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## TEXTS ADOPTED

*Provisional edition*

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### **P8\_TA-PROV(2016)0105**

#### **Towards improved single market regulation**

##### **European Parliament resolution of 12 April 2016 on Towards improved single market regulation (2015/2089(INI))**

*The European Parliament,*

- having regard to the Commission communication of 28 November 2014 entitled ‘Annual Growth Survey 2015’ (COM(2014)0902),
- having regard to its resolution of 7 February 2013 with recommendations to the Commission on the governance of the Single Market<sup>1</sup>, and to the Commission’s follow-up thereon adopted on 8 May 2013,
- having regard to the Commission communication of 8 June 2012 entitled ‘Better Governance for the Single Market’ (COM(2012)0259),
- having regard to the Commission communication of 18 June 2014 entitled ‘Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook’ (COM(2014)0368),
- having regard to the Commission communication of 7 March 2013 entitled ‘Smart regulation – Responding to the needs of small and medium-sized enterprises’ (COM(2013)0122),
- having regard to the European Council conclusions of 26-27 June 2014,
- having regard to the Competitiveness Council conclusions on smart regulation of 4 December 2014,
- having regard to its resolution of 11 March 2015 on single market governance within the European Semester 2015<sup>2</sup>,
- having regard to its resolution of 27 February 2014 on SOLVIT<sup>1</sup>, and to the Commission’s follow-up thereon adopted on 28 May 2014,

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<sup>1</sup> OJ C 24, 22.1.2016, p. 75.

<sup>2</sup> Texts adopted, P8\_TA(2015)0069.

- having regard to the research study commissioned by its Internal Market and Consumer Protection Committee on ‘Smart Single Market Regulation’,
  - having regard to the April 2015 edition of the online Single Market Scoreboard,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A8-0278/2015),
- A. whereas the single market is a key tool for reigniting economic growth and job creation in the Union;
  - B. whereas, more than 20 years after its official creation, the single market framework is still fragmented, in particular because the Member States have not fully transposed or correctly implemented EU legislation;
  - C. whereas there is a need to strengthen the governance of the single market by addressing the whole policy cycle;
  - D. whereas the forthcoming internal market strategy should be aimed at improving single market regulation through an effort to learn from the experiences of the past in the areas of free movement of goods and services, the digital single market, professional qualifications and public procurement;
  - E. whereas it is the concept of shared responsibility that should frame how the Union seeks to improve single market regulation;
  - F. whereas the responsibility for subsidiarity extends beyond the Commission, the Council and Parliament, and includes a role for national and – where appropriate – regional parliaments; whereas the subsidiarity principle implies that policies should be decided at the most appropriate institutional level, be it local, regional, national or European;
  - G. whereas we have a single market for goods but not a single market for services;
  - H. whereas specific tools should be strengthened, revised or better promoted in order to make a positive contribution to providing a competitive regulatory environment for our businesses, supporting growth and job creation, and enhancing consumers’ trust in European legislation;
  - I. whereas there is a low level of knowledge and awareness among both citizens and businesses of various assistance services such as Your Europe and SOLVIT;
  - J. whereas there is a lack of sufficient indicators and data for measuring successful implementation of legislation in different areas of the single market;
  - K. whereas such indicators and data could clarify the aim and purpose of the legislation in question;

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<sup>1</sup> Texts adopted, P7\_TA(2014)0164.

- L. whereas digital innovation is outpacing politics, and entrepreneurs are driving the digital agenda; whereas it is of key importance to provide future-proof rules that are digital by default;
- M. whereas the proper transposition, implementation and enforcement of consumer rights and law is essential in order to achieve a high level of consumer protection in the Union;
- N. whereas one of the main priorities of the 2015 European Consumer Summit, an annual forum bringing together key European and international policymakers and stakeholders, was better implementation and enforcement of the law;

