



15 December 2014

## Remaining obstacles to a true single market for services

### SERVICES IN EUROPE

- While services in Europe account for about 70% of EU GDP, cross-border provision of services is still underdeveloped. Companies still face many obstacles when wanting to provide their services across borders and experience that a true single market for services is not a reality yet.
- At the same time, it is essential that services markets become more integrated and more competitive to create growth and jobs, and to be able to compete with the rest of the world.
- Despite the progress made through the 2006 Services Directive, many barriers remain due to its diverse interpretation and application on the ground.
- Also outside the remit of the Services Directive companies face many challenges. These are often linked to diverse national standards, a lack of recognition of professional qualifications, the high number of regulated professions, heavy insurance obligations, strains on company mobility, barriers to online service provision (e-commerce) and complexity in tax activities.
- The remaining barriers are often sensitive and originate from national traditions, making them difficult to address. The political will and momentum required to do this is often lacking, primarily at national level.
- Yet, if remaining obstacles are not removed, there is a risk of a structural and increasing competitive disadvantage for European companies leading to losses in terms of jobs and growth. It would also further encourage outsourcing and relocation of services and businesses to other parts of the world.
- Building a true single market for services must be a key priority for Europe.

### KEY FACTS AND FIGURES

Services account for 71% of EU GDP and two-thirds of employment.
Yet, only 20% of the services in the EU are provided across borders, accounting for just 5% of EU GDP compared with 17% for manufactured goods.
Service activities falling within the scope of the 2006 Services Directive cover 46 % of EU GDP. Currently, 90% of the services provided in Europe are already in some way covered by EU legislation.
75% of trade in services concerns the supply to other businesses (B2B), hence their importance for the overall competitiveness of the EU economy.



## KEY POLICY RECOMMENDATIONS

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- 1** National governments must commit to **ensuring more ambitious implementation and stronger enforcement of the Services Directive**, which alone can bring additional gains up to 1.8% of EU GDP. It entails that Member States need to revisit national requirements under Article 15 and 16 that were subject to poor proportionality analyses and adapt or remove burdensome requirements where possible, or re-assess if there is not a less restrictive alternative measure to achieve the same goal.
- 2** To facilitate more ambitious implementation, the European Commission should **clarify the concept of proportionality** concerning the interpretation of Article 15 and 16 of the Services Directive by issuing guidelines for Member States on how to apply it when assessing national rules and authorisation schemes.
- 3** The European Commission must stick to its “**zero tolerance policy**” by launching infringement procedures in cases on non-compliance with the undisputable obligations of the Services Directive (Article 14) and other relevant EU legislation.
- 4** The European Commission should identify and address all remaining barriers to the free movement of services (also outside the remit of the Services Directive), taking a **targeted, sector-based-approach**, starting with the sectors with greatest economic significance, such as business and professional services, construction, health services, tourism and retail.
- 5** National governments - with the support of the European Commission - should **reinforce the horizontal “mutual recognition principle”** in services. In areas where full harmonisation is not desirable or feasible, mutual recognition can help to improve the functioning of Europe’s services markets by providing a certain degree of flexibility and cross-border acceptance, for instance in areas such as expert accreditation, authorisations or the recognition of certificates.
- 6** Member States must transform the existing Points of Single Contact into **fully-fledged online business portals** (for goods and services) offering companies all the information and assistance they need to operate across borders and on the home market, including offering the possibility to complete procedures entirely online.
- 7** The European Commission should **reintroduce formal reporting** to the Competitiveness Council and the European Parliament on the state of the single market for services as was done until early 2012 through “information notes” to better and more regularly take stock of progress made.
- 8** **Show renewed political will and commitment** at European and national level. Governments must truly commit to make the necessary reforms. Some of the remaining barriers might be sensitive to address, but once removed it will create growth and jobs, and enhance European competitiveness.



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## REMAINING OBSTACLES TO A TRUE SINGLE MARKET FOR SERVICES

### MAKING THE SINGLE MARKET WORK FOR GROWTH AND JOBS

#### I. INTRODUCTION

Services in Europe account for 71 % of EU GDP and two-thirds of employment, representing the largest chunk of the EU economy.

Yet, only 20% of the services in the EU are provided across borders, accounting for just 5% of EU GDP compared with 17% for manufactured goods. This figure illustrates what European companies are still experiencing: the single market for services is still incomplete and persistent obstacles hamper free movement. Moreover, in the aftermath of the crisis we have seen the emergence of protectionist trends which negatively affect the functioning of the single market.

