

**DG GROW**  
**BusinessEurope Advisory and Support Group**  
[REDACTED] event

Brussels, Tuesday 9 November 2021

Cabinet Member: Joan Canton  
BASIS ref.: CAB BRETON / 1028

<b>BRIEFING FOR COMMISSIONER THIERRY BRETON</b> <i>(Speech attached)</i>
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**Scene setter:**

- You have been invited by BusinessEurope’s Advisory and Support Group to their [REDACTED] event.
- Also invited that day: President von der Leyen (video); Executive Vice President Valdis Dombrovskis, Commissioners Kadri Simson and Maireid McGuinness as well as Diederik Samsom, Head of Cabinet of Executive Vice-President Frans Timmermans.
- You will give a 10’ speech followed by a Q&A session.

**Key messages:**

- The ongoing series of disruptions – pandemic, chip crunch, energy prices – urge us to accelerate the twin transition, to lay the ground for our strategic autonomy and a more resilient Single Market.
- To reach strategic autonomy, Europe should dismiss the “fables” approach and strive to rebalance global value chains by enhancing its manufacturing capacities and strengthen its international partnerships.
- Industrial policy and the Single Market are two sides of the

same coin. The European Commission will continue to strengthen the Single Market, in particular thanks to the upcoming Single Market Emergency Initiative and, more structurally, by addressing ongoing barriers that hinder the competitiveness of our companies.

Defensive points (based on the questions provided by BusinessEurope):

***From Confederation of British Industry: To create European champions, we must also work with UK***

- A well-functioning Single Market without barriers is essential for the global competitiveness of our companies.
- Unfortunately, the UK has decided to leave the Single Market. The UK has opted for a more distant relationship with the EU with a distinct regulatory regime. The EU-UK Trade and Cooperation Agreement provides a solid foundation for economic cooperation and partnership, but is not comparable to the economic integration of the past.
- Currently, there are tensions in our relations with the UK and we are increasingly concerned that the UK might embark on a path of confrontation on how to handle post-Brexit relations.

***From Uniper: Will there be an agreement on the taxonomy for gas and nuclear activities anytime soon?***

- The Commission will adopt a complementary Delegated Act in the near future.
- The review process is based on the independent and scientific technical report published in March 2021 by the Joint Research Centre, the European Commission's science and knowledge service. Furthermore, the review process also uses as a base the reports by the Euratom Article 31 experts group and the Scientific Committee on Health, Environmental and Emerging Risks. The Commission published the two remaining reports on its website in July 2021.
- This complementary Delegated Act will also cover natural gas

and related technologies as transitional activities in as far as they fall within the limits of Article 10(2) of the EU Taxonomy Regulation. The merits of a sunset clause for transitional activities are being considered in this context.

***What are your priorities for a market-based development of a hydrogen economy?***

- We need to create an efficient market for hydrogen, by promoting the industrial scale-up of clean hydrogen supply and demand.
- With the Recovery Plans, we will support pilot projects and first industrial deployments. In addition, by the end of this year, the EU Innovation Fund will award funding to the first large-scale projects.
- Important Projects of Common European Interest (IPCEI) are another game-changing tool. They help Member States address market failures and pool their investment efforts into clean hydrogen projects, in line with State aid rules. The Commission is and will continue to be fully involved in these projects.
- We should consider the role of nuclear energy: while the required renewable electricity capacity is building up, it will help us ensure that we have large amounts of clean electricity for the production of clean hydrogen.

***From BASF: In the recent years we have been experiencing an increasing number of potential breaches to the EU Better Regulation Principle, where for example secondary legislations (the delegated act on the EU Taxonomy) preempts the outcome of not yet adopted primary legislations (the CSS, Farm-to-Fork). Similarly, we've experienced that a study commissioned by the EC to a third party becomes the basis for various legislation, disregarding a***

***proper impact assessment and official consultations (ex. Due Diligence)***

- The EU has the ambition to reduce emissions by 55% by 2030. We need to act fast in order to meet these objectives. This also means that we need to work in parallel on different legislative and policy initiatives whilst respecting the powers of our Treaties. The taxonomy Regulation sets the technical criteria what it sustainable whilst the Chemicals Strategy for Sustainability (CSS) or Farm-to-Fork represent EU strategies on how to achieve our ambitious targets in key areas.
- In very technical and complex areas, we rely on external advice and feedback from industry such as from this group. However, the Commission is solely responsible for proposing legislation. Transparency is fundamental to ensure that people can play an active part in the policymaking process.
- To succeed, all stakeholders must work together. We invite you to bring forward your concrete recommendations in the various experts groups such as the Platform on Sustainable Finance. *[BusinessEurope is a member of the Platform and is represented by Alexandre Affre, Deputy Director General at BusinessEurope.]*

