



**MINISTRY OF INDUSTRY, BUSINESS
AND FINANCIAL AFFAIRS**

Thierry Breton
Commissioner for Internal Market
European Commission

**MINISTER FOR INDUSTRY,
BUSINESS AND FINANCIAL
AFFAIRS**

Dear Commissioner Thierry Breton,

Please accept my warmest congratulations on your appointment as Commissioner for Internal Market.

A timely response to the challenges and seizing the opportunities posed by climate change and rapid digitalization is of critical importance to ensure a prosperous EU. I would like to present you with the overall Danish agenda in your area of responsibility, as priorities for the Single Market are elaborated further in the attached non-papers. I hope you will read these with interest.

Towards a competitive and climate-friendly European industry

European industry is a key player in restoring the EU's global competitiveness as well as fulfilling the Paris Agreement. The upcoming action-plan for industry should set a clear political direction with an emphasis on cost-effective and market-based measures that encourage businesses to make necessary investments needed for the transition to a competitive, circular and climate-neutral European industry.

Furthermore, I would encourage you to make sure that the work on Important Projects of Common European Interest (IPCEIs) related to strategic value chains contribute to our climate and environmental objectives. Moreover, we should improve the transparency of IPCEIs by introducing ex-ante consultation. This will allow all Member States to easily participate and contribute.

There is also a need to re-think the future set-up for identifying strategic value chains. To this end, we need a new procedure for identifying, amending or phasing out strategic value chains. The procedure should maintain the original bottom-up approach characterizing the current Strategic Forum while ensuring political legitimacy and governance and directing initiatives towards major challenges such as climate change.

Moreover, I encourage you to lay down the pillars for a robust framework for secure, interoperable and trustworthy data sharing that can sustain public trust in data usage and contribute to the green transition of industry. We should openly discuss how best to encourage and ensure more data sharing through an ethical and coherent European framework, as the use of data is vital for European businesses if they are to be global frontrunners of the data economy.

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Regarding the external dimension of EU industrial competitiveness, I