



HOUSE OF LORDS

European Union Committee

15th Report of Session 2010–11

Re-launching the Single Market

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The European Union Committee

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References in footnotes to the Report are as follows:

Q refers to the question in oral evidence;

EUSM 1 refers to written evidence as listed in Appendix 2.

SUMMARY

This report was produced in response to two documents published in 2010 with the aim of re-launching the Single Market. First, at the request of European Commission President Jose Manuel Barroso, Professor Mario Monti, a former European Commissioner, published a report in May 2010, *A New Strategy for the Single Market*. Second, in October the Commission published a consultation paper, *Towards a Single Market Act*. Based on that consultation, the Commission will publish a final Single Market Act in the near future.

We welcome both documents as evidence that steps are being taken to reignite interest in the Single Market. This report examines some of the ideas first explored by Professor Monti, and taken forward by the Commission.

We conclude that there should be no “package deal” whereby market liberalisation is traded against social measures in order to gain the approval of Member States with differing economic traditions: the case should be made for the benefits of each on their own merits. The Single Market should be regarded as an important means for all Member States to boost their economies, irrespective of their economic traditions. While there is a role for the EU to play in social policy, any action taken in this area must respect the subsidiarity principle. The Single Market should not be used as an excuse to avoid this important consideration.

More work needs to be done on the implementation of Single Market measures. Across the EU, transposition and implementation are too slow and inaccurate. The Services Directive, which has still not been implemented adequately two years after the deadline, is a case in point. Informal methods of ensuring proper implementation, such as the Internal Market Information System and the mutual evaluation process, should be extended beyond the Services Directive to be used in other Single Market legislation.

Both Professor Monti and the Commission advocated the creation of a common consolidated corporation tax base (CCCTB). We argue that the Government should approach this proposal with an open mind, always remaining vigilant with regard to the UK’s tax sovereignty.

We strongly endorse the Commission’s Digital Agenda for Europe. The digital Single Market should be a consideration in all areas of Single Market action, as all businesses now rely upon the internet to some degree. The digital Single Market will only grow with improved consumer confidence. The inclusion of digital goods within the Consumer Rights Directive should be given strong consideration. We welcome the proposed production of a Code of EU Online Rights as a means of increasing confidence without imposing extra burdens on business or undertaking further complex legislation.

The UK has always been one of the Single Market’s strongest supporters within the EU, and was influential in its creation. The Government should actively promote the benefits of the Single Market, both to other Member States, and to businesses and citizens within the UK. The UK should return to its position as a champion of the Single Market.

CHAPTER 7: CONCLUSIONS AND RECOMMENDATIONS

Chapter 2: The Single Market

127. We agree that the Single Market has the potential to be of greater benefit to the businesses, citizens and consumers of the European Union if the remaining barriers and bottlenecks, which have been identified, are removed (paragraph 23).
128. We believe that the Monti Report and *Towards a Single Market Act* are both useful and timely documents which we hope will stimulate activity to realise and secure those benefits (paragraph 27).

Chapter 3: Social Europe

129. The relationship between the economic and social aspects of the EU is complex and politically charged. While the social aspect is important, we believe that it should not be seen as trade-off against market liberalisation. Any proposal on either aspect should be treated strictly on its merits. The case should be made separately for the economic benefits of the Single Market, especially given the urgent need for all Member States to stimulate growth in the aftermath of the financial crisis (paragraph 36).
130. We believe a more fruitful approach is that advocated by the European Parliament Committee on the Internal Market and Consumer Affairs, in regarding citizens simultaneously as entrepreneurs, workers and consumers, and therefore as beneficiaries of the Single Market. Member States and the European Institutions should make the case strongly that it presents an opportunity rather than a threat (paragraph 37).
131. We welcome the review of the Posting of Workers Directive as, in the wake of recent judgments of the Court of Justice, the intention behind the Directive needs further clarification (paragraph 42).
132. We note that the Services Directive contains a “Monti Clause”, and that the “country of origin principle”, which we strongly supported at the time, was removed from the final draft (paragraph 53).
133. We welcome the progress that has been made with the implementation of the Services Directive, but it is not complete, and more must be done as a matter of urgency (paragraph 54).
134. We welcome the work that has already been done on establishing Points of Single Contact. They are an important facility for businesses wishing to trade across borders (paragraph 55).
135. We welcome the Commission’s proposals to ensure adequate implementation of the Services Directive, in the light of the recent mutual evaluation services (paragraph 56).
136. We welcome the proposed “performance checks” of Single Market legislation. It is too soon to determine how well they will work, but we look forward to seeing the results (paragraph 57).
137. The case for tax harmonisation measures has not been made and we recognise that no such proposal was contained in either the Monti Report or *Towards a Single Market Act*. There is merit in considering a limited degree of tax coordination and the Government should approach the forthcoming

Commission proposal on CCCTB with an open mind, while remaining vigilant to any threat to the United Kingdom's tax sovereignty. We note, however, that there is a difference between taxes intended to change behaviour, such as a carbon tax, and those designed purely to raise revenue. We would urge the Government to be alive to this distinction (paragraph 64).