At the same time, many studies confirm that the growth potential in the area of services is huge, also linked to the development of the digital economy and e-commerce in particular.

In this context, BUSINESSEUROPE fully supports the “*stakeholder exercise*” that was launched by the European Commission in June this year to gather evidence regarding the remaining obstacles to cross-border service provision and establishment abroad.

European companies across the continent have responded to the questionnaire and participated – also with the support of BUSINESSEUROPE’s member federations – to the stakeholder workshops that were organised in the various Member States.

This strategy paper is meant to contribute to the consultative process which should lead to a comprehensive Commission Report by mid-2015, as requested by the Competitiveness Council in its December 2013 Conclusions.

Besides a thorough analysis, ***BUSINESSEUROPE expects the European Commission - with the publication of its mid-2015 report - to also present an ambitious and innovative action plan to address the remaining obstacles in the area of services.***

This action plan should go beyond the challenges linked to the Services Directive. Europe needs a vision and coherent strategy to be able to build a genuine single market for services.

This strategy paper describes the state of the single market for services and identifies the most disrupting remaining barriers to free movement in this area identified by companies across Europe. It also offers concrete recommendations how to address some of these barriers and further integrate national service markets to create growth.



## II. STRONG LINKS WITH MANUFACTURING

Services appear at any stage in the value chain and across all sectors of the economy, including manufacturing. In fact, the competitiveness of manufacturing in Europe greatly depends upon the availability of low-cost, high quality services.

Recent figures from the World Input-Output Database indicate that 15% to 30% of the inputs in European manufacturing come from the services sector, making it the most important “raw material” of the manufacturing process.

Services also make our manufacturing exports more valuable. The OECD has calculated that an increase of 1% in business services content is correlated with an increase between 6 and 7.5% in export prices.

While the biggest client of service companies are still service companies, revealing a genuine “economy of services”, we also see that manufacturing companies are providing more and more additional services related to their product(s), a so-called process of “servicification”.

However, at present uncompetitive services markets are holding back manufacturers, particularly the most productive firms that compete at global level. As a matter of fact, since 2004, trade in services between the EU and the rest of the world has been growing faster than inside Europe. Furthermore, the McKinsey Global Institute has identified the lack of dynamism in the EU’s service sectors as the main cause of the productivity gap with the USA.

At the moment, we witness increasing competition from upcoming service countries such as China and India. It will be a great challenge to prevent further outsourcing and relocation of European services, such as ICT and supporting services, to other parts of the world.

It is clear that completing the single market for services must be a top priority for Europe. Removing remaining barriers to the free movement of services and further integrating national service markets will make Europe more competitive and a more attractive place to invest. This is not only fundamental for creating new growth, jobs and business opportunities, but also to be able to better compete at global level.

## III. REMAINING BARRIERS – linked to the 2006 Services Directive

The Services Directive adopted in 2006 was the most significant step forward to facilitate the free movement of services since the establishment of the single market in 1992 under the Single European Act. Service activities falling within its scope cover 46% of EU GDP.

Thanks to the Services Directive many existing procedures, formalities and authorisation schemes have been simplified and made more business friendly, in particular for service providers from another Member State. In addition, many unjustified and discriminatory national requirements and disproportionate burdens have been adapted or abolished. Also, we have seen further development of e-governance, also related to the establishment of the Points of Single Contact.



Yet, almost five years after its transposition deadline, BUSINESSEUROPE regrets to observe that the Directive is still not fully implemented in every Member State and that the quality of implementation greatly differs between countries, causing barriers to remain.

## Main challenges with implementation

- **Diverse interpretation and application at local, regional and national level.** Ensuring that all national and sectoral rules applicable to service providers are in line with the Directive and that its provisions are indeed correctly applied and enforced on the ground has proven to be a huge challenge.
- **Too much leeway for Member States in implementing the Directive.** The decision to abolish certain restrictions described in Article 15 and 16, which may be justified for an overriding reason of general interest were left to national authorities to make, creating a large area of discretion for Member States, a so called “grey zone”, where they solely decide on the basis of proportionality whether a certain national restriction is justified or not, and thus to adapt or remove it or not.

In principle, this is justified. However, BUSINESSEUROPE observes that in several cases responsible authorities did not conduct a proper proportionality analysis for national rules and authorisation schemes. As a result, overly burdensome and disproportionate national requirements often remain in place. Or worse, they are kept to protect local, regional or national interests going entirely against the European spirit of the Directive. The Commission’s 2010 Mutual Evaluation Exercise revealed that about 34.000 requirements have remained in place.

