

## DG GROW

### Meeting between Commissioner Breton and BUSINESSEUROPE

12 March

### Industrial policy and Single Market priorities

#### BRIEFING NOTE

#### Scene setter

would like to discuss with you the Industrial Strategy and Single Market priorities.

Overall, BusinessEurope is supportive of the Commission's approach as regards the Green Deal, the Industrial Strategy and the SME Strategy, while highlighting the need to support companies and citizens during the transition to a low-carbon economy and to ensure a level playing field with other major CO2 emitters.

- **Industrial Strategy:** at the meeting organised by CAB Breton with CEOs on 28 February, Mr of BusinessEurope, highlighted the need for an appropriate governance and proposed the establishment of a High Level sounding board and an annual report on the state of the industry based on a few KPIs for monitoring of the strategy.
- **SME Strategy:** BusinessEurope proposed [50 actions](#) to support SMEs. Their priority areas for action are access to finance, Single Market, SME Policy implementation/governance, late payment and sustainability/ better regulation.

BusinessEurope is also generally supportive of Commission actions aimed at improving the functioning of the Single Market. It endorsed most of the initiatives of the Commission under the previous mandate (proportionality test, single digital gateway and the proposal on services notifications). It only offered **little support for the services e-card proposal**, given the negative position of several of their members (in particular the construction sector) regarding this initiative.

BusinessEurope has presented its position on the priorities for the Single Market beyond 2019 in a strategy paper (September 2019 - *see in Annex*), stating that *"the Single Market should be brought back to the top of the political agenda"*. It notably advocates for a reinforced Single Market governance infrastructure at EU and national level in order to strengthen timely, transparent and **efficient implementation and enforcement of the Single Market rules**.

In terms of recent statement, BusinessEurope has sent a message to the COMPET Council (25/02/2020, *see in Annex*), calling in particular for an ambitious agreement in trilogues on the **notifications in services proposal**. The message was accompanied by a joint industry statement (together with 20 European business organisations) on harmonised standards, urging the Commission to **revise its interpretation of the Standardisation Regulation**: *"In its Communication on European standardisation (22 November 2018), the Commission has claimed additional responsibilities based on the interpretation that standards are an extension of the law, which is neither workable nor attractive for standards users and developers. This situation now increases the administrative burden and delays access for innovative technologies to the Single Market."*

#### Objective of the meeting

On 10 March, the Commission adopted an ambitious package including the Industrial Strategy, the SME Strategy, the Single Market Enforcement Communication and the Single Market Barriers report. This meeting is the opportunity to **inform about these initiatives and to seek BusinessEurope's support in their implementation**.

### KEY messages

- The package of initiatives that has been put forward on 10 March will give new impetus to the industrial policy and the Single Market for the changing EU economy, accompanying businesses in the twin sustainable and digital transitions.
- We need a strong partnership with industry to implement these initiatives. In the context of the Single Market, the Commission will continue the dialogue with the industry to seek solutions which support the competitiveness of EU industries.

### Line to take

#### **Industrial Strategy/digital Single Market/circular economy/SME**

- On Tuesday [10th March] we adopted the Industrial Strategy, nearly within the first 100 days of the new mandate. This proves that industry is at the heart of this Commission's agenda.
- The Industrial Strategy will help us deliver on three key priorities: maintaining European industry's global competitiveness, making Europe climate-neutral by 2050 and making Europe fit for the digital age.
- The Industrial Strategy will support industry to benefit from the twin green and digital transformations.
- Firstly, it builds on and contribute to the Green Deal, our new growth strategy paving the way for our economy and climate neutrality until 2050. There is no Green Deal without a competitive industry, and there is no sustainable competitiveness without delivering on the opportunities offered by the green transformation. We will need to work hand in hand with industry to deliver on this ambition.
- To master the green transformation process successfully, we need to protect our industry from unfair competition, for example to prevent carbon leakage.
- Secondly, the Industrial Strategy is closely linked to the **Digital and AI package** presented in February. The package includes a set of strategic initiatives instrumental to make the European economy fit for the digital age,

take advantage of the opportunities of industrial data, and ensure our technological sovereignty.

