DIGITALEUROPE

Input to Single Market Strategy

9 October 2018

Strengthening the Single Market

Revision of the New Legislative Framework and effective Market Surveillance

Product compliance in the EU risks to become more burdensome with every legislative revision. Frequently new "red-tape" obligations are added when legislation is revised, often calling for more obligations rather than proper enforcement of existing legal provisions. Thus 10 years since the establishment of the overarching framework for selling products in the EU, the New Legislative Framework (NLF) which is well-functioning and recognised is nevertheless in need of a careful, targeted update.

Recommendations:

The revision of the NLF shall focus on updating it and modernising and simplifying compliance procedures by allowing alternatives to paper-based "analogue" procedures by acknowledging and realising the potential of "digital" means of information provision, such as electronic labelling (e-labelling).

Furthermore, the completion and timely approval of the Compliance and Enforcement regulation ("Goods Package") is a must to ensure that market surveillance activities in the EU are effective and increasingly harmonised. The main objective has to be to enforce that existing legislation fosters high-level of compliance and creates a level-playing field that diligent manufacturers can take full advantage of while rogue traders and free-riders are decisively discouraged.

Strengthening the Single Market

Safeguarding the unique European Standardisation System (Harmonised Standards)

One of the most unique and important means of complying with the legal requirements for selling in the Single Market for products is the availability of European "Harmonised Standards" (HS) listed in the EU Official Journal". HS are standards provided by the European Standardisation organisations (ESOs), namely CEN, CENELEC and ETSI and allow industry to assess and declare product compliance often without third-party involvement.

A truly unique European system, rightly promoted by European Commission globally as a cost efficient and safe way to product compliance.

Recommendations:

The European system of Harmonised Standards is in distress over years now due to legal concerns and risks becoming dysfunctional through the constant bottleneck in listing standards in the Official Journal - thus "harmonising" them. This led to major industry concerns, delays and a substantial cost increase for selling products in the EU across all many major sectors.

DIGITALEUROPE calls for a Task Force to save the unique European System of Harmonised Standards (#SOSHS). The sole objective of this Task Force has to be to urgently rectified this situation by reinstating the balance between necessary checks of standards approved by the ESOs at EC level and their swift publication in the OJ.

Strengthening the Single Market

Realising the full potential of ICT standardisation

The European Union has introduced in 2012 an important addition to the European Standardisation System by creating the Multi-Stakeholder-Platform (MSP) for ICT standardisation. The objective of the MSP among others is the evaluation of globally important and relevant ICT standards and specifications so that these can be made available for public procurement throughout the EU. This is and was a major step in recognising the importance of global ICT standards and specifications work done in fora and consortia, such as W3C, IEEE, etc.

Recommendations:

The MSP must be maintained and enhanced, in particular the provision of ICT specifications and standards for public procurement is crucial. Furthermore, the Commission's ICT "Rolling Plan" co-developed by the MSP, an annual review and assessment of EU policy needs for ICT standardisation adds significant value for the European Commission, Member States and industry in assessing on-going and stimulating further standardisation efforts on a global, but also on the European level. It prevents European initiatives from reinventing the wheel, orients their efforts and provides valuable guidance.

In this sense, Europe needs to take full advantage of existing and ongoing ICT standardisation on the global level and needs to engage more in these initiatives, rather than "Europeanising" standardisation.

Strengthening the Single Market

Achieving a real single market for AV products and services

Product interoperability in the EU is becoming very complex not only due to complexity added with every legislative revision for product compliance (see previous slide, for example RED, EAA, Energy Labelling, Eco-design, etc.) but also due to the fact that several piece of legislation are giving more freedom to MS to adapted the core legislation. This is currently the case with AVMSD or the EECC. This may end-up with 27 different flavours of the same rules. The different pace for introduction of technical norms (for example DVB-T, DVB-T2, MPEG4, HEVC, etc.) in the various Member States is already challenging for the industry without adding additional burden.

Recommendations:

The European Commission should ensure that the implementation of new directive at MS level has no "hidden" technical impact on products (or services). This should be done in close cooperation and mutual trust. This is key if Europe wants to have a critical mass ahead of their competitors that have wider homogenous market. The European commission should also ensure that the sum of the various Directives aiming directly or indirectly to the same product or services are not contradictory or adding disproportional burden.

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Strengthening the Single Market

A review and evidence-based approach to Private copying levies

The current private copying levies framework in the EU faces incredible fragmentation and is completely out-dated. As each Member State has gone into different directions, manufacturers and importers of devices are confronted on a daily basis with high costs and complicated procedures. Many national implementations are in conflict with EU legislation and case law, lacking effective exemption and reimbursement options for business users. The tariffs, collected levies and affected devices have no consistency and are not based in factual analysis, evidence and impact assessments, nor are tariffs reduced following the transition to modern media consumption via licensed and paid-for digital services (such as via streaming and subscriptions, which do not involve making copies). The problems stemming from this unbalanced, unclear and fragmented system further lead to litigation and in-effective remuneration, damaging rightholders as well.

Recommendations:

The Commission should urgently plan a thorough review of the private copying levies framework. This includes an examination of the discrepancies such as on business reimbursement and exemption, and a clarification of EU case law to ensure a more harmonised implementation. National systems should be based on evidence with common criteria and benchmarking, rather than the current disparate and conflicting regimes.