- **Avoiding gold-plating is a challenge.** Member States should always respect the substance of a Directive or Regulation, avoid ambiguities and refrain from adding additional requirements (i.e. goldplating), which could lead to additional unnecessary costs for businesses. Unfortunately, there are instances where for various reasons (e.g. relating to safety) additional national requirements were added when implementing the Directive.

This reality is unacceptable, especially as the Commission estimates that achieving ambitious and high quality implementation and stronger enforcement of the Directive in all Member States alone can bring additional gains of about 1.8% of EU GDP.

BUSINESSEUROPE does not ask for a revision of the Services Directive. The Directive already covers a wide range of service activities and those falling outside its scope are often covered by European sectoral legislation due to their specific nature or special characteristics, for instance in the area of financial services or certain social services. In fact, 90% of the services provided in Europe are already in some way covered by EU legislation.

Rather, the focus should be on achieving better implementation and application of the Directive on the ground. In this context, we fully support the Commission’s approach to apply a “zero tolerance policy” through infringement procedures in cases of non-compliance with the undisputable obligations of the Directive (e.g. the prohibited requirements in Article 14).



We also observe that the economic crisis has triggered new protectionist trends and has led to the emergence of new barriers to trade. For example in Poland, a recent review of pharmaceutical legislation has introduced a total ban on advertising for pharmacies. The ban is not only discriminating pharmacies, selling not only medical products, in relation to other competitors, but is also hindering access to the Polish market for pharmacies from different Member States. Another example is the food supervisory fee to be introduced in Hungary (*see page 12 on the retail sector*).

## The Points of Single Contact

Companies can greatly benefit from the information and assistance provided by the Points of Single Contact (PSCs) set up under the Services Directive, but only if they truly relieve administrative burdens and respond well to business' needs.

Over the last years, BUSINESSEUROPE's member federations have observed some progress regarding the development of the PSCs, in particular in terms of improvement of the quality of information, lay-out and availability of certain procedures for online completion.

However, progress has not been satisfactory in most countries. It seems that the improvement of the PSCs is not a priority for most governments.

What European companies want is a **fully-fledged online business portal** that offers a wide range of services in various languages beyond what is required by the Services Directive. All information, online procedures and formalities for doing business abroad should be made available through upgraded PSCs, e.g. true European online business portals (for goods and services) in every Member State that offer:

- The possibility to complete all necessary procedures and formalities to provide a service or sell a good domestically or in another Member State on a temporary basis or through establishment, entirely online through the business portal to save both time and costs.
- This requires better cooperation between management of the business portals and the authorities responsible for final approval of these administrative procedures. In general, the portals should answer any request as rapidly as possible. In many instances, automatic authorisation (i.e. tacit approval) after a certain period could offer a pragmatic solution.
- More and accurate information on a wide variety of activities, not only regarding services, but also goods. For instance, also including practical information needed for doing business, such as information on applicable labour law, tax and VAT rules, insurance, social security or on providing services in an online environment. This can already be partly achieved by creating links with websites of other relevant authorities, public bodies and information sources.
- Building on national e-governance policies, the business portals should offer their services in multiple languages to attract foreign companies and trigger investment. In addition, interoperability between the different national portals must be ensured by offering cross-border e-signatures and user-friendly e-identification.



## The Services Directive - BUSINESSEUROPE recommendations

1. Member States must urgently **remove all remaining discriminatory and unjustified national requirements** – such as discriminatory residence requirements, restrictions on multidisciplinary activity, “economic needs tests” or prohibitions on commercial communication – that should have already been removed by the Services Directive and avoid the introduction of new ones.
2. The Commission should see to this through the full application of its “**zero tolerance policy**”, launching infringement procedures for clear breaches of EU law. The European Parliament must take stock of progress made through more precise benchmarking, making use of “naming and shaming” and detailed reporting to put pressure on the Member States that are lagging behind.
3. As also requested by the Heads of State and Government in the Conclusions of the October 2013 European Summit, the Commission should **clarify the concept of proportionality** by issuing guidelines for Member States on how to apply it when assessing national rules and authorisation schemes. On the basis of such guidelines, national authorities should revisit the national requirements under Article 15 and 16 that were subject to poor proportionality analyses and adapt or remove overly burdensome requirements where possible, or re-think if there is not a less restrictive alternative measure to achieve the same goal.
4. When implementing EU legislation, Member States should **be transparent** if they add additional burdens (gold-plating) and assess any extra costs.
5. Member States must respect the obligation in the Services Directive (Article 15 and 35) to **notify the Commission of any new laws, regulations or administrative provisions** which set national requirements together with the reasons for those requirements. The Commission must ensure swift and accurate communication of the provisions concerned to the other Member States. Any new requirements should also be made public in a transparent database for companies to understand their rights and obligations in the single market. This should be extended to all national requirements, so also outside the scope of the Services Directive.
6. Member States must establish on the basis of the existing Points of Single Contact and the agreed 2013 PSC Charter, **online business portals** (for goods and services) for companies to find all the information and assistance they need for doing business across borders in multiple languages, including information on taxation and social security and offer the possibility to complete administrative procedures and formalities entirely online.