- The Industrial Strategy puts forward actions to address the fundamental enabling conditions for the industrial transformation: a deeper and more digital Single Market, including an action plan on intellectual property rights and the revision of state aid rules; a global level playing field; innovation; upskilling and reskilling; finance and investment.
- The new **Circular Economy Action Plan** which is part of the industrial strategy package will respond to climate change and unsustainable use of natural resources.
- In particular, the new **product policy framework** will allow tackling environmental, social and ethical aspects and create the conditions to attract some key production processes back to Europe, along the example set by batteries.
- There is also a dedicated focus to make the **decarbonisation of energy-intensive industries** a success, based on the masterplan for the transformation of energy-intensive industries.
- Furthermore, we put forward dedicated actions to ensure Europe's strategic autonomy. We need to ensure the supply of raw materials, the security of supply of pharmaceuticals, for instance.
- We need a **new way of working to lead the transition**. We need more pooling of resources. Therefore, we will build alliances for the pooling of resources and we will co-create solutions with industry.
- It will also be essential to make sure that the industrial strategy is inclusive and supports companies of all sizes. In this sense, the **SME Strategy** adopted on the same day is a key element of the package.
- It proposes a number of initiatives to cut red tape, help SMEs get the most from the Single Market and beyond and access finance.

- We count on the strong support of BusinessEurope on this package and we look forward to working closely together on its implementation.

## **Enforcement of the Single Market**

- A functioning Single Market stimulates competition and trade, improves efficiency, raises quality, helps cut prices and is beneficial for citizens, civil society and business, in particular SMEs.
- The Commission shares the view of Member States and stakeholders that Single Market rules must be implemented better and that their enforcement needs to be improved.
- Actions presented on 10 March tackle a range of different issues 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.
- A real partnership of the different actors at European and Member State level will be essential to overcome existing Single Market barriers.
- Through these actions, the Commission and the Member States will allow the Single Market to boost our businesses and to offer the best choice to consumers.
- The Commission also adopted a communication and extensive report giving an overview of remaining obstacles to the Single Market.

## **Defensives / Q&A**

### **European Green Deal**

#### ***How can the EU industry tackle the challenge of shifting to a climate-neutral industry?***

Europe can lead the way to climate neutrality while keeping a competitive edge by investing into innovative solutions, empowering citizens, and aligning action in key areas such as industrial policy, finance and research. Elaboration of viable pathways to this transition needs to be done in a dialogue with stakeholders. In this respect, the development of the Industrial Transformation Masterplan by the High Level Group on Energy Intensive Industries (EII) serves as an example. It was conducted in broad co-operation among industry, Member States, civil society, the Commission and other key actors in a collaborative way.

#### ***How does the EU adjust the carbon footprint of imported EII products?***

The international competitors of the EU industry are often not subject to the same level of climate action and the associated additional cost. There is a risk of carbon leakage to be addressed. This is done, first, by ambitious international action, where climate should become a central key of EU diplomacy.

The EU ETS has for more than a decade successfully addressed carbon leakage by way of granting to industry a large share of needed allowances for free. In the last revision of the ETS Directive, free allocation was extended to 2030.

A Carbon Border Adjustment mechanism is expected to be introduced for selected sectors. This would ensure that the price of imports reflect more accurately their carbon content. It would be an alternative to the measures that address the risk of carbon leakage in the EU's Emissions Trading System. The Commission is now analysing possible options.

### **Circular Economy Action Plan**

#### ***What is new about the new circular economy action plan?***

The action plan looks at the whole lifecycle of products, fostering sustainable resource use. It tackles sectors of high circularity potential such as textiles, construction and electronics. It will also open a new front in the fight against plastic waste by tackling micro-plastics release. The new action plan will strengthen EU businesses' competitiveness by reinforcing the benefits of a Single Market for secondary raw materials, including through actions to facilitate the use of end-of-waste and by-product status and creating new domestic and global markets for circular products and services.

#### ***What the new sustainable product policy will bring in practice?***

A 'sustainable products' framework legislative action, to support "sustainability by design" for all products placed on the EU market, is a flagship initiative of the new circular economy action plan. Sustainable products need to become the norm. They should be designed and produced in such a way as to reduce environmental and social impacts along their life cycle and increase their contribution to circularity, while providing the same or better services, safety, and taking account of competitiveness issues.

### **SME Strategy**

#### ***How will the new SME strategy differ from the current SME policy, i.e. the Small Business Act and the Start-up and Scale-up initiative?***

Over the last decade, we have achieved good progress in creating a better business environment for SMEs, facilitating access to finance, markets, reducing administrative burden, improving ecosystems for starting and scaling up a company and promoting entrepreneurship, in close cooperation with member states and stakeholder organisations. Our task is now to upgrade the SME policy to help SMEs deal with the challenges of sustainability, digitalisation, trade tensions and increased global competition from China.