### ***1. Introduction and general principles***

1. Asks the Commission to take into account the recommendations contained in this resolution in the implementation of its recent internal market strategy;
2. Considers that improving single market regulation should be both a priority and a shared responsibility of the EU institutions; believes that good legislation works to the benefit of citizens and should contribute to stimulating competitiveness, job creation, growth and SME development while delivering a high level of consumer protection, and that it must do so in a way that stimulates, rather than frustrates, the European economy;
3. Views ‘better regulation’ in the context of the whole policy cycle, whereby all elements contribute to efficient and effective regulation; considers, therefore, that specific indicators for measuring the success of relevant legislation should be included right from the initial impact assessment and used throughout the whole policy cycle, including the implementation of the legislation when it enters into force;
4. Recalls, in this context, the importance of transparent and accessible information; considers it regrettable that whereas Parliament documents are accessible to the wider public, Council documents are not, and instead remain restricted;
5. Considers that the principle of subsidiarity must represent the starting point for policy formulation, so as to underline ‘European added value’ in the governance of the single market;
6. Notes that the deadlines associated with the subsidiarity mechanism do not always provide adequate time for parliaments to consider in detail aspects of implementation, coherence with existing legislation, and other practical matters; considers, therefore, that parliaments themselves could play a more active role, particularly in consultation processes;
7. Believes that the institutions should jointly undertake to ensure that the principle of proportionality is reflected in the drafting of the relevant legislation; believes, furthermore, that the process should achieve the aims of simplicity, transparency, coherence and respect for fundamental rights;
8. Calls on the Commission and the Council to reflect, together with Parliament, on how best to ensure that simplification is an ongoing process, as efforts in these areas are of benefit to consumers and SMEs;
9. Considers that single market regulation should take into account the new opportunities afforded by the digital revolution and should be fully compatible with the e-government dimension;

10. Calls on the Commission to strengthen the role of the single market as a separate pillar of the European Semester process, which should be supported by an annual Single Market Integration report as an input to the Annual Growth Survey;

## ***II. Tools to improve single market regulation***

### *Impact assessment*

11. Believes that single market legislation should have as its aim the better functioning of the single market, be developed in accordance with Article 3(3) of the Treaty on European Union (TEU), and serve to promote competitiveness, innovation, growth and job creation; views effective impact assessments as an important tool for informing policymakers about how best to design regulation to achieve these aims and their single market objectives, and about the potential effects of its interplay with existing legislation;
12. Considers it regrettable that around 40 % of draft impact assessments examined by the Commission Impact Assessment Board from 2010 to 2014 were considered to be of insufficient quality and were sent back for improvements;
13. Considers that, in order to be effective tools, impact assessments should be prepared on the basis of comprehensive, objective and complete information and evidence, and should include all options which have a significant impact or are politically important; takes the view that impact assessments should be conducted in such a way as to also take account of ex-post assessments of existing legislation in the same sector, and should give consideration to consistency between a new legislative initiative and the other policies and general objectives of the European Union;
14. Considers it regrettable that impact assessments submitted to Parliament to accompany draft proposals are still found to have shortcomings, as highlighted, for instance, by Parliament's Ex-Ante Impact Assessment Unit in its analysis of the impact assessment accompanying the proposal on making radio equipment available on the market;
15. Believes that careful consideration of scientific advice should form part of the impact assessment process and, in particular, substantiate how or why policy choices have been made in preparatory phases, which will assist the political process; further considers that impact assessments must take into account the pace of digital innovation and evolution and the need for legislation to be technology-neutral and as future-proof as possible;
16. Points out that no clear guidance is given as to whether or not potential impacts of REFIT proposals should be quantified; highlights the need for REFIT proposals to be more targeted, with potential benefits and cost savings being quantified in each proposal;
17. Points out that the impact assessment accompanying a proposal should be supplemented by impact assessments on substantial amendments adopted by the co-legislators; emphasises that clear and transparent rules should be set out, stipulating conditions under which such additional impact assessments should be made; recalls, for example, that Parliament has carefully assessed the potential impact on SMEs of some of its amendments to the two Public Procurement Directives; urges, therefore, the Council – which has not carried out any impact assessment on its own amendments since 2007 – to become more involved;
18. Recalls that the responsibility for subsidiarity extends beyond the Commission, the Council and Parliament, and includes a role for national parliaments;

19. Notes that the ‘Smart Single Market Regulation’ study commissioned by the Internal Market and Consumer Protection Committee suggests that Parliament and the Council may have valuable insights to contribute to the Commission’s impact assessments; calls on the Commission to explore ways in which to include Parliament and the Council in the impact assessment process;

