The Commission welcomes the call by the European Council and shares the view of Member States that implementation of and compliance with single market rules need to be substantially improved.

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<sup>1</sup> COM(2020)102 10.3.2020

<sup>2</sup> COM(2020)93, 10.3.2020

<sup>3</sup> The Competitiveness Council Conclusions of 27 May 2019 further developed this request, asking the Commission to increase transparency and political ownership of the implementation and enforcement actions. Subsequently, Member States have repeatedly stressed the importance of enforcement, as well as the need for stronger partnership and improved cooperation with the Commission. This was also reinforced in a letter signed by all Member States and submitted at the Coreper II meeting on 29 November 2019.

Based on a renewed partnership between Member States and Commission, and taking into account the findings presented in today's Communication on barriers to the single market, this Action Plan presents a range of actions, with the objective to maximise the effectiveness and efficiency of compliance and enforcement across the EU.

### ***Current enforcement challenges***

**Trade within the single market accounts for 56 million European jobs<sup>4</sup> and the estimated economic benefits range between 8% and 9% of EU GDP<sup>5</sup>.** It is estimated that further improvements of the single market for manufactured products could generate between 183 and 269 billion EUR annually, while further integration of the services markets could amount to gains of 297 billion EUR per year<sup>6</sup>. These increases alone could raise the economic benefits from 8-9% to around **12% of additional GDP**.

Sometimes, it appears that Member States breach agreed single market rules, or create and tolerate obstacles in national law, with the aim of creating additional protection in their market and deriving advantages for national businesses. The possible gains are often very short term, but the impact on European businesses can be much more damaging, making it far more difficult to scale up on a genuine level playing field and create global leaders, thus skewing the level playing field from within. This disproportionately affects SMEs and start-ups. Bigger companies have the means to comply with different sets of rules, but SMEs are the first to be penalised by administrative burdens and complexity, especially when crossing borders to conduct business within the single market. This is why the single market and its proper implementation and enforcement is fundamental to the SME Strategy<sup>7</sup> also adopted today.

Insufficient or incorrect implementation and lack of enforcement has damaging consequences, both at the European and national level. Citizens and businesses cannot fully benefit from their free movement rights, businesses cannot realise the economies of scale that the single market can offer, consumers are put at risk by non-compliant products or enjoy less choice, security of energy supply is endangered and EU environmental and climate goals become more difficult to achieve. Law-abiding businesses lose market share due to unfair competition from businesses that do not follow the rules and that offer non-compliant products or disregard social protection rules.

### ***A joint endeavour of Member States and Commission***

Enforcement of single market rules requires first of all that rules are correctly applied within each Member State and by every European public authority, and that breaches are sanctioned, including through infringement procedures when needed. It also requires the surveillance, inspection and sanctioning of economic operators, removing their illegal products from the

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<sup>4</sup> Højbjerg Brauer Schultz (2018), '25 years of the European single market', Study funded by the Danish Business Authority.

<sup>5</sup> Communication "The single market in a changing world", COM(2018)772.

<sup>6</sup> EP study "Europe's two trillion euro dividend: Mapping the Cost of Non-Europe 2019-2024", p.9-11 ([https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_STU\(2019\)631745](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU(2019)631745))

<sup>7</sup> COM(2020)103 10.03.2020

market, whether they are dangerous, counterfeit or non-compliant with environmental, energy efficiency regulations or other rules.

But if we want to realise the benefits of the single market, enforcement needs to be broader and cover the entire life-span of the relevant rules, from inception to application. This requires collaboration at all levels of governance in the EU, starting from local and regional authorities and courts, all the way to the European level. It also requires to think of enforcement as a continuous exercise starting with designing the rules, through the transposition by Member States, where applicable, to application and the sanctioning of violations. It is crucial that Member States and Commission support each other in their respective roles to live up to their shared responsibility.