***From Schneider Electric: One major issue also looking at the energy prices crisis is about storage. What is the state of play?***

- On 13 October, the Commission adopted a Communication on Energy Prices to tackle the exceptional rise in global energy prices. The Communication includes a “toolbox” that the EU and its Member States can use to address the immediate impact of current prices increases, and further strengthen resilience against future shocks.

- Short-term national measures include emergency income support to households, state aid for companies, and targeted tax reductions. The Commission will also support investments in renewable energy and energy efficiency; examine possible measures on energy storage and purchasing of gas reserves; and assess the current electricity market design. In the short term, we will continue closely monitoring the impact of price hikes on different industrial sectors.
- On storage specifically, today storage is not available in all EU Member States. A more integrated European approach could optimise the costs and benefits of gas storage across the EU territory to help cushion volatility in energy prices. This is why the Commission, with the help of Member State experts, will assess the possibility of joint voluntary regional storage arrangements.

***From Metsa Group / forest-based industry: There is a risk that the EU is moving away from business realism and understanding of global markets. How can the EU ensure that the Green Growth agenda provides adequate tools for the industry's competitiveness and a coherent regulatory framework?***

- Climate change is a global issue that has to be tackled in cooperation with our main trading partners. One of the purposes of the ongoing COP26 is to find common international rules to level the global playing field in terms of emissions reduction and carbon prices. One of our common objectives should be to ask all parties across the world to increase their level of ambition in order to speed-up the energy transition.
- In July, the EU has adopted the “Fit for 55” package to increase its level of ambition and to show the way to reach climate-neutrality by 2050. This new package includes more than 10

inter-connected proposals, which all aim at the same goal of ensuring a fair, competitive and green transition to 2030 and beyond. The regulatory framework is widened and more ambitious. Overall, it strengthens eight existing pieces of legislation and presents five new initiatives, across a range of policy areas and economic sectors: climate, energy and fuels, transport, buildings, land use and forestry.

- All these new initiatives will create new opportunities for the European businesses, notably in renewable energy, building renovation, integrated infrastructures, transport systems, batteries, hydrogen, digital, space and circular applications. We have to strive for maintaining the EU's leadership in green technologies, ensuring that we continue to develop them in the EU and that the EU supports them in an adequate manner. We need to invest in the right projects and to develop the appropriate transition pathways for the green and digital transitions in cooperation with stakeholders.

***Is the Commission planning to do competitiveness checks including cumulative impact assessment for the Green Deal and fit for 55 package?***

- The European Green Deal and the Fit for 55 package are underpinned by an extensive set of impact assessments that quantify the effects of the proposed policy proposals on the economy and businesses. This includes the size of the required investments, the energy system costs, sector-specific outputs and trade impacts.
- Sector-specific analyses will complement this macro-level modelling in order to understand better the constraints that specific sectors may face during the transition in terms of access to capital, skills, markets and technologies.

- The ongoing work on transition pathways will bring this complementary sector-specific focus

***From ArcelorMittal: The fit for 55 package included some proposals that have a disproportional impact, that were not included in the impact assessment and not clear at the time of the release, but become clear now. In case of the steel industry, this is related to future ETS benchmarks. How can he help correcting such impacts?***

- The climate package we presented in July is there to enable the transition: The EU ETS provides successfully carbon price incentive to foster decarbonisation of industrial sectors.
- EU-wide carbon pricing does not address all barriers.
- Therefore, the package includes a balanced mix of instruments combining a carbon price (setting a clear signal for decarbonisation) with financing for the demonstration of climate friendly technologies and a new Carbon Border Adjustment Instrument to create a global level playing field.