*The consultation process*

20. Recalls that, under Article 11(2) TEU, all the EU institutions are required to maintain an open, transparent and regular dialogue with representative associations, civil society and the social partners;
21. Considers that the consultation phase should always include a ‘digital by default’ section whereby the Commission seeks to gain a deep understanding of user needs and of what ‘digital by default’ means for the design of the service;
22. Reiterates its position that consultation processes should be open, transparent and inclusive, and should be expanded to include submissions on draft impact assessments from a broad variety of stakeholders; believes this to be equally important for secondary legislation, which is of great consequence for the implementation of single market regulation and therefore requires greater transparency and scrutiny; considers the Union Customs Code to be one area in which regular consultation of stakeholders could improve the implementation of secondary legislation;
23. Acknowledges the proposals for an expanded strategic programming phase in the ‘Better Regulation’ package, with the inclusion of inception impact assessments, for example; considers, however, that an overview of the Commission’s working process is still lacking; calls on the Commission to make roadmaps outlining policy initiatives in specific sectors more visible, and to facilitate their use;
24. Considers input from citizens and businesses into various assistance services such as Your Europe and SOLVIT to be of great importance to the legislative process, and therefore calls on the Commission to evaluate the data provided by these services and to take it into consideration when reviewing the relevant legislation;
25. Believes that wide, proper and balanced consultation is essential as part of the legislative process; considers the publication of documents and evidence, and an invitation to all stakeholders to contribute effectively to policy development in this area, to be an important driver for innovation and the strengthening of the single market, particularly with regard to the digital single market agenda;
26. Emphasises that small businesses often do not have the time or resources to participate in regular consultations; considers that the Commission should find user-friendly and innovative ways to reach out to SMEs and start-ups;
27. Considers that a holistic approach should be taken to stakeholder consultation, which should be an ongoing process throughout the whole legislative cycle rather than an occasional exercise; reiterates, in this connection, its calls on the Commission to consider establishing a European Stakeholder Forum on better regulation and less bureaucracy;
28. Stresses that such stakeholder consultations should be as inclusive as possible, and in particular should involve SMEs, micro-businesses and civil society organisations;

29. Believes that making public consultations available in all the official languages and more accessible and intelligible will lead to a corresponding increase in participation and more transparent access to the consultation process;

#### *Implementation*

30. Believes that full and proper implementation of single market legislation is fundamental, and that clear, comprehensive and multi-dimensional indicators are a useful contribution if the benefits of the single market are to be fully felt; expresses concern that implementation targets are not always met; calls, in particular, for the full and correct implementation of the Services Directive; recalls the large degree of heterogeneity remaining between Member States and sectors;
31. Considers that as the Commission seeks to reduce its legislative output, this will allow a greater focus on policy initiatives, leaving more time for deeper reflection which can be used to improve the involvement of interested stakeholders;
32. Emphasises the importance of correlation tables in monitoring correct implementation; calls on the Member States to draw up and publish their own correlation tables;
33. Considers it regrettable that, despite the 0,5 % target proposed by the Commission in the Single Market Act, some Member States are still lagging behind; stresses that it is not only the formal transposition and implementation targets that are important, but also the quality of transposition, practical implementation on the ground, and the problems or challenges these may present in real life for the stakeholders concerned;
34. Considers that, for the benefits of a fully functioning single market to be realised, the Commission and parliaments should work together to learn from best practices and experience gained in the implementation of EU legislation, in order to ensure that the aims and objectives of specific legislation are not lost as a result of poor or inconsistent implementation across the Member States;
35. Believes there should be greater clarity on gold-plating and that stronger measures are needed with a view to identifying instances where it occurs, which present challenges and extra costs for people and businesses seeking to understand and apply law originating at EU level; calls on the Member States, in implementation documents, to clarify and identify what is the result of EU legislation and what of national requirements; recalls the possibility for the Member States to apply stricter standards where EU law only provides for minimum harmonisation;

#### *Monitoring and problem-solving*

36. Calls on the Commission to continue its efforts and regularly to update guidance on the regulations; calls, in particular, for a rapid update, in close cooperation with Parliament, of the 2009 Guidance on the implementation/application of Directive 2005/29/EC on unfair commercial practices in order to make sure it fits the digital age; considers it regrettable that the quality of services differs vastly among the Member States as a result of a lack of both prioritisation and resources; calls, therefore, for an enforced governance framework at EU level with a view to improving the functioning of these tools and services;
37. Considers alternative dispute resolution (ADR) and online dispute resolution (ODR) to be key tools for improving the single market for goods and services; emphasises that they will allow consumers and traders to solve their disputes in a cost-effective and simple way

without going to court; encourages the Commission and the Member States to raise awareness of these important tools;