Preventive measures are an important means to avoid the need for remedial action at later stages. When it has not been possible to ensure ex ante compliance with single market rules, citizens and businesses may find themselves facing regulatory or administrative obstacles and thus expect them to be removed by an effective ex post intervention. Enforcement authorities need to be well functioning, procedures as well as monitoring have to be fit for purpose, and actors on the ground such as public officials or judges need to understand and be able to apply EU law in day-to-day business.

Member States must ensure compliance with single market law if the rights of individuals or businesses are to be protected. This must start at the stage of designing national legislation, and be carried through to individual judicial or administrative decisions. The Commission has the task to support Member States in preventing the creation of new barriers to the single market, in the transposition and application of EU law and to initiate remedial action where necessary.

<b>Tasks and responsibilities for the implementation and enforcement of single market rules</b>	
<b>Member States</b>	<b>Commission</b>
✓ Transpose EU law timely and accurately, refraining from unjustified “gold plating”, and ensure a level playing field	✓ Assist Member States in transposing EU law correctly, fully and on time
✓ Ensure that national legislation is proportionate and non-discriminatory	✓ Assist Member States in applying EU law
✓ Ensure sufficient and proportionate administrative checks and controls so that any breaches are identified	✓ Check the transposition and monitor the application of EU law
✓ Avoid any national measures that contradict or hamper the application of EU law	✓ Act against breaches of EU Law and take formal infringement action if needed
✓ Cooperate effectively to ensure compliance with EU law	

A real partnership of the different actors at European and Member State level responsible for implementation and enforcement will be essential to overcome existing single market barriers. It will help the directing of targeted enforcement action and improving single market law compliance.

To strengthen cooperation on enforcement of single market rules, a joint **Single Market Enforcement Task-Force** (SMET), composed of Member States and Commission, will be set up. The SMET would hold regular meetings to assess the state of compliance of national law with single market rules, prioritise the most pressing barriers, address unjustified “gold plating”, discuss horizontal enforcement issues and follow the implementation of this Action Plan. The SMET will regularly inform the Competitiveness Council and the European Parliament’s Internal Market and Consumer Protection Committee.

The SMET will complement **a cooperation network to be set up between national enforcement coordinators**, making use of the existing Internal Market Advisory Committee (IMAC) framework. This format will allow exchanges of information and best practices between the Commission and Member States as to how national administrations analyse and pursue important cases at national, regional, and local levels. Further possibilities will be explored to improve coordination and communication on specific enforcement matters amongst Member States authorities responsible for single market surveillance.

In order to succeed and to keep the momentum in the implementation, the **Single Market Scoreboard** will provide both Member States and the Commission with a useful performance-monitoring tool on the application of single market rules. The Commission will update the single market Scoreboard to better reflect the end users’ situation in the single market and to support the European Semester. The use of additional indicators will help assess whether the single market is working properly in areas where it is expected to deliver most, such as products, services, financial or digital markets, network industries such as energy, but also the data economy and circular economy. To this end, the Commission, after consultation with the Member States, will propose the use of ambitious additional indicators, including on Member States’ performance in those areas.

## **ACTION PLAN FOR BETTER IMPLEMENTATION AND ENFORCEMENT OF SINGLE MARKET RULES**

### **I INCREASING KNOWLEDGE AND AWARENESS OF SINGLE MARKET RULES**

National authorities and economic operators, especially SMEs, are often unaware of the opportunities and benefits resulting from single market legislation. They may also struggle to fully understand their obligations deriving from EU law, which leads to compliance and enforcement problems. The actions proposed aim to increase knowledge and awareness of single market rules among the national authorities and courts applying them on a daily basis, as well as citizens and businesses.