138. While we believe that there is a role for the EU to play in developing the social dimension of the Single Market, this area should be primarily a matter for the Member States, in accordance with the principle of subsidiarity and respecting the division of competence between Member States and the EU. The Single Market should not be used as an easy justification to extend competence or override the subsidiarity principle (paragraph 68).
139. However, there are cross-border social issues of direct relevance to the Single Market, for instance the issues of posted workers in order to ensure minimum standards. In such cases, EU action is to be welcomed where undesirable social effects are clearly related to or caused by the liberalising legislation, and EU action is the most effective means of addressing those effects (paragraph 69).

Chapter 4: Completion of the Digital Single Market

140. We strongly endorse the Commission's Digital Agenda for Europe. The digital Single Market is a priority area for the EU. It cannot be considered in isolation as all businesses within the Single Market now rely upon the internet to some degree in order to do business. The digital Single Market should therefore be "mainstreamed" through all aspects of the Single Market (paragraph 73).
141. We welcome the Commission's Broadband Package. Member States should support the Commission's work in this area. It is particularly important that there is adequate spectrum for emerging technologies, and that as many users as possible are encouraged and able to access the internet (paragraph 76).
142. We recognise the potentially significant contribution which cloud computing is bringing, and will in the future bring, to the Single Market and call on the Commission to adopt early initiatives—taking full account of potential technological developments—in this area in order to reap the full benefits of such technology once it becomes more developed. We note that cloud computing raises important legal and regulatory difficulties which the Commission should address at the earliest opportunity (paragraph 77).
143. It is more than ten years since the adoption of the e-Commerce Directive, and the time is now right for its review. It is particularly worrying that so many cross-border electronic transactions fail, and we therefore believe that the review of the e-Commerce Directive should be expedited. The Commission's proposals for further work on e-Signatures and e-Authentication are to be welcomed in the context of providing a coherent platform for digital trade and as supporting measures to the e-Commerce Directive (paragraph 83).
144. The fragmentation of intellectual property regimes across Europe presents a barrier to a true Single Market in online goods. We therefore welcome the inclusion in *Towards a Single Market Act* and the Digital Agenda for Europe of plans to improve the handling of copyright, though we note that this is a complex area which may be difficult to resolve (paragraph 84).

145. Public procurement represents a large proportion of the EU's GDP and is therefore an important tool for driving the completion of the Single Market. This is an area where Member States can take the lead in ensuring that procurement rules are applied properly and to the benefit of the Single Market. e-Procurement has great potential to reduce administrative burdens and to open the market to SMEs, and we hope the Commission will place greater emphasis on the area (paragraph 87).
146. Consumer confidence is vital for the development of a digital Single Market. We have not considered the Consumer Rights Directive in detail during this inquiry but the exclusion of digital goods seems to be a mistake, as we have previously argued. We look forward to following the progress of negotiations on the Directive (paragraph 91).
147. We welcome the production of a Code of EU Online Rights as a positive step to increasing consumer confidence. It is too early to assess its potential but we look forward to seeing the Commission's plans as they develop. We urge the Commission to produce its Communication as soon as possible (paragraph 92).

Chapter 5: Enforcement and Implementation

148. We agree that the European Commission's existing enforcement powers regarding competition and state aids continue to be sufficient and that no fundamental review is necessary at this stage provided that they are applied robustly (paragraph 95).
149. We believe that the Commission and the Member States should use their existing infringement powers more rigorously as these will continue to be crucial in supporting the further development of the Single Market. We strongly endorse the Monti Report's recommendation that time limits should be adopted for infringement procedures (paragraph 98).
150. We consider that informal systems such as SOLVIT and EU Pilot are beneficial as methods of alternative dispute resolution and that the strengthening of both should be prioritised in the Single Market Act (paragraph 101).
151. Ongoing and vigilant monitoring of the Single Market is still required to ensure the correct and timely transposition and enforcement of Single Market measures. We note that there is still room for improvement in all Member States, including the UK, and endorse the Commission's call for the transposition deficit to be reduced to 0.5 per cent (paragraph 105).
152. We believe that IMI and the mutual evaluation process are valuable tools and agree that their extension to other Single Market legislation would be beneficial and consider that the development of both should be prioritised in the Single Market Act (paragraph 107).
153. We endorse the Commission's Better Regulation agenda and also welcome the substance of the Commission's Communication on Smart Regulation, which we believe has particular importance for the development of the Single Market. Methods of *ex-post* evaluation such as the production of correlation tables by Member States will be important methods of mitigating the risks of gold-plating (paragraph 112).
154. With regard to future Single Market measures, we consider that the decision whether a Regulation or a Directive is used should be made on a case-by-

case basis, where the type of instrument is not already determined by the Treaty base (paragraph 115).

Chapter 6: Re-launching the Single Market

155. We believe that the UK should return to its position of strongly championing the Single Market and that the Government should actively promote the Single Market Act within the relevant Council configurations (paragraph 122).
156. We believe that the Government should actively promote the benefits of the Single Market to UK business, especially to SMEs. This should involve a joined-up approach involving all relevant Government agencies and trade associations (paragraph 125).
157. Information should be made available, in a straightforward format, to businesses and consumers on how best to take advantage of the Single Market. In this context, we again welcome the establishment of Points of Single Contact under the Services Directive, and conclude that such sources of business information should be more effectively promoted to make it easier for businesses considering trading across borders (paragraph 126).