***From General Electrics: Supply chains and rare earth?***

- We are already experiencing disruptions with recent shortages of supplies of various raw materials and energy, resulting in high prices for EU industry and consumers. Through innovation, technology and investment we can use the full potential of EU domestic and external sourcing to diversify supply chains, making them both secure and sustainable.
- The EU currently supplies only 1% of its own needs for key battery raw materials (lithium, cobalt, nickel). At the same time, we source 98% of rare earths, needed for e-motors, from China.



- We must therefore accelerate development of a more resilient raw materials supply. Moreover, we should invest not only in primary raw materials extraction but also in the development of refining facilities, as well as recycling, critical for a secure supply of secondary raw materials.

***From Accenture: Artificial Intelligence Act - will the Commission approach become the basis for global standards?***

- The definition of AI should be as technology neutral as possible so that it can be adapted over time to innovation and market developments. The regulatory proposal builds on the internationally recognised definition of the OECD. In order to provide legal certainty, the Commission annexes a list of AI techniques and approaches to the definition, and provides for the possibility to update this list and clarify its scope when required due to technological and market developments.
- Our proposal for an AI regulatory framework introduces requirements for a limited number of clearly defined AI systems that pose high risks to safety and fundamental rights. The regulatory approach aims at providing legal certainty while avoiding excessive administrative burden. We are combining regulatory tools that address the specificities of AI, are proportionate and apt to foster innovation.
- The AI Act will be part of existing EU sectoral safety legislation to ensure consistency and avoid duplications.

***Implementation of the industrial strategy - role of digital skills in driving the twin transitions and Role of Digital technologies in delivering the green transition***

- There is a growing body of evidence showing that the managing the green transition would benefit from a digital ecosystem to

provide people with the data and insights necessary to improve natural resource governance decisions, target financial investments and change consumption and production patterns.

- Accessible and interoperable data, combined with digital infrastructure and Artificial Intelligence solutions, facilitate evidence-based decisions and expand the capacity to understand and tackle environmental challenges. Data, algorithms and insights can provide actionable evidence on the state of the environment and interactions between the economy, society and the environment. In the area of Smart cities, urban digital twins can model and visualize complex processes and data and thus have the capacity to tackle complex challenges for cities.
- At the same time, clean digital solutions can advance the circular economy, create efficiencies, facilitate a more efficient use of energy and resources (eco-efficient services), reduce movement and support the decarbonisation of sectors, such as transport and energy. If effectively leveraged (properly addressing rebound effects, with measurable indicators), the efficiency gains brought by digitalisation represent a powerful tool to accelerate effective climate action with the potential to decrease greenhouse gas emissions in other sectors by over 6 times more than the ICT sector's own carbon footprint and contribute to overall emissions reductions by up to 15%. This could mean that almost one third of the reduction needed by 2030 (55%) can be achieved by properly deploying appropriate digital technologies and efficient solutions across the major economy sectors and society.

***Public support to strategic sectors such as semiconductors, 5G, Cloud - use of Recovery Plans to deliver on those priorities***

- The Commission is supporting Member States in the process to set up a new Important Project of Common European Interest (IPCEI) on microelectronics. Such a multi-country project – using funds from the Recovery and Resilience Facility – will contribute to the common EU interests by addressing gaps in strategic value chains and increasing resilience. This will lead to the reduction of dependencies on key components for data and communication infrastructure.
- The Key Digital Technologies Joint Undertaking aims to reinforce the Union’s digital sovereignty in electronic components and systems to support future needs of vertical industries and the economy at large. Just like in its predecessor ECSEL, we will work with Member States in the Key Digital Technologies Joint Undertaking, so that the selected projects will align with national and EU priorities.
- Public support by Member States to the IPCEI is expected to be between €4 and €8 billion, roughly half supported by RRF funds. The budget of the Key Digital Technologies Joint Undertaking will be €1.8 billion from the Union, with a similar contribution expected from Member States, for the period 2021-2027. The contribution expected from the industry is roughly €3.6 billion via in-kind contributions.

***From Intel: What synergies can we expect between the Industrial Alliance for Processors and Semiconductor technologies and the European Chips Act?***

- The European Chips Act aims to create a state-of-the-art European chip ecosystem, including production, involving all stakeholders. Such ecosystem grounded on European soil ensures the security of supply of chips that are essential for many different industrial sectors.