#### **✓ ACTION 1: Programme to provide more specific guidance tools for national authorities:**

In order to improve compliance and avoid market segmentation, the Commission will step up guidance to Member States and businesses and provide tools for better coordination in certain areas, including by:

- identifying, at the moment of legislative negotiations, areas which may cause transposition and application risks and where appropriate consider issuing guidance. This has already been the case in the recently adopted audio-visual<sup>8</sup> and copyright rules<sup>9</sup>;
- issuing guidance on the legislative instruments in the **digital area** (revised telecom rules, cybersecurity, copyright, audio-visual);
- updating the **Handbook on the implementation of the Services Directive**<sup>10</sup> covering recent case-law touching upon core elements of the Services Directive, and providing guidance on legal questions arising for example due to the emergence of new business models and new ways of providing services;
- setting up a **central information point** on practical questions that civil servants in Member States have in their daily work applying single market law. This will be organised in cooperation with Member States, gradually integrating, on a voluntary basis, specific national arrangements that have been put in place to implement EU law;

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<sup>8</sup> See recital 5, of Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (OJ L 303, 28.11.2018, p. 69) and Articles 13(7) and 33a of Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (O.J. L 95, 15.4.2010, p. 1)

<sup>9</sup> See Article 17 (10) of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital single market and amending Directives 96/9/EC and 2001/29/EC (O.J. L130, 17.05.2019, p. 92).

<sup>10</sup> Handbook on implementation of the Services Directive: <https://op.europa.eu/en/publication-detail/-/publication/a4987fe6-d74b-4f4f-8539-b80297d29715>

- updating the **Guidance on the application of Articles 34-36 TFEU**<sup>11</sup>;
- Issuing **Guidance on** strategic (social, innovation, green) and other aspects (collusion) of **public procurement** and proposing a **Recommendation on Review systems**;
- issuing **Guidance on the principle of Mutual Recognition**<sup>12</sup>;
- issuing **Guidance on the Product Liability Directive**<sup>13</sup>;
- issuing **Guidance document on Article 4 of the Market Surveillance Regulation**<sup>14</sup>;
- updating the **Blue Guide on the implementation of EU for harmonised product rules**<sup>15</sup>;
- publishing updated **reform recommendations for regulation of professional services** on the basis of the Commission Communication of 17 January 2017<sup>16</sup>. They are based on a restrictiveness indicator used for the assessment and benchmarking of national requirements in professional services to take into account new changes in Member States' regulatory frameworks and push for further reforms. These reforms can have positive effects on workers' mobility and reducing skills shortages and mismatch, notably in the context of the green and digital transitions.
- supporting Member States on the transposition of the **European Accessibility Act**<sup>17</sup> that is expected to increase the availability of accessible products and services in the market;
- setting up **platforms for exchange** with Member States such as the one used for Public Procurement Directives, for detailed exchanges between the Commission and Member States authorities on specific issues.

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<sup>11</sup> <https://op.europa.eu/en/publication-detail/-/publication/a5396a42-cbc8-4cd9-8b12-b769140091cd>

<sup>12</sup> Recital 5 of Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008 (OJ L 91, 29.3.2019, p. 1), foresees that the Commission should provide non-binding guidance in relation to the case-law of the Court of Justice of the European Union on the concept of overriding reasons of public interest and how to apply the principle of mutual recognition.

<sup>13</sup> Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (O.J. L210, 7.8.1985, p.29).

<sup>14</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (O.J. L 169, 25.6.2019, p. 1). The Market Surveillance Regulation was adopted in 2019 and aims at improving the market surveillance of products in the EU.

<sup>15</sup> Current Blue Guide on the implementation of EU products rules 2016: Commission Notice 2016/C 272/01.

<sup>16</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on reform recommendations for regulation in professional services, COM(2016) 820 final.

<sup>17</sup> Directive 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).



✓ **ACTION 2: Improving access to information on rules and requirements for users**

In order to increase the knowledge of the applicable rules and the obligations for businesses and to reduce the cases of non-conformity and non-compliance, the Single Digital Gateway<sup>18</sup> will provide access to comprehensive information on single market rules and administrative procedures and will also direct users to the most relevant assistance services.

The EU Product Contact Points empowered by the recent Goods Package<sup>19</sup> will provide better and faster information to businesses about the rules that apply to their products.