## IV. REMAINING BARRIERS TO FREE MOVEMENT

- **A lack of recognition of professional qualifications:** The recognition of professional qualifications throughout Europe is fundamental for a well-functioning services industry as the free movement of labor is often a prerequisite for cross-border service provision and establishment abroad.

Currently just 3% of EU citizens live and work in a country other than their own. There are several barriers to intra-EU mobility from language barriers, access to information about being mobile within the EU, heavy bureaucracy, transfer of social security provisions, to heavily regulated professions and overregulated specialisations. However, one of the most prominent ones is the worry that professional and academic qualifications will not be recognised in another Member State (*see box I*).

There are several ongoing initiatives at EU level to facilitate labour mobility. These include the implementation of the revised Professional Qualifications Directive and the Directive on the enforcement of rights for EU migrant workers.

### Box I. Example: Barriers for tour guides

The practice of a (educational) tour guide outside one's own country can be problematic. The revised Professional Qualifications Directive requires (educational) tour guides with temporary cross-border activities to register with the competent authority in the host Member State. In most cases, they will have to provide evidence of 1 year of professional experience within the last ten years. In practice this creates difficulties for two reasons:

- 1) Tour guides are generally self-employed. Thus they are unable to provide evidence of a year continuous employment relationship, despite the fact that they often have professional experience of many years.
- 2) Tour guides are in most cases specialised in one holiday destination. Practical experience is an inevitable prerequisite. Tour guides have to work in their holiday destination to gain that experience. However, without a year of professional experience, guides will not receive the permission under the Directive to practice in another Member State. That leads to the result that any tour guide, despite an interest to specialise in a specific holiday destination, has to work in his or her own country for a year in order to gain professional experience. Only after that period the guide will be able to practice in another country.

- **Burdensome insurance obligations:** Certain insurance obligations can pose barriers to cross-border service provision. Yet, this issue requires further examination. The availability of insurance, legal insurance obligations and access to insurance can differ greatly per Member State and possible barriers need to be further assessed on a country-by-country basis (*see box II*).





## Box II. Example: Insurance obligations can pose barriers

In France, the occupation architect is protected. In order to carry out an assignment in France an architect will therefore have to register for a permit. To obtain a permit the architect has to submit proof of a French professional indemnity insurance together with the registration application. That signifies that the architect has to pay a premium for this insurance. That is discriminatory against architects from other Member States who cannot insure assignments in France with their existing insurer and who have to pay for an insurance without being certain of obtaining an assignment or obtaining a registration in time to carry out a specific assignment.

To participate in public procurement procedures, it is often required that an architect already has such a registration in France. In practice, the requirement to be registered as an architect and to submit proof of a French professional indemnity insurance prevents architects from other Member States to participate in public procurement procedures in France. Germany has a similar registration system.

Some problems have also been reported regarding certain obligations included in delivery agreements that are proposed or required by clients in other Member States (see box III).

## Box III. Reported burdensome insurance obligations included in delivery agreements

- High, unreasonable insurance amounts that either are too expensive or impossible to insure
- Long periods of liability. Up to 20 years can be asked / required
- Overall obligations, that is to say the client requires a company to be liable for all parties within a project such as contractors, sub- or other consultants
- Waiver of subrogation
- The client requires to be additionally insured in the insurance of the company
- Broad “hold harmless” clauses which can include for example strict liability and overall liability against third parties
- Requirements regarding insurance protection for infringement of intellectual property rights

The legal and the insurance culture can differ per Member State. For example in some countries, parties to an assignment can be more inclined to sue the other party and legal processes can be a lot more common in certain Member States. This results in higher premiums for professional indemnity insurance. The insured amount can also be a lot higher for historical or legal reasons. This hampers the provision of cross-border services as companies are more inclined to refrain from providing across borders due to the risks and consequently higher premiums with such assignments.