- The Chips Act will also rely on a number of existing or upcoming instruments, such as the Industrial Alliance on Processors and Semiconductor technologies, the Important Project of Common European Interest (IPCEI) on microelectronics, and the Key Digital Technologies Joint Undertaking.
- The overall objective of the Alliance is to identify current gaps in the production of microchips and the technology developments needed for companies and organisations to thrive, no matter their size. The European Chips Act will help identify those gaps.

***From Siemens: Currently, the EXPO 2020 in Dubai demonstrates a true live smart city integrating 130 buildings with more than 200.000 sensor data points in a cloud-based Industrial IoT App for more resource savings, safety and security of life. How do you rate the current cyber security level in the EU to realize such smart city approaches in Europe?***

- The delegated act to the Radio Equipment Directive (RED) adopted on October 29 aims at making sure that all wireless devices are safe before being sold on the EU market. This act lays down new legal requirements for cybersecurity safeguards, which manufacturers will have to take into account in the design and production of the concerned products.
- The RED ensures a single market for radio equipment by setting essential requirements for safety and health, electromagnetic compatibility, and the efficient use of the radio spectrum. It also provides the basis for further regulation governing some additional aspects, including features for the protection of privacy, personal data and against fraud.

***From IBM: Quantum, Transatlantic tech cooperation***

- The first meeting of the Trade and Technology Council (TTC) took place on September 29th, in Pittsburgh, USA. It is evident that the TTC has the potential to become the main channel of our dialogue on global economic and technological challenges as well as bilateral matters and cooperation. We should seize this opportunity to lead together the work to set standards and rules for the 21st century, together with US and other countries around the world that share our values.
- The TTC will allow us to cooperate in areas, where neither the EU nor the US have already an established system (regulations and/or standards). We could focus, for example, on security and resilience of critical digital, telecoms and ICT supply chains (including cloud, undersea cables, etc.), and encourage our respective standardisers to develop similar and compatible standards that facilitate trade, reinforcing shared democratic values and respecting universal human rights.
- There is a high level of interest from stakeholders from both sides of the Atlantic and we will work closely with them to ensure the success of the TTC. Both EU and US governments are committed to robust and ongoing engagement with a broad range of stakeholders to ensure that the outcomes from this cooperation support broad-based growth in both economies and are consistent with our shared values.

***From Google: We know the Commission has set a target for 75% cloud uptake. What is your vision of how we get there and what role do you see for global providers to support this vision?***

- Within the current financial programming period, the Commission is stepping up its effort to co-finance European and multi-country projects in the area of data processing technologies. It will notably support state-of-the-art research in the area of cloud and edge computing, foster the emergence of federated cloud and edge

infrastructures across the EU, for example by interconnecting existing national cloud capacities, stimulate the deployment of highly secure, resource-efficient and interoperable EU cloud and edge services and infrastructures on the market, built over smart middleware, etc. In Horizon 2020, the EU had already invested around €300 million in projects related to cloud computing and software between 2014 and 2020.

- EU funding for cloud and edge will come from the Horizon Europe programme, the Connecting Europe Facility 2 and the Digital Europe programme. These European financial efforts will be complemented by Member States that will receive important funding through the Recovery and Resilience Facility (under the NextGeneration EU programme), and by industry investments that will be supported by the InvestEU programme (to facilitate the access to investments in cloud).
- In addition to this, as set in the European industrial technology roadmap on cloud and edge, the development of application services powered by cloud and edge that would provide significant value to European stakeholders will require extensive investments in R&D and engineering, which could be achieved through a possible Important Project of Common European Interest (IPCEI). In December 2020, Germany, France, Italy and Spain launched an open process to prepare together with other interested Member States such possible IPCEI on Next Generation Cloud and Edge Infrastructure and Services (IPCEI-CIS). Currently, 12 Member States (Germany, France, Italy, Spain, Latvia, Hungary, Poland, Slovenia, Belgium, Luxembourg, The Netherlands and Czech Republic) confirmed their participation into the IPCEI-CIS.

## Industrial strategy and Single Market

***The updated industrial strategy falls short to establish strong links between the fundamental Single Market freedoms and actions in chapter 5 'Accelerating the twin transitions'.***

- The green and digital transitions in our economy will need a Single Market with well-defined rules and regulations to give a credible and stable prospect for business investment.
- We need transition pathways for each of the 14 industrial ecosystems. We have published for comments the 'scenarios' for the first two of these pathways - tourism and energy intensive industries - and are working on developing the rest. These transition pathways shall identify, among other factors, the regulatory needs for industries to gain competitiveness in the internal market as well as worldwide in the area of green and digital solutions.
- To ascertain that the Single Market will function frictionless under the future rules, we will reinforce its monitoring with an annual report of the state of play, including an analysis of the 14 selected industrial ecosystems.