✓ **ACTION 3: Online platforms facilitating compliance of products**

Product sellers on e-commerce platforms must be aware of EU product rules and ensure that no illegal and unsafe products are placed on the EU market. Possible measures to improve compliance of products sold via online platforms will be analysed as part of the Digital Services Act. The revision of the General Product Safety Directive<sup>20</sup> will also examine product safety challenges in online sales and in the global online supply chain.

✓ **ACTION 4: Training and exchange of practice for national judges and practitioners**

EU citizens and businesses rely on national courts to protect their rights in the single market. It is therefore necessary that national judges are well trained on EU law. Training programmes and seminars for judges and other legal practitioners in charge of enforcing the single market legislation will be stepped up to increase the awareness and understanding of single market law. The training and seminars will be part of the national training offer, as well as take the form of EU-level training including in the context of the coming revision of the European Judicial Training Strategy.

✓ **ACTION 5: Capacity building for national public administrations**

Upon Member States' request, dedicated programmes, such as the single market Programme proposed under the Multiannual Financial Framework 2021-2027, will provide financial incentives and technical support for optimising implementation and enforcement capacities of public administrations.

The access to the single market Programme will be based on comparative indicators to track improved enforcement in practice, for example, sectors inspected, number of inspectors, or the number of products removed from the market. Member States' performances and identified needs would then be linked to the allocation of additional

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<sup>18</sup> Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1)

<sup>19</sup> Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008 (OJ L 91, 29.3.2019, p. 1) and Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (O.J. L 169, 25.6.2019, p. 1)

<sup>20</sup> Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).

capacity building, trainings, exchanges, etc. In this context, further possibilities to facilitate and strengthen the use by businesses and citizens of national redress mechanisms will also be explored.

Under the proposed Reform Support Programme, public authorities can request technical support linked to reform needs identified by the Member States in line with the European Semester, Union priorities and in the economic governance cycle of the Union.

In addition, the 4<sup>th</sup> update of the Public Procurement Action Plan 2020<sup>21</sup> includes a series of new initiatives to help administrators and beneficiaries of EU funds improve their public procurement practices, to ensure a level playing field and use procurement as a strategic tool to pursue key policy objectives.

✓ **ACTION 6: Building capacity of public procurement professionals and strengthening the cooperation between national bodies**

The Commission, in partnership with the Member States, will develop practical tools for the upskilling of officials dealing with public procurement, bring together public buyers to promote the sharing of expertise, facilitate training and incentivise joint purchasing in line with citizens' demand for greener, socially responsible and innovative procurement.

The Commission will also promote cooperation and exchange of practice through the Network of First Instance Review Bodies on Public Procurement.

## **II IMPROVING THE TRANSPOSITION, IMPLEMENTATION AND APPLICATION OF EU RULES**

Incorrect transposition, implementation and application of EU rules creates barriers and obstacles to a smooth functioning of the single market.

✓ **ACTION 7: Structured dialogue for better transposition of single market directives**

In order to improve timely and correct transposition of directives, a structured dialogue between Member States and the Commission will be established during the transposition period. This structured dialogue before Member States adopt their laws will simplify conformity checks. The use of "dynamic virtual concordance tables"<sup>22</sup> can support the transposition process, by keeping track of national laws, including subsequent modifications or repeals. Following the adoption of national laws, Member States should provide the Commission with a clear and precise explanation of which national provisions transpose the corresponding obligations in directives<sup>23</sup>. Particular attention in this context will be paid to issues of unjustified "gold plating".

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<sup>21</sup> [https://ec.europa.eu/regional\\_policy/sources/docgener/informat/2014/action\\_plan\\_pp.pdf](https://ec.europa.eu/regional_policy/sources/docgener/informat/2014/action_plan_pp.pdf).

<sup>22</sup> Contrary to static lists reflecting the concordance of national legislation with EU legislation at the time of transposition, dynamic virtual concordance tables are digital solutions enabling a continuous update on the state of transposition including after the entry into force of the original transposition laws. Notification processes could be a source of information for these tables and facilitate keeping them up to date over time.