#### ***What is the SME filter going to do and how is it different from the SME test?***

The filter will identify the concrete obligations causing burden for SMEs, and ensure that these obligations have been designed in the least burdensome way, by checking that all possible mitigating measures have been used. Examples of the mitigating measures that must be applied as a rule include the 'once-only' principle for providing information or the "digital-by-default" principle. The SME test only applies to a certain stage in policymaking process and is the responsibility of the Commission departments preparing impact assessment reports. The SME filter should help to bring together actors working by better linking Commission departments with SME Envoys, the REFIT platform and the Regulatory Scrutiny Board.

***What will the Commission do to improve the situation of late payments in Europe?***

Despite relatively good results in payment performance in the public sector (average reduction of more than 10 days in payment duration), there is still work to do. In the B2B area, we have to combat unfair and abusive practices often imposed by bigger enterprises on SMEs. Less than 40% of business in the EU are paid on time. Late payments still account for 25% of bankruptcies. The evaluations of the Directive in 2015 and 2018, and the EP Resolution of January 2019 have identified gaps in the enforcement of the Late Payment Directive. The Commission will assess a wide range of measures in order to make this Directive work. We are also thinking of measures that can quickly be implemented, for example an alternative conflict resolution/arbitration mechanism to support fight against being paid late, by both public and business clients.

**E-card**

***Why is the e-card proposal included as a priority in the list of pending proposal of the Commission's work programme 2020?***

Several principles included in the e-card proposal continue to be highly relevant such as administrative simplification, increased legal certainty for businesses when expanding across the Single Market and more streamlined cooperation between national authorities. We need to collectively work further on these issues to improve the functioning of the Single Market.

**Services Notifications proposal**

***How do you intend to move forward with this proposal? What are the chances that the Council will come to an agreement on the file?***

The Commission regrets that it has not been possible to date to come to an agreement and I intend to continue the discussion. The objective of the services notification proposal is to better implement the Services Directive. The rationale and objective of the proposals are shared by all three institutions and the majority of Member States want the legislative process to be achieved. I count on the HR Presidency to explore possible options with the Member States. However, some Member States continue to insist on the deletion of the existing Commission decision power.

***How to strike a compromise with the Commission insisting on its decision power?***

The possibility for the Commission to adopt a decision on a notified measure currently exists in the Services Directive. I committed during my EP hearing to look into this file and decide on a way forward. An obvious compromise would be to stick to what was agreed in the Council General Approach and the EP IMCO Report. Namely to maintain, but not extend, the existing decision power of the Commission.

***The obligation for local authorities to notify local rules to the Commission is burdensome. What is the Commission's position on this?***

I fully understand concerns about unjustified administrative burden for local authorities, stemming from the obligation to notify certain rules. Throughout the negotiations the Commission has signaled its openness to an exemption from the notification obligation for certain local rules, but not from the material scope of the Services Directive that continues to apply to local measures. I would also like to see a mechanism to ensure transparency on the type of rules introduced by municipalities (e.g. an annual report by each Member State). One thing is clear: an exemption requires a change to the existing legislation. The proposal for a revised services notification procedure provides for an opportunity in this regard.

## **EU standardisation policy**

### ***How the Commission intends to tackle the challenges posed by the standardisation policy, as raised in the recent industry joint statement (see in Annex)?***

The Commission is fully aware of the many economic and societal benefits of standardisation and its importance for industry. The Commission acknowledges the concerns raised by the industry. However, the Commission has an important political responsibility for the assessment of harmonised standards and their publication in the OJEU and our room for maneuver in this regard is very limited due to the need to comply with the relevant legal requirements (in particular the Standardisation Regulation and the recent rulings of the European Court of Justice on standardisation)<sup>1</sup>. Actions included in the *2018 Commission's Communication on harmonised standards* aim at enhancing the transparency and legal certainty of the European standardisation system. Within the framework of the recent consultation on the upcoming Guidance on practical aspects of implementation of the Standardisation Regulation, the Commission is considering all relevant aspects of the process for development and publication of harmonised standards. The Commission is engaged in a regular dialogue with the industry, in particular within the framework of the Standards Market Relevance Roundtable (SMARRT). We are committed to continuing the dialogue with the industry in order to find solutions that would maintain the attractiveness of the European standardisation system and of harmonised standards.