***SMET should not only be a platform for discussions on implementation issues and barriers in the Single Market: we strongly support SMET to play a key role in putting forward solutions for the removal of those implementation issues which result in barriers***

- SMET's main and ultimate goal is to achieve the removal of concrete obstacles hampering the freedom of our businesses and citizens to travel, live and do business in the EU. SMET

focuses not solely on improving legal compliance, but aim at addressing barriers that have a negative effect on our businesses and citizens and hinder the smooth green and digital transition.

- To this purpose, SMET operates as a partnership between Member States and the European Commission. Members work together to identify priority areas, engage in constructive dialogue to make progress on the selected priorities and develop actions aimed at delivering concrete and tangible results.
- In that sense, SMET is a forum for discussions on implementation issues and barriers but also works on solutions with regard to barriers.

***SMET: However instrumental SMET may be, it should not be a forum that delays necessary enforcement actions or allows Member States to escape action on their poor implementation “on the basis of discussions in SMET”; the Commission should not be shielding from sensitive but necessary decisions behind this forum either***

- Our work in the SMET is intended to be in parallel to other existing enforcement tools (e.g. infringement procedures, EU Pilots (informal pre-infringement dialogues), package meetings, SOLVIT, dialogues for better transposition of directives, use of various preventive mechanisms, such as the notifications procedure for technical Regulations under the Single Market Transparency Directive etc.) and does not replace nor prejudice them.
- It is important to underline that the Commission and Member States are participating at equal level in SMET and have a joint responsibility for its deliverables. Therefore, the constructive dialogue and cooperation are key for the success.



## Corporate Sustainable Directive

***We are concerned about the maximum approach taken, with the cumulative obligations on companies, i.e. a disproportionately large scope combined with extensive aspects that companies need to report on, further detailed requirements provided through mandatory standards, and mandatory assurance. We are also concerned about the costs of the proposal, as estimated by the Commission, which we find disproportionate to the objectives, as well as the feasibility of the ambitious timeline. Companies would only have two months to implement the final standards before the first year of application (2023) starts. This outlined timeline for the introduction of the additional reporting requirements and European standards does not allow for a proper implementation at company level***

- The EU has the ambition to reduce emissions by 55% by 2030. Businesses play a full role in the transition to a sustainable economy. We need to act now.
- Regarding the Corporate Sustainability Reporting Directive the Commission will explore options how companies can report in the first year of their obligations, taking into account certain data gaps. The Commission's proposal aims at reducing the reporting costs over the long term. The proposed Directive would imply additional costs in the short term, but most companies already face an increase in costs due to the growing demand from investors and other stakeholders for sustainability information. This problem is exacerbated by the existence of overlapping standards and inconsistent information requests from stakeholders. The Commission's proposal is an opportunity for an orderly, cost-efficient solution.

- We invite you to bring forward concrete recommendations how we can simplify the proposals. You can do so in the different experts groups such as the Platform on Sustainable Finance and the expert group established by the European Financial Reporting Advisory Group to develop sustainable reporting standards.

## SMEs

### ***Why does the Commission not introduce binding quantitative and qualitative targets to reduce administrative burdens?***

- The One-In One Out is a target. It means that the Commission will offset administrative burdens introduced by legislation with an equivalent amount of burdens in the same policy area.
- The ‘one in, one out’ already includes flexibility if it is not possible to find an ‘out’ in the same area, the Commission can decide to take the ‘out’ from a different policy area.

### ***Does the ‘one in, one out’ approach only cover administrative costs?***

- The ‘one in, one out’ approach will consider all costs. The expected costs of complying with EU legislation will be quantified more transparently and systematically presented in the impact assessments. They will be scrutinised by the Regulatory Scrutiny Board and communicated to the European Parliament and the Council as part of the Commission’s proposals to inform the political debate.

### ***How does the Commission ensure the effective application of the SME Test in impact assessments?***

- We systematically screen policy initiatives for their potential impacts on SMEs. Where relevant, the SME-test analysis entails in-depth screening of impact on SMEs. The Regulatory Scrutiny

Board systematically checks the coherence and quality of this assessment.