38. Stresses that one-stop shops in support of dispute resolution, along the lines of SOLVIT, ECC-Net and FIN-Net, are services which improve the functioning of the internal market; calls on the Commission to deploy resources in order to publicise these tools and develop complementarities between them;
39. Applauds the SOLVIT and EU Pilot projects, which are designed to avert the need for the Commission to institute infringement proceedings against Member States; considers, however, that the services offered by EU Pilot should be improved as regards the response time once alerts have been received;
40. Considers that the Internal Market Information System (IMI) should continue to be expanded to other single market tools so that it can become a central information hub; stresses that this would be consistent with the 'once only' principle, in line with recent Commission initiatives;
41. Considers digital platforms such as the Points of Single Contact, IMI and ISA2 to be important in improving the functioning of the single market by facilitating cross-border information exchange between authorities in Member States;
42. Is concerned by the low level of awareness and understanding among Europeans of the services available, such as Your Europe, Your Europe Advice, the European Employment Service, the CPC network, the points of single contact, SOLVIT, ADR and ODR;
43. Considers that services such as Your Europe, Your Europe Advice, the European Employment Service, the CPC network, the points of single contact, SOLVIT, SOLVIT Plus, ADR and ODR are useful, low-cost alternatives to legal action; notes that only 4 % of consumers and companies are aware of such tools and that the level of take-up of these services is very low at present; calls on the Commission and the Member States, with a view to resolving this problem, to foster further awareness of such tools, while examining whether the outcomes and responses they generate are adequate for users; calls on the Commission, furthermore, to work on better cooperation between the various assistance services, such as Your Europe and SOLVIT, with the aim of increasing user satisfaction;
44. Asks the Commission to carry out in-depth reflection on the interaction between these services and to explore the possibility of replacing them with a single point of contact for consumers which would then direct the consumer to other tools as appropriate;
45. Considers that this reflection should ensure a better definition of the services concerned in order to obtain a better separation of activities and thus avoid overlapping;
46. Calls on the Commission to develop a communication and training strategy with a view to raising awareness of assistance services among citizens and businesses of all sizes; recommends, in this context, the development of a single portal for access to all assistance services;
47. Considers that the forthcoming revision of the Consumer Protection Cooperation (CPC) Regulation should take fully into account the need to improve the information flow between the various single market tools;

48. Highlights the important role of the Commission's 'EU Sweeps' monitoring tool, especially with regard to a well-functioning digital single market;
49. Acknowledges the positive role of the 'EU Sweeps' actions, launched by the Commission to enhance enforcement through coordinated control actions in the online environment; believes that 'EU Sweeps' could also be broadened to the offline sector;
50. Notes with concern that, according to Your Europe reports, there are areas that are consistently the subject of queries from people trying to exercise their rights, such as e-commerce and the recognition of qualifications; considers that the Commission, together with national and regional bodies, should respond to this in order to foster understanding of those rights;
51. Considers a qualitative as well as a quantitative assessment of implementation – not just the bare figures as to whether or not directives have formally been transposed – to be appropriate in order to gain a full understanding of how single market legislation is actually working for consumers and for business;
52. Calls on the Commission to consider whether an 'early warning system' could be created that signals where problems exist in the implementation or application of EU law;
53. Believes that the systematic screening of consumer markets at EU level would detect emerging trends and threats to consumers and businesses in a more timely manner; highlights, in this context, the positive role played by all involved stakeholders, including consumer organisations;
54. Calls on the Commission to evaluate the performance of the Products Contact Points provided for in the 2009 Mutual Recognition Regulation and the 2011 Construction Products Regulation;