<sup>23</sup> Judgment of the Court of Justice in Commission/Belgium, C-543/17.

✓ **ACTION 8: Implementation partnership for single market Regulations**

In order to improve the implementation of provisions of single market regulations that require Member State action (e.g. setting up of structures or the development of procedures) before the start of their application, dedicated meetings between the Commission and the Member States will be organised as soon as political agreement on the regulation has been achieved. Implementation workshops will be carried out to assist Member States with the implementation of such provisions required under regulations well before the entry into force of the relevant provisions<sup>24</sup>.

### **III MAKING THE BEST USE OF PREVENTIVE MECHANISMS**

The prevention of national measures contrary to EU law in the Member States will help to ensure a level playing field for citizens and businesses in the single market and avoid lengthy infringement proceedings. For example, making the best possible use of existing notification tools for such measures will foster compliance with EU rules.

✓ **ACTION 9: Improving ex-ante assessments of restrictive regulation under the Proportionality Test Directive**

In order to prevent the creation of new restrictions in national regulation the Commission will provide assistance and guidance to Member States and facilitate the exchange of best practices between Member States on ex ante proportionality assessments on the basis of the Proportionality Test Directive<sup>25</sup>, which obliges Member States to assess thoroughly the proportionality of new national professional regulation before its adoption.

✓ **ACTION 10: Streamlining the operation of the single market Transparency Directive**

In line with the more strategic approach for the Commission's enforcement actions<sup>26</sup>, the future implementation of the single market Transparency Directive<sup>27</sup> will be built on four axes: (i) Member States notify all draft technical regulations concerning goods and information society services; (ii) the Commission will follow up on all notifications raising concerns as to their compatibility with EU law; (iii) in calibrating its follow-up, the Commission will pay particular attention to measures having the highest impact on the single market; (iv) the Commission will monitor legislation which was subject to a Commission reaction under the Directive and which, in the absence of appropriate adjustments, may give rise to infringement proceedings.

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<sup>24</sup> The ongoing implementation of the Single Digital Gateway Regulation can serve as an exemplary project.

<sup>25</sup> Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions (OJ L 173, 9.7.2018, p. 25)

<sup>26</sup> Communication from the Commission "EU law: Better results through better application". C/2016/8600 (OJ C 18, 19.1.2017, p. 10).

<sup>27</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1)

The Commission will also encourage national authorities to react to the notifications made by other Member States, to set a frame for regular contacts among national regulatory bodies and the authorities in charge of implementing the single market Transparency Directive and promote regulatory convergence of national regulations. Should the existing level of harmonisation prove to be insufficient, the Commission will carefully analyse whether greater harmonisation is warranted at European level.

✓ **ACTION 11: Preventing new barriers to providing services in the single market**

To prevent unjustified barriers in the services single market, the Commission invites the European Parliament and Council to proceed with a speedy adoption of the legislative proposal for a new Services Notifications Directive.<sup>28</sup> Pending the adoption of the proposal, the Commission will take steps to ensure that Member States comply with the existing notification obligation under the Services Directive in order to identify and eliminate new potential regulatory barriers.

✓ **ACTION 12: Unlocking the full potential of the notification mechanism under the e-commerce Directive**

While Member States that restrict the freedom to provide cross-border information society services in a justified and proportionate manner must notify the national measures restricting that freedom to the Member State of establishment and to the Commission, the full potential of this notification mechanism under the e-commerce Directive<sup>29</sup> still needs to be unlocked. Possible measures to improve the cooperation between Member States as well as the tools under the notification mechanism will be analysed as part of the preparatory work on the Digital Services Act.

#### **IV DETECTING NON-COMPLIANCE INSIDE THE SINGLE MARKET AND AT THE EXTERNAL BORDERS**

When national rules have already been adopted and entered into force, preserving the smooth functioning of the single market requires that national authorities and the Commission are able to detect non-compliance. To this end, the Commission and the Member States' authorities need to have the tools that improve their capacity for detection, investigation and swift information sharing.