- However, the scope of analysis of every impact assessment report is different, focusing on impacts on key dimensions, and not covering all policy aspects with the same depth. The depth of SME test analysis needs to be proportionate to the expected impact on SMEs. This is why the scope of the SME-test analysis varies on a case-by-case basis.

***Will the Commission revise the SME strategy?***

- It is true that the SME strategy was adopted on March 10 2020. However, the SME strategy is flexible to the new reality. Many actions are already being implemented and adjusted to best support SMEs. The Commission is currently not planning to revise the SME strategy.

***Why is the Commission not planning to update the SME definition?***

- We have evaluated the SME Definition and found that the Definition remains relevant, fit for its purpose, and has been effective in reaching its objectives. Within the overall context of SME policy, the evaluation has not found evidence that points to a need for a revision.
- The Definition works well for the overwhelming majority of enterprises and is easy to apply in the bulk of cases. Difficulties arise in the assessment of companies with complicated and/or foreign ownership structures.
- Most issues identified during the evaluation are not specifically attributable to the Definition and would not necessarily be addressed by a revision.

***How will you ensure that our millions of SME are not disproportionately burdened by new legislation?***

- To make sure that new legislation does not put unnecessary burden on SMEs, we systematically apply an SME test in impact assessment reports and we have strengthened the role of the SME Envoy network. [The appointment of the EU SME Envoy is currently in progress.]
- In the 2021 Communication on Better Regulation, we have proposed several improvements to our law-making process and renewed our commitment to SMEs.
- The ‘one in, one out’ approach, which we will fully implement in 2022, will help us to minimise burden and consider the cumulative impact of legislation on companies.

***The SME Strategy foresees the nomination of a dedicated high level EU SME Envoy. Why has/he or she not been nominated yet?***

- Given the quickly evolving context, we are reflecting on how to best define and design the mandate and role of the next European SME envoy. While the Commission shares the EP’s and SME community’s eagerness to appoint an SME envoy, we need the right skill set and balance in terms of representativeness of the SME community across the EU. In this context, we have decided to take some extra time to find the right match.
- There is no void in the interim. The network of SME national envoys is operating at full speed and cooperating across borders, and is chaired in the interim by DG GROW.

***What is the Commission doing to help companies fully benefit from the potential of the single market?***

- We are working to address existing obstacles, also in services, and unlock the full potential of the single market.
- The updated Industrial Strategy reiterates the importance of several ongoing priorities for the Single Market and services in particular, including full enforcement of the Services Directive and several work streams addressing regulatory and administrative barriers in the framework of Single Market Enforcement Taskforce (SMET).
- We also need to strengthen market surveillance of products. We will support national authorities to increase capacity and step up the digitalisation of product inspections and data collection.
- Furthermore, the Commission will explore the merits of a number of initiatives to deepen the Single Market, such as a legislative proposal for regulating key business services supported by harmonised standards, as well as a possible common form, in an electronic format, for the declaration of the posting of workers.
- Finally, preserving competition in the Single Market also contributes to the resilience and competitiveness of our companies on the global markets. We shall continue monitoring the application of the State Aid Temporary Framework (extended until end-2021) and the implementation of COVID-19 related State aid measures, with a view to progressively phasing out crisis support measures when the situation allows, while avoiding cliff-edge effects.

## Machinery

***We reject the introduction of mandatory third-party conformity assessment. The proposed requirement is: unjustified - There is no evidence that third-party certified machines are any safer than those undergoing internal production control; disproportionate - The European Commission's cost estimation is largely undervalued as it does not cover the additional costs of resources, logistics, planning or the loss of lead time; uncompetitive - the increased uncertainty, the longer time to market and additional costs will hamper innovation - disadvantaging SMEs while creating incentives for larger companies to move strategic sites to more supportive regions.***

- The introduction of mandatory third-party conformity assessment is in line with the New Legislative Framework (NLF) risk-based approach, aligned with the Regulation. The Commission made an impact assessment on the cost and benefits of this option to ensure safer machinery products and a level-playing field.
- The Commission's empowerment to adopt technical specifications is exclusively allowed in the absence of harmonised standards due to rejection or too long delays from the standardisation bodies.