- **Access to insurance:** Concerning the availability of insurance, it is often possible for a company to obtain professional indemnity insurance for temporary services in another Member State. A primary solution will often be sought with the current insurer of a company. In case that is not possible, a solution will often be sought through the network of the insurance broker or through the network of the insurer. In that case it will often result in a higher premium for the company compared to the companies that are already established in that particular Member State and carry out permanent business there. This is partly due to the fact that foreign companies are considered to be a higher risk for the insurer.



- **Diverse national standards:** National standards are often de facto mandatory and as such, they can pose a barrier to cross-border service provision. An example is the great variety of safety passports used in the construction sector. BUSINESSEUROPE believes that voluntary European service standards can benefit the services industry by reducing the number of diverse national standards and thus removing potential trade barriers. However, the need to develop a certain standard must be determined on a case-by-case analysis based on thorough impact assessment and must always be market driven, following a comprehensive consultation of relevant stakeholders.

In practice, however, stakeholder involvement is not always easy to secure. Companies experience that current working methods of national standardisation bodies (NSBs) are often too time-consuming. Service companies, especially SMEs have difficulties to allocate time for meetings outside their core business. Better use of ICT and digital tools in the working methods of the NSBs, for instance, could enhance stakeholder participation by allowing participation at distance.

In this context, BUSINESSEUROPE is closely following the ongoing process where the European Committee for Standardisation (CEN) has been mandated by the Commission to identify by the end of 2014 where new Horizontal European Standards (EN) could be introduced to improve the functioning of the single market for services. There are possible areas where the introduction of a voluntary European Horizontal Standard could be of added value, which need to be further assessed. These areas are services contracts for the service sectors that explicitly wish to participate fully based on self-regulation; service terminology, and information to the client.

Yet, it is fundamental to assess whether the benefits outweigh the costs of development and implementation of a new European standard. Even though it is voluntary, its introduction might in practice force companies to follow and create de facto requirements, often also developing into certification schemes. It is essential to fully take into account the needs of the economic operators and determine how new standards would actually positively affect the quality of service without restricting creativity and innovation. This is key to the success of any new European standard.

- **High number of regulated professions:** There are about 800 different activities in the EU that are considered to be regulated professions in one or more Member States and are reserved for providers with specific qualifications. Whilst in certain cases there may be valid policy reasons to justify this practice - for complexity, security or safety reasons - this does not always seem to be the case. Many activities are regulated in only a few Member States and more than 25% of them are regulated in just one Member State. The high number of regulated professions and specialisations is fragmenting labour markets and hampering service provision or establishment across borders. BUSINESSEUROPE fully supports the analysis that the Commission is carrying out to precisely see which professions are regulated in each Member State. This overview should stimulate the discussion to reduce the number of regulated professions and burdensome requirements, prioritising the professions and sectors which have the largest growth potential and are most regulated or only regulated in one Member State.
- **Barriers to online services:** The selling of goods online is a service. Hence, the (overall positive) impact that the rise of the internet and e-commerce in particular is having on existing business models and the daily operations of companies providing



services. Yet, while e-commerce is rapidly taking off at national level, cross-border e-commerce is still lagging behind. There is a strong need to boost consumer confidence and business trust in cross-border e-commerce by addressing the remaining fragmentation of applicable rules, for instance in the area of VAT, data protection, payment systems, copyright and consumer protection.

- **Legal fragmentation in contract law and consumer legislation:** Due to a lack of harmonisation, companies experience fragmentation regarding differences in consumer protection legislation and contract law in the “B2C” environment, for example regarding legal guarantees.
- **A lack of mutual recognition:** Trust and mutual recognition are essential elements of a well-functioning single market in services. In areas where full harmonisation is not desirable or feasible, the principle of mutual recognition can help to improve the functioning of Europe’s services markets by providing a certain degree of flexibility and cross-border acceptance. More mutual recognition would also lead to a significant reduction of administrative and regulatory burdens – as business would have the possibility to provide their services in another Member States without additional formalities or heavy procedures as long as they comply with the essential national and European (safety, health, consumer protection, etc.) requirements. For example, more mutual recognition in areas such as expert accreditation, authorisations or the recognition of certificates can greatly facilitate cross-border service provision and establishment abroad.
- **Strains on company mobility:** Heavy legal form and ownership requirements - that significantly differ between Member States - can hamper or even prevent establishment abroad. Article 15 of the Services Directive lists a series of requirements imposed on service providers, among which legal form, shareholding and tariffs. These requirements are not strictly prohibited but have been identified by the EU Court of Justice as creating obstacles to the single market in services. They can only be maintained in so far as they are non-discriminatory, justified by an overriding reason relating to the public interest and proportionate, i.e. no less restrictive measure could be used. However, BUSINESSEUROPE observes that the screening exercise of these requirements - as required by the Services Directive - has often not been carried out satisfactorily, causing burdensome requirements and thus barriers to remain (see *box IV*).