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<sup>28</sup> Proposal for a Directive of the European Parliament and of the Council on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System. COM(2016) 821 final.

<sup>29</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

✓ **ACTION 13: Rationalising single market IT systems and setting-up a platform for online enforcement (e-enforcement lab)**

The Commission and Member States use several IT systems to share information about illegal and non-compliant industrial and consumer products. To reduce the fragmentation of IT systems<sup>30</sup> used to share information about illegal and non-compliant industrial and consumer products, the Commission will:

- establish a **single European information entry point** for authorities for controls on non-food products, where the existing systems such as ICSMS and RAPEX and the forthcoming Customs Single Window will be reachable and there will be targeted data exchange among the systems according to the applicable legislation;
- together with the Member States, ensure that the **Internal Market Information system (IMI)** becomes the default tool for administrative cooperation within the single market, making use of data and information available, and evaluating how administrative cooperation works in certain single market areas;
  - create a **single market obstacles tool** under the Single Digital Gateway taking into account experience under Lighten the Load<sup>31</sup>, allowing citizens and businesses to report anonymously on regulatory obstacles encountered by them in exercising their internal market rights;
- together with the Member States, make full use of the information management system for official controls (IMSOC) for improving enforcement in relation to EU agri-food legislation (including animal and plant health). IMSOC will connect and allow the exchange of information between the relevant existing information systems (iRASFF<sup>32</sup>, ADIS-exADNS<sup>33</sup>, EUROPHYT<sup>34</sup>, TRACES<sup>35</sup>);
- explore whether a laboratory funded under the single market Programme or the Digital Europe Programme to test and apply advanced IT solutions can be integrated into or linked to existing structures, such as the Consumer Protection Cooperation Network, the EU Product Compliance Network or the EUIPO observatory.

✓ **ACTION 14: Strengthening the fight against counterfeit and illegal products**

The Commission and the European Anti-fraud Office (OLAF) work with national authorities in Member States and third countries in the framework of mutual administrative assistance cases of illicit imports/exports and contribute to preventing illicit products from entering the single market.

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<sup>30</sup> Such as the Information and Communication System for Market Surveillance (ICSMS), the rapid alert system for dangerous non-food products (Safety Gate/RAPEX), or EPREL for energy labelling.

<sup>31</sup> <https://ec.europa.eu/info/law/better-regulation/lighten-load>

<sup>32</sup> Online platform for the Rapid Alert System for Food and Feed.

<sup>33</sup> Animal Disease Information System (ADIS) – ex Animal Disease Notification System (ADNS).

<sup>34</sup> Notification and rapid alert system dealing with interceptions for plant health reasons of consignments of plants and plant products imported into the EU or being traded within the EU itself.

<sup>35</sup> Trade Control and Expert System - online management tool for all sanitary requirements on intra-EU trade and importation of animals, semen and embryo, food, feed and plant.

Today, illicit products are not only imported into the EU, but also produced or assembled from imported components inside the EU and subsequently placed on or traded in the single market. However, OLAF cannot intervene in such cases because its current mandate does not cover intra-EU cases.

In order to strengthen the enforcement of intellectual property rights and of prohibitions or restrictions to place illegal or counterfeit goods in the single market, the Commission and Member States could draw inspiration from the rules on mutual administrative assistance in customs matters, as well as consider expanding the mandate of OLAF.

✓ **ACTION 15: Strengthening enforcement in the agri-food chain**

Safe, sustainable food and its free movement is an essential aspect of the internal market. This contributes significantly to the health and well-being of citizens and to their social and economic interests.

While the Member States are responsible for checking that operators comply with EU law, the Commission carries out about 220 'on-the-spot' audits annually in Member States and non-EU countries to verify that control systems are effective and authorities fulfil their legal obligations. The Commission will step up its enforcement of the application of EU law in the agri-food chain, including through targeted audits and their systematic follow-up to verify that shortcomings are addressed by the Member States.

The Commission will also continue to support Member States through its “Better Training for Safer Food” training programme for the staff of public administrations with a view to improving the implementation of EU rules.