***The rules for the development of technical specifications under the proposal are not clear and we fear that the current principles used in standardisation (e.g. a consensus-based text, market relevance, a balanced representation of stakeholders and transparency, ensured by a public enquiry) will not be respected***

- The Commission defends the standardisation system in place

that helps manufacturers, in particular SMEs, to comply with the safety requirements of the Machinery Regulation.

- However, if at any moment, the standardisation bodies reject the Commission request to develop and provide the needed harmonised standards, or if they do not manage to comply timely with it, as last resort, the Commission can make recourse to technical specifications elaborated in consultation with Member States and stakeholders.

***Essential requirements (Annex III) should not be over-prescriptive or unfeasible. Co-legislators must also avoid introducing additional vertical requirements that risk causing unpredictability for manufacturers.***

- Only few essential requirements in Annex III of the Regulation have been adapted based on the new risks stemming from digitalisation or on reported accidents/occupational diseases. It considers the New Legislative Framework (NLF) principles articulating only the essential requirements.

***A transition period, where both legislative frameworks apply, is necessary to allow the market to adapt to the new regulation.***

- A transition period of 2.5 years is enough to allow industry to adapt their products if necessary as the proposed legal act is only partially revising the existing legal act.
- Commission will send the standardisation request to ESOs as soon as possible and at the latest when the Council and the European Parliament adopt the Regulation. Furthermore, harmonised standards allow a transitional period of 18 months, enough time for the industry to adapt to the state of the art. Finally, in general harmonised standards will simply adapt a few provisions, which will not imply in practice a big change in the

design of the machinery product and only some products will be impacted.

- Article 49 ensures that Directive 2006/42/EC can still be applicable 2.5 years after the date of entry into force of the new Regulation.
- Article 50 will be adapted to ensure that manufacturers can place on the market products designed in conformity with the Machinery Directive 2006/42/EC during 2.5 years after the entry into force of the new Regulation.
- Economic operators can make available on the market e.g. distribute products, designed under the Machinery Directive 2006/42/EC during 42 months after the date of entry into force of this Regulation.
- These deadlines are consistent with the average time provided when a legislation is only revised because not all products must be adapted and not for all aspects.
- A 12 months transition period for “making available on the market” is to prevent that products that are not in conformity with the latest state of the art regarding safety keep circulating in the EU market. This is in line with the latest NLF product safety legislation such as Personal Protective Equipment or Gas Equipment regulations.

### Standards

***The upcoming Standardisation Strategy should urgently address bottlenecks in standardisation processes and essentially be aimed at preserving a market-driven standardisation environment for the European industry and the EU's close linkages to international standardisation. Furthermore, it should also avoid initiatives with***



***insufficiently demonstrable value added or market relevance. For example, standardisation in services has not yet proved being an advantageous tool for businesses. In addition, standards which could negatively impact the autonomy of social partners or affect different systems of industrial relations must be avoided, such as standards for human resources management.***

- The Commission has made substantial efforts to make the process more efficient, which has resulted in an increasing number of harmonised standards referenced in the Official Journal of the EU (OJEU) and in a much shorter time.
- We are currently discussing with the European standardisation organisations within a task force how to address obstacles to the delivery of standards.
- In the upcoming standardisation strategy, the Commission will present measures to improve the anticipation and the prioritisation of standardisation activities, strengthen the coordination of such activities within the Commission and build up standardisation expertise in the European standardisation system.

### Patents

***BusinessEurope calls for the rapid ratification and entry into operation of the unitary patent system.***

- We know that industry is impatiently expecting the launch of the unitary patent system. It will bring more legal certainty and allow businesses to cut costs considerably, especially

national validation and litigation costs and red tape.

- We are pleased to see that its launch is now approaching. Indeed, only one more Member State needs to agree to the start of the 'provisional application period' of the Unified Patent Court Agreement. Should this take place in late 2021, the unitary patent system will be launched in late 2022. This launch will represent a significant improvement for our companies and in particular for our SMEs.
- More broadly, we are also progressing well in the implementation of the 'IP Action Plan' of November 2020, with a range of initiatives that will benefit the EU's competitiveness and the digital and green transitions. These initiatives include for instance the modernisation of the EU framework for the protection of industrial designs, the creation of a new EU scheme to protect geographical indications for crafts and industrial products and several IP support actions targeting EU SMEs.