#### **Box IV. Examples of remaining burdensome legal form and shareholding requirements and tariffs**

- If an accounting company wants to set up a subsidiary in Italy, at least 66.6% of the owners need to be registered with the Italian professional accountants order (whilst in most countries it is 51% or there are even no restrictions).
- The ownership requirement that 51% of the shares of accounting firms must be held by accountants will make it impossible for such firms to associate with tax advisers, if tax advisers are subject to the same 51% ownership requirement. Such ownership rules hamper the emergence of new, more innovative business models which would enable companies to offer a wider range of services.



- For architects in Germany, the legal form and shareholding requirements are exclusively linked to the use of the professional title by the company, but not to the provision of the service. If the company is to bear the professional title 'architect' in its name (e.g. "Schmidt Architekten"), then it must meet legal form and shareholding requirements. But architects may set up any other form of company, through which they can provide architectural services, as long as the company does not include the word "architect" or "architectural" as part of its name (e.g. "Schmidt Design").
- A 75% capital ownership requirement exists in Slovakia for tax advisors, in France for veterinarians, though France reduced the minimum capital ownership requirement to 51% for most other professions.

### Multidisciplinary activities

- In Belgium, Denmark, France and Spain, veterinarians may not associate with companies distributing medicines and sanitary products. In Austria, architects cannot have multidisciplinary activities with construction related businesses.

### Tariffs

- Fixed tariffs for architectural services seem to apply only in Germany. Tariffs for tax advising services exist in Cyprus where minimum tariffs apply in the absence of an agreement to the contrary between the parties. In Germany, minimum tariffs apply and the parties to a contract for tax services can only agree a price that is higher than the minimum rate set by the Federal Ministry of Finance. In Poland, the Ministry of Justice sets compulsory minimum tariffs for patent attorney services. As regards veterinarian services, a general system of fixed tariffs applies in Austria, and binding minimum fees apply in Bulgaria, without any possibility in either Member State to deviate from them by contractual agreement.

- **Disproportionate spatial planning rules:** We observe that in some cases service providers are hindered by disproportionate spatial planning rules, for instance by imposing economic needs tests or additional requirements, which are used in a manner that restricts competition and protects local interests. For instance, the bundesland Baden Württemberg measures a city's purchasing power before letting foreign retail competitors establish operations here. Another example are regional laws in the bundesland North Rhine Westphalia which control what product assortment can be sold outside of city regions. Several Member States, on a regional or municipal level, use town and country planning legislation to specifically regulate service activity as opposed to town and country planning that only regulates "land-use".
- **Specific obstacles facing the retail sector:** BUSINESSEUROPE welcomed many of the initiatives announced in the Commission's Retail Action Plan of February 2013. However, in practice, companies active in the retail sector - especially from abroad - are still facing many obstacles. For example, in Hungary retailers are faced with a new system of levies to finance official controls of food products (an amendment of Act XLVI of 2008) to come into force on 1 January 2015. The progressive rate of the fee is indirectly discriminatory against foreign retailers. Such examples illustrate a worrying trend where businesses in the retail sector are faced with more new financial obligations such as special crisis, internet and advertisement taxes. These are often de facto acting as protectionist obstacles.



- **Challenges linked to the posting of workers:** The Posting of Workers Directive ensures a level playing field between companies and a range of equal minimum standards for posted and host country workers. This Directive does not need to be revised. It is necessary that all Member States now put efforts into transposition of the Enforcement Directive. Appropriate implementation of this new Directive will help address abuses of posting that sometimes happen on the ground through strengthened cooperation between national authorities, more transparency, and improved cross-border enforcement of fines and penalties.
- **Unleashing opportunities for health services:** The growing common challenges in Member States such as increasing cost of healthcare, an ageing population associated with a rise of chronic diseases and multi-morbidity, shortages and uneven distribution of health professionals, health inequalities and inequities in access to healthcare call for a closer cooperation between Member States in order to avoid barriers in providing health care services across borders. Equally, both the Directive (2011/24) on the application of patients' rights in cross-border healthcare and the EU e-Health action plan for 2012-2020 (Com 2012/736) call for solutions to ensure interoperability and cross-border opportunities in healthcare services.
- **Compatibility of different rules:** Service companies have to comply with a whole range of different rules and complete procedures before being able to provide their service. They are subject to rules stemming from EU legislation such as the Services Directive, the e-Commerce Directive and the Directive on Professional Qualifications. Also, companies need to comply with sectoral legislation and additional national rules. It is not always clear which rules apply and they are not always fully compatible (see box V).