Strengthening the Single Market

Realising the full potential of standardisation

Standardisation plays a crucial role in the effective operation of the Single Market, as fully recognised in Regulation 1025/2012. This regulation introduced an important addition to the European Standardisation System by creating the Multi-Stakeholder-Platform (MSP) for ICT standardisation. A key objective of the MSP is the evaluation of globally important and relevant ICT standards and specifications so that these can be made available for public procurement throughout the EU. This remains a major step in recognising the importance of global ICT standards and specifications produced by fora and consortia, such as W3C, IEEE, OASIS, etc.

As more and more legislation related to products and services impacts the ICT industry, there is a trend of an inconsistent approach to defining the technical requirements that support conformance to regulatory obligations. For example, codes of conduct and certification schemes developed in ad-hoc collaborations in lieu of standards could deviate from WTO TBT principles and create new trade barriers.

Recommendations:

1. The MSP must be maintained and enhanced, in particular: the ongoing provision of ICT specifications and standards for public procurement is crucial. The Commission's ICT "Rolling Plan" developed with the MSP. The Rolling Plan is an annual review and assessment of EU policy needs for global ICT standardisation and adds significant value for the European Commission, Member States and industry in assessing ongoing and stimulating further standardisation efforts on a global, but also on the European level. It prevents European standardisation initiatives from 'reinventing the wheel', orients their efforts and provides valuable guidance.

In order to take full advantage of existing and ongoing ICT standardisation on the global level, Europe should continue to engage in these initiatives.

2. Where legislation affects products or services, WTO TBT standardisation principles should be leveraged to develop voluntary technical requirements.

Investing in innovation

Paving the way for the next Digital Europe programme

The brand new Digital Europe programme will be critical in bridging the gap between the Horizon Europe programme (research) and the Connecting Europe Facility (physical ICT infrastructures), through investment in IT capacities to be used for research, and participation to the large-scale deployment, diffusion and uptake of key digital technologies.

Recommendations:

The implementation of the proposed Digital Europe programme should be well-thought and based on consultations of and exchanges with the ICT industry. This would create solid ground for an efficient implementation and ensure the success of the programme.

The European Commission should start working on the next edition of the Digital Europe programme, with a much ambitious scope of activities and a higher budget. We believe that ultimately, most of the ICT fields covered by the Research programme Horizon Europe should be also covered by the Digital Europe programme.

Digital infrastructure and connectivity

Stimulating investment into digital infrastructure

Connectivity, fixed and wireless, is the backbone of the digital economy and society. It is an essential prerequisite for business and companies to reach wider markets and upgrade their services. Europe is however still facing an investment gap compared to other parts of the world into connectivity, leading to lacking and diverging network availability between and within Member States.

Recommendations:

The EU should work towards increased and more thorough funding of digital infrastructure. Broadband and connectivity projects should be able to count on ample funding under the Multiannual Financial Framework, with easier access for local authorities to avoid under-utilisation of public funds.

Market investment should also be enhanced by a harmonised and forward-looking implementation of the Electronic Communications Code and accompanying Guidelines (from BEREC), for instance on co-investment and broadband mapping. This should be aligned as well with a review of the state aid guidelines to ensure Europe can match the 2025 connectivity and gigabit society goals. In addition, Member States should be encouraged to put into practice the Broadband Cost Reduction Directive to facilitate network deployment.

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Digital infrastructure and connectivity

Ensuring a 5G-ready Spectrum and Connectivity environment

Industry and businesses, and new technologies and services, require reliable, robust and next-generation network coverage and connectivity across Europe. Lack of spectrum availability, or strong divergences between countries, however cause delays, fragmentation and reduce economies of scale for the development and deployment of digital infrastructure.

Recommendations:

The EU Member States and Commission, and related agencies and bodies, should continue to strive for a harmonised framework on spectrum. This includes making spectrum available for services, including 5G, in a timely and coordinated manner (such as the 5G Action Plan and 5G Pioneer bands). It also means a consistent and collaborative approach on license durations, access and usage conditions, and reducing deployment burdens (such as streamlined 'small cells' and wireless equipment deployment rules).

Improve consumers' access to justice in the EU

Ensure better enforcement of existing consumer law and harmonise access to redress mechanisms across Europe

As more and more consumers enjoy online shopping, the European Commission should aim at delivering a fairer Single Market that will boost their trust in the e-Commerce sector and encourage businesses to respond to their growing demand. The European Union already has some of the strongest rules on consumer protection in the world, but needs to work on their awareness, ensure their better enforcement and facilitate their use by consumers. While the existing EU consumer framework is considered to be broadly fit for purpose, any revision of the rules should be aimed at their simplification and providing consumers with the appropriate tools to protect them against illegal commercial practices and fight mass harm situations.

Recommendations:

The next European Commission should devote its efforts to ensure better enforcement and awareness of existing consumer rules. This will improve people's access to justice and increase their trust in the e-Commerce sector. The European Union should also adequately equip its consumers to fight against mass harm situations by not falling short of its ambition and introducing common, simpler and more efficient rules on representative actions. The new rules should be based on the Commission's 2013 own Recommendations and integrate necessary safeguards against forum shopping and abusive-style litigation that will fail benefiting the consumers.