## **Background information**

### **European Green Deal**

- To set into legislation the political ambition of being the world's first climate neutral continent by 2050, the Commission has adopted an 'European Climate Law' on 04 March.
- Meeting the objectives of the European Green Deal will require significant investment. Achieving the current 2030 climate and energy targets is estimated to require EUR 260 billion of additional annual investment, representing about 1.5% of 2018 GDP. This investment will need the mobilisation of the public and private sectors. On 14 January, the Commission presented the European Green Deal Investment Plan to help meet investment needs. At least 25% of the EU's long-term budget should be dedicated to climate action, and the European Investment Bank will provide further support. For the private sector to contribute to financing the green transition, the Commission will present a Green Financing Strategy in 2020.

### **Energy Intensive Industries' 2050 Transformation Masterplan**

- On 28.11.2019, the High Level Group on Energy Intensive Industries (EII) has published an [Industrial Transformation Master Plan](#) presenting an integrated policy framework with recommendations to ensure that these industries can contribute to Europe's 2050 climate-neutrality ambitions.
- As a follow-up to one of the recommendations of the EII HLG, work is ongoing in the Commission to produce a mapping of future energy supply and infrastructure needs to support the industrial transition.

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<sup>1</sup> Article 10(5) of the Standardisation Regulation contains a formal obligation on the Commission to co-assess the compliance of draft standards provided by the ESOs with the initial Commission's request and with the essential requirements of the relevant EU legislation.

- Another next step is the setting up of an industrial transition observatory involving relevant industry and civil society stakeholders to monitor industry's progress towards climate-neutrality and circularity and advice course corrections.

### **Circular economy action plan 2.0**

- The CEAP 2.0 presents a mix of mandatory and voluntary measures along the three phases of the economic cycle looking at Production, Consumption and Transforming waste into resources, as well as actions for high impact sectors with high potential for greater circularity such as textiles, construction and electronics. Action on plastics will also be continued (i.e. implementation of the remaining actions of the Plastics Strategy, actions on microplastics, framework biodegradable and bio-based plastics).
- BusinessEurope in May 2017 created a [website](#) to show innovative ways on how industry, SMEs and other businesses add to the circular economy in Europe. The platform is a unique bottom-up business-led hub of knowledge and expertise. Starting with about 40 examples initially, the platform now boasts 170 examples from 24 countries.
- Business Europe provided feedback<sup>2</sup> to the Roadmap for the new Circular Economy Action Plan based on its position paper of July 2019.

### **Priorities for the Single Market beyond 2019 - BusinessEurope strategy paper**

- Further opening and integration of the markets of goods and services, including logistics and network services, is needed in order to unleash the full economic potential of the EU and establish a solid basis for global competition in the long run.
- Digitalisation is crucial for European competitiveness, so the framework conducive to the roll-out of digital technologies and fair rules on access to data, free flow of data, and liability should be achieved through a holistic policy approach.
- Infrastructure investment conducive regulatory and financial framework must be ensured so that physical and digital infrastructures are significantly improved and interoperable.
- Single Market legislation should consistently reflect the market integration ambition through reduction of barriers and be future-proof.
- Better regulation principles and their practical implementation should remain a key priority so that the Single Market is the best place to do business and work.
- The Single Market governance infrastructure should be vastly reinforced at EU and national level in order to strengthen timely, transparent and efficient implementation and enforcement of the Single Market rules.

### **EU standardisation policy**

The [Communication on Harmonised Standards](#) (November 2018) provides an overview of the functioning of the European standardisation system and takes stock of the initiatives launched to support the *implementation of the Standardisation Regulation (1025/2012)*, including in the light of the relevant case law of the Court of Justice. It also includes actions to enhance the efficiency, transparency and legal certainty for the actors involved in the development of harmonised standards<sup>3</sup>. The actions are as follows:

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<sup>2</sup> [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2019-7907872/feedback/F502264\\_pl?p\\_id=6195437](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2019-7907872/feedback/F502264_pl?p_id=6195437)

<sup>3</sup> Harmonised standard are developed by a recognised European Standards Organisation, following a request from the European Commission. These standards, cited in the Official Journal, become part of EU law and,

1. *Elimination of the remaining backlog of non-cited harmonised standards*

The initial backlog was reduced by more than 80%.

2. *Review of Commission's internal decision making processes to streamline the procedure for publishing the references to harmonised standards in the Official Journal (OJEU).*

The CJEU ruling in the "James Elliott" case (October 2016) opened up discussions on the exact scope of responsibilities of the Commission in the process of harmonised standards development and adoption. The main weakness identified was the lack of full transparency and control by the Commission with regard to the final decision on publishing a reference to the harmonised standard in the OJEU. Consequently, the Commission has introduced a more centralised procedure, with the decision on publication in the OJEU being taken by the College. Until today, the Commission adopted 18 decisions on the publications of references to harmonised standards. Several others are under preparation.