#### **Box V. Example: Car rental – barriers for operating across borders**

In the car hire sector, challenges remain regarding cross-border traffic and the statutory regulations for vehicle registration. The use of vehicles registered in the name of foreign group companies is very restricted for instance in Germany. In principle, vehicles envisaged for rental for a longer period of time in Germany must be deregistered abroad and re-registered in Germany. Besides the administrative burden, this involves considerable costs and impedes cross-border rental, leading to higher prices.



## Remaining barriers - BUSINESSEUROPE recommendations

- The European Commission should identify and address remaining barriers to the free movement of services (also outside the remit of the Services Directive), taking a **targeted, sector-based-approach**, starting with the sectors with greatest economic significance, such as business and professional services, construction, health services, tourism and retail. In this context, BUSINESSEUROPE welcomes recent Commission initiatives such as the Retail Action Plan and Report on business services, and supports the setting-up of High Level Groups (HLGs) on specific sectors such as the HGLs on Retail and on Business-Related Services.

Furthermore:

1. Through ongoing initiatives at EU level, but also through better application of the mutual recognition principle, public authorities should **ensure better recognition of professional and academic qualifications** across the EU.
2. We encourage the Commission to **further assess challenges with cross-border insurance** on a country-by-country basis.
3. **Develop voluntary European Horizontal Standards where they add value**, always driven by market-needs and developed through comprehensive stakeholder consultation.
4. On the basis of the country-analyses, Member States should **reduce the number of regulated professions**. To this end, a joint evaluation of the different regulated professions in Member States should be carried out.
5. It is essential to **tackle the remaining barriers to the provisions of online services**. In the area of copyright, areas to be addressed include cross-border licensing, territoriality of copyright, transfer of copyright. As the digital world changes very quickly, policy-makers need to ensure that the approach to regulation in this area is proportionate and future-proof.
6. **Ensure strong enforcement of the Posting of Workers Directive** without creating new barriers.
7. **Better ex-post monitoring** by the Commission of the transposition of regulation at national level to detect potential barriers or demotivating factors for businesses.
8. **Further develop the SOLVIT** system and other problem solving tools to assist companies when encountering difficulties.
9. National governments and policy-makers at EU level need to **take a truly integrated approach to services** in Europe. It should be clear which rules apply and which piece of European or national legislation is concerned. The company perspective should be central in addressing remaining barriers.
10. To create the necessary political momentum and commitment at national and European level to address the remaining obstacles, Member States should jointly **organise a high level conference before the end of 2015** to discuss how to build a true single market for services, following the publication of the Commission's report expected in mid-2015.



## V. NON-REGULATORY BARRIERS

There are also non-regulatory obstacles to free movement that act as demotivating factors for operating across borders. These barriers are sometimes a result of a lack of harmonisation or mutual recognition at EU level. Others spur from national traditions or cultural differences. Nevertheless, they pose real obstacles to trade in services.

- **An information gap:** Access to information is an issue for many companies, in particular for start-ups and SMEs. They struggle to find the right information on necessary procedures, certification or other requirements for temporary cross-border service provision or setting-up a business in another Member State. It has often proven a challenge to identify the right authority in charge of issuing permits, licenses or other administrative arrangements. There is often a need to address multiple institutions. Moreover, information is in many cases only available in the language(s) of the Member State, leading to delays, translation and legal costs, for instance to participate in tendering procedures.
- **Perceptions of doing business abroad:** Very often companies and in particular SMEs and micro-enterprises perceive operating abroad as complicated and difficult and would therefore not consider expanding to foreign markets. Currently only 10% of all SMEs in Europe operate across borders illustrating this mind-set. Bridging the information gap can make a great difference here.
- **Administrative difficulties:** Many administrative procedures remain slow, often unnecessarily complicated and offline. Also their complexity and diversity of requirements differs strongly per country. Registration procedures can take a long time and often tacit approval provisions are lacking. Also, bankruptcy procedures are lengthy and inefficient in many countries.
- **Cultural differences and language barriers:** Differences in consumer and client behaviour can be challenging. Customs and habits can differ, which are the core element of service provision. Bridging the information gap can make a great difference here. Furthermore, companies report that language barriers, including translation difficulties regarding terminology remain challenging.
- **Access to finance:** In these difficult economic times, access to finance in particular for start-ups and SMEs remains of great concern.
- **Mismatch between education systems and labour market needs:** To help overcome skills mismatches it is important that education and training systems are better aligned with labour market needs. This includes greater involvement of employers' organisations and companies in the design and implementation of education and training curricula at all levels, in particular at secondary and higher levels.
- **A lack of innovation:** Service innovation can help Europe to transform and modernise the way products and services are offered, while driving up productivity and creating competitive advantages for companies. Competition is often the best way to foster service innovation. Therefore, it is fundamental to remove remaining barriers in the single market to create a competitive and dynamic environment and to enhance other framework conditions through smart regulation, the availability of adequate funding and