Food fraud incidents can undermine consumer confidence in the EU food system and impact on the functioning of the internal market. For these reasons, the Commission will step up EU efforts to tackle agri-food fraud as part of the Farm to Fork Strategy.

✓ **ACTION 16: Development of labelling and traceability systems**

Traceability is key to enforcement. Labelling and traceability systems can only work if the information carried along the product supply chain allows for automated compliance checks at customs. The Commission, in cooperation with Member States, will explore and promote the use of digital tools to allow for more targeted controls at the external borders and within the EU. This includes the development of labelling and traceability systems (such as QR codes, RFID, block chains, etc.) to carry specific compliance-related information along the supply chain in a secured manner, taking into account existing instruments such as the European Product Registry for Energy Labelling (EPREL). New customs equipment capable of reading and checking the encoded information will be developed with the financial support for customs control equipment, as part of the Integrated Border Management Fund 2021-27. Traceability issues will be also assessed during the revision of the General Product Safety Directive.

The Commission will seek the digital submission of compliance information for industrial and consumer products (i.e. the already existing ‘EU declaration of conformity’) declared for ‘release for free circulation’ at customs. In doing so, the Commission will also assess the impact on SMEs, and specifically micro-enterprises, in order to identify the necessary mitigation measures.

Furthermore, in the framework of the new Consumer Agenda, labels and traceability will play a key role to empower the consumers in the green and digital transitions. The Commission will identify the best uses of digital tools in order to provide consumers with the most reliable information to make informed and confident purchases, particularly for cross-border shopping.

## **V STRENGTHENING ENFORCEMENT ON THE GROUND**

In spite of all efforts to establish a culture of single market compliance, regulatory obstacles resulting from non-compliance require an effective ex post intervention. Also in this phase, cooperation between Member States authorities and Commission is of utmost importance.

### **✓ ACTION 17: EU Product Compliance Network**

Many non-compliant products are still made available to consumers, often via online channels, putting consumers and professional end-users at risk and distorting competition. In order to strengthen the coordination between market surveillance authorities in the non-food sector, provided for in Regulation 2019/1020<sup>36</sup>, the Commission, in cooperation with Member States, will set up the EU Product Compliance Network as from January 2021. It will consist of the single liaison offices recently created by Member States to represent their market surveillance authorities. In addition, the Commission will monitor, as from July 2021, the operation of the mutual assistance mechanism set out by the Regulation, and will identify areas where the refusals by Member States of requests for information on compliance and requests for enforcement measures in the case of non-compliance were not justified.

### **✓ ACTION 18: Making SOLVIT the default tool for single market dispute resolution**

Different problem-solving tools cover legal areas, which would normally fall into the SOLVIT mandate<sup>37</sup>, thus fragmenting the enforcement landscape. The Commission and Member States will ensure that SOLVIT is reinforced to become the default alternative dispute resolution tool in all single market policy areas, which involve a decision by an administration. SOLVIT will be used in its current form or its model adapted, if needed, to fit the requirements of the new initiatives. The Commission and Member States will strengthen the relationships between SOLVIT and different bodies and networks at national and EU level.

This is already foreseen for the European Labour Authority (ELA)<sup>38</sup>, which started its work in October 2019 and will be at full capacity by 2024. The ELA will assist the

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<sup>36</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p.1.)

<sup>37</sup> SOLVIT deals with cross border issues caused by breach of EU law by public authorities.

<sup>38</sup> Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (OJ L 186, 11.7.2019, p. 21)

Commission and Member States in ensuring that the EU rules on labour mobility and social security coordination are enforced in a fair, simple and effective way, making it easier for citizens and business to reap the benefits of the single market. It will provide solutions in improving access to quality information for citizens and employers as regards EU and national labour mobility legislation.