3. *Elaboration of a guidance document on practical aspects of implementing the Standardisation Regulation*

The Commission is aiming to have the document available still in 2020.

4. *Reinforcement of the system of consultants to support swift and robust assessments of harmonised standards and timely citation in the OJEU*

Previously, consultants were contracted by the ESOs, so the Commission's services could not fully count on the consultants' expertise to carry out the assessments required by the Standardisation Regulation. This caused significant delays and refusals by the Commission to cite the standards in the OJEU. The Commission has therefore introduced a new system - HAS Consultants - since April 2018. Their exclusive role is to support the Commission to carry out its legal obligation. After some initial difficulties, the system is now performing well.

### **Single Market Enforcement Action Plan**

Limited awareness of existing rules and access to relevant information, lack of compliance and insufficient enforcement are diminishing the functioning of the Single Market. There is overall agreement that citizens and businesses still encounter many obstacles. Following the invitation of the Council (March 2019) to develop a long-term action plan for better implementation and enforcement of Single Market rules, the Commission adopted a Single Market Enforcement Communication on 10 March.

Actions presented are aiming at increasing knowledge and awareness of Single Market rules, improving the transposition and implementation of EU rules, making the best use of preventive mechanisms, detecting non-compliance inside the Single Market and at the external borders, strengthening enforcement on the ground and improving handling of cases.

In particular, a real partnership of the different actors at European and Member State level responsible for implementation and enforcement will be essential. To strengthen cooperation, the Commission proposes the creation of a *Single Market Enforcement Task-Force (SMET)*, composed of Member States and Commission. The SMET would hold regular meetings to assess the state of compliance with Single Market rules, prioritise the most

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when used, provide manufacturers across the Single Market with a presumption of conformity with the requirements of EU legislation.

pressing barriers, discuss horizontal enforcement issues. The SMET will complement a *cooperation network* to be set up between national enforcement coordinators, making use of the existing Joint Internal Market Advisory Committee (IMAC) framework.

### Single Market in services

The Single Market in services is underdeveloped: intra-EU trade in services only represents one third of intra-EU trade in goods. In addition, the EU services sector faces an important problem of competitiveness: productivity growth is low and has been consistently outperformed by the US. Further developing the Single Market in services offers significant unexploited potential for additional growth and jobs in the EU.

Under the previous Commission, the co-legislators adopted a number of Commission legislative proposals to improve the functioning of the Single Market in services including the *proportionality test directive* and the *single digital gateway regulation*. At the same time, two legislative proposals were so far not adopted:

- The **directive on services notifications**<sup>4</sup> is blocked over the existing power of the Commission to adopt decisions on rules notified by Member States. This power was established in the Services Directive. A qualified majority of Member States [REDACTED] seeks to delete this existing decision power via the adoption of the new legislative proposal. A compromise between Member States is still possible; on the introduction of an exemption from the existing notification obligation for certain rules contained in local-level spatial and urban plans. The objective is to avoid an excessive administrative burden for local authorities, while preserving the transparency over those rules. It is legally not possible to grant such exemption without a legislative change. During the recent Competitiveness Council, several Member States called on the Croatian Presidency to resume negotiations.
- The European services **e-card**<sup>5</sup> proposal met with heavy opposition from stakeholders, political groups in the EP and a number of Member States [REDACTED]. There is very little appetite in Parliament (the EP plenary called to withdraw the proposal in October 2019) and Council to resume discussions on this file. The most recurring criticism is that it reduces the possibilities for the host Member State to control incoming service provider, re-introducing the "country-of-origin principle" through the back door and facilitating fraudulent practices by service providers. BusinessEurope had certain reservations about the impact of the e-card proposal and questioned the overall value added of the proposal<sup>6</sup>.

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<sup>4</sup> Commission proposal (January 2017) to improve the notification procedure under the Services Directive 2015/1535, obliging Member States to notify measures via Internal Market Information System before the final adoption.

<sup>5</sup> Commission proposal (January 2017) to set up an electronic procedure at EU-level offered to service providers (in business and construction services) who want to become active across the Single Market.

<sup>6</sup> BusinessEurope's [position paper](#) on the eCard proposal.