public procurement of innovative solutions. In this regard, it is positive that the scope of activities eligible for funding has been broadened in the Horizon 2020, also to better accommodate service innovation.

- **A lack of data and expertise on services:** Still the data collection on the specificities of Europe's services sectors is scarce and economic analyses of the services industry much less advanced than for classical economic sectors, such as manufacturing, fisheries or agriculture. The basis of well-designed European and national policy is that they are built on facts and figures, evidence-based. A lack of this information will result in inaccuracies and possibly bad policy. There is a need to allocate more resources to the collection of relevant data.
- **Complexity in the administration of tax for EU cross-border activities:** Less complexity in the administration of taxes for both companies and citizens would enhance mobility and therefore benefit the free movement of services.

## Non-regulatory barriers - BUSINESSEUROPE recommendations

1. As mentioned in chapter III, establish on the basis of the existing Points of Single Contact, **online business portals** for companies to find all the information and assistance they need for doing business across borders in multiple-languages. This must include for instance information on taxation and social security and the possibility to complete administrative procedures and formalities entirely online.
2. EUROSTAT but also Universities in Europe, think tanks and other data collecting and research institutions need to refocus on services and step up their efforts to **collect more precise and comparable data** on Europe's service sectors.
3. In addition to existing platforms such as the EUGO network, an **exchange of best practices** between the Member States on how to reduce administrative burdens for businesses should be put in place.

## VI. GOVERNANCE

To ensure better implementation, correct application and strong enforcement of EU legislation that impacts the free movement of services, regular reporting and accurate benchmarking are fundamental.

In this regard, BUSINESSEUROPE is very pleased that general single market governance and reporting has significantly improved via the annual single market integration reports, which use concrete benchmarks with quantitative and qualitative indicators to measure single market performance (e.g. transposition delays, infringements, etc.), also in the area of services. These reports feed directly into the European Semester and in particular in the Annual Growth Survey and the resulting country specific recommendations for reforms. This is key to show national governments where progress, for instance in the area of services, must be made.

BUSINESSEUROPE fully supports the "*front-runners-initiative*" taken by a number of like-minded Member States to improve the functioning of the single market, also in the





area of services via pilot projects. It is encouraging to see the commitment from national governments to make progress for a better single market.

## Governance - BUSINESSEUROPE recommendations

1. The Commission should make the State of the Single Market Integration Reports even more detailed, using **quantitative and comparable indicators** to adopt a more scientific and objective approach to policy-making. This offers more transparency and puts the necessary pressure on Member States to make progress via active “naming and shaming”.
2. The Commission should reintroduce its **formal reporting** on services in the form of “information notes” as done in 2009 and 2010 to the Competitiveness Council, and also the European Parliament to raise awareness of remaining barriers, put pressure on national governments to improve and help to create the necessary political momentum to address remaining obstacles.
3. The Commission and Member States should further improve existing problem-solving tools such as **SOLVIT** and allocate sufficient resources to handle the increasing number of cases. This included better promotion to ensure companies are aware of such a system. Also, the **EURES** portal should be further improved to enhance job mobility.
4. Furthermore, all problems that companies experience should be **addressed in a reasonable timeframe** through all available instruments, whether it is SOLVIT, courts or other paths.
5. National governments must further invest in and develop the **Internal Market Information (IMI) system**, which is despite the more than 7000 connected authorities across the EU still underused. Public authorities should make better use of the IMI system to alleviate the administrative burden on service providers, by checking directly with their counterparts in other Member States if there is a need to verify certain information or not, saving both time and costs.

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