## VI IMPROVING HANDLING OF INFRINGEMENT CASES

In case of apparent breaches of European law, the Commission will seek a dialogue with the Member States to better understand problems and find solutions. In cases where dialogue does not deliver results, the Commission will not hesitate to take strong and effective enforcement action wherever necessary. Improved working arrangements and better use of all available administrative tools as well as increased cooperation will speed up and streamline the process to bring infringements to an end.

### ✓ **ACTION 19: Better prioritisation of enforcement action**

In order to better prioritise enforcement action, as already set out in 2016<sup>39</sup>, the Commission focuses its efforts on cases which have a significant impact on the single market, based on an assessment of their economic, legal and policy impacts. Building on this approach, the Commission will adopt an annual **single market Enforcement Strategic Report**, identifying specific areas of concern and priorities for enforcement taking into consideration the findings of the European Semester. At the same time, it is very important that the Commission is alerted to breaches of single market rules by interested parties, to get a full picture for its prioritisation. To that end, the system for submitting complaints will be revised to better integrate it with SOLVIT. The Commission will monitor SOLVIT reports to identify structural issues of potential relevance. The Commission will also study the possibility to extend to other single market policy areas the tool currently being tested on the Online Dispute Resolution (ODR) platform to assist consumers to better assess their redress possibilities.

### ✓ **ACTION 20: Clarity and consistency in case handling**

Confidence in the enforcement system relies on complaints being examined in a timely manner and on breaches being sanctioned. To that end, the Commission will further streamline its case handling processes. It will make a preliminary assessment of complaints within two months to allow a response to the complainant. Where sufficient information has been gathered, this should already include a clear decision on whether 1) the complaint will not be pursued; 2) it will be transmitted to resolution bodies such as SOLVIT; 3) dialogue will start between the Commission and the Member State concerned; or 4) an infringement procedure will be started immediately.

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<sup>39</sup> In the Communication from the Commission "EU law: Better results through better application" (C/2016/8600).



✓ **ACTION 21: Better use the EU Pilot system**

The EU Pilot system is a useful tool for obtaining information in the phase of dialogue with Member States at the pre-infringement stage. In order to better target and structure the system as a rapid and effective tool supporting the solution-oriented dialogue with the Member States, the Commission intends to use the EU Pilot under clear conditions and timetables, for cases for which a quick solution within a short period appears attainable.

The Commission will:

- develop clear and objective criteria to identify when EU Pilot should be used;
- work together with the Member States to identify pragmatic solutions to speed up the process, while preserving the essential rights of the two parties in dialogue and making good use of the available state-of-the-art systems;
- find more flexible modes of exchange to solve complex issues
- keeping the balance with the confidentiality relationship between Commission and Member States, share information on the issues resolved via EU pilot (in an aggregate form) with a view to disseminating best practice<sup>40</sup>.

✓ **ACTION 22: Systematic periodic package meetings**

Written exchanges in infringement procedures (the basis for a subsequent possible Court procedure) do not always sufficiently address all available solutions. To complement these formal exchanges with direct contacts, the Commission will envisage package meetings with individual Member States dedicated to specific policy areas. These may help to find solutions in compliance with EU law and should therefore take place regularly, whenever necessary. With careful preparation, they can effectively end misunderstandings and harness EU and national expertise to find solutions. Package meetings could be combined or organised together with other meetings with Member States (e.g. compliance dialogues).

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<sup>40</sup> European Court of Auditors' Special report No 5/2016: Has the Commission ensured effective implementation of the Services Directive?, 14.03.2016

## **CONCLUSION**

Promoting a culture of compliance needs a strong political commitment to the single market and the effective implementation of its rules. It requires political ownership, transparency as well as efficient systems in place to encourage and monitor compliance.

This Action Plan responds to the call for action by Member States and takes the initiative in addressing the existing implementation and enforcement challenges faced today. The actions tackle a range of different problems covering all phases and areas of possible implementation problems and enforcement activities on both EU and national level, resting on a joint commitment at local, regional, national and EU level. Through these actions the Commission and the Member States will allow the single market to propel our businesses and to offer the best choice to consumers. Working together, we can make the single market work for all Europeans.