#### *Enforcement and market surveillance*

55. Underlines the need for closer cooperation between single market governance tools that receive consumer complaints about traders breaching EU legislation and national enforcement bodies via formal procedures and improved data sharing;
56. Calls on the Commission to assess seriously the consistency and effectiveness of implementation and – ultimately – infringement proceedings, in particular as they regard single market legislation;
57. Considers it regrettable that Parliament's access to relevant information relating to pre-infringement and infringement proceedings is limited, and calls for improved transparency in this area, with due respect for confidentiality rules;
58. Urges the Commission to launch timely and faster infringement proceedings where evidence exists to demonstrate a failure in implementation and where reasonable efforts to solve problems through tools such as mediation, in the form of ADR, ODR, EU Pilot, SOLVIT or other pre-infringement mechanisms, have failed; stresses that Member States have an equal responsibility to enforce EU law, and should ensure effective and efficient enforcement in order to uphold consumer rights and create a level playing field for businesses throughout Europe;

59. Undertakes to fulfil its role in the enforcement of EU legislation, inter alia by reviewing the implementation of legislation and exercising scrutiny of the Commission, in particular through an engagement on the part of Parliament with annual, or at least more detailed, reporting by the Commission on work programmes relating specifically to enforcement;
60. Recalls that in its resolution of 4 February 2014 on the implementation of the Unfair Commercial Practices Directive (2005/29/EC)<sup>1</sup>, Parliament called on the Commission to compile and analyse data on penalties applied by Member States and on the efficiency of enforcement regimes, in particular with regard to the complexity and length of enforcement procedures; has called repeatedly on the Commission to provide Parliament with the results of these analyses;
61. Considers that market surveillance tools should be used in conjunction with single market tools to strengthen the enforcement of EU law;
62. Points out, in this connection, that national authorities do not always make correct use of the Information and Communication System on Market Surveillance (ICSMS), or fail to take the necessary measures in a timely fashion; underlines, in particular, the need to improve the passing-on of cases between public authorities;
63. Is concerned that, according to a sample analysis conducted by the Commission in 2014, 60 % of completed product investigations did not report on the country of origin, 32 % of machinery product investigations were not accompanied by a risk classification, and 5 % of entries did not make reference to the EU regulation/directive breached; asks the Council and the Member States to give serious consideration to this issue and to inform Parliament of the follow-up action taken;

*Ex-post evaluation and review*

64. Welcomes the regular review period and the introduction of sectoral analysis under the REFIT programme, the ultimate aim of which should be to improve the quality of EU legislation and simplify it, thus aligning it more effectively with the needs of citizens and undertakings, with particular reference to micro, small and medium-sized enterprises;
65. Considers, however, that analysis should be improved as to whether the legislative steps taken so far have contributed effectively to achieving their aim and are consistent with current policy goals; emphasises, also, the importance of transparency in the REFIT process; believes, in this context, that a rolling target for administrative and regulatory burden reduction can make a positive contribution to ensuring that aims are met in the most efficient way possible and with the least possible cost to people and businesses;
66. Notes that the cumulative cost of regulation often represents a barrier for participants in the single market, particularly SMEs; welcomes, therefore, the Commission's commitment to examining this issue; stresses that any such analysis should aim to remove barriers to market entry and to ensure fair competition for all players;
67. Calls on the Commission to improve its understanding of the factors influencing the achievement of policy objectives, such as the impact of complementary or clashing policies adopted at EU or national level, but also the impact and costs of non-action, in

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<sup>1</sup> Texts adopted, P7\_TA(2014)0063.

order to improve policymaking and, ultimately, to contribute to better single market regulation;

68. Considers that sunset or enhanced review clauses may be considered on an exceptional basis, in particular for temporary phenomena, with the institutions undertaking to keep legislation up to date and in place only where necessary; views safeguards as a necessary means of ensuring that essential legislation does not lapse;

### ***III. Conclusion***

69. Emphasises that improving single market regulation does not mean removing all regulation or diminishing the level of ambition of regulation, for instance in terms of environmental protection, safety, security, consumer protection and social standards, but rather means removing unnecessary regulation, bureaucracy and negative impacts while achieving policy objectives and delivering a competitive regulatory environment that supports employment and enterprise within Europe;
70. Stresses that a single market that does not overburden or frustrate production, innovation and commerce is a tool that will bring back to Europe jobs and growth that would previously have been located elsewhere;
71. Stresses, therefore, that shared responsibility for improved single market regulation will lead to the realisation of shared benefits: a strong and vibrant single market contributing to the long-term growth of Europe and thereby to the prosperity of its citizens;

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72. Instructs its President to forward this resolution to the Commission, the Council, the European Council and the governments and parliaments of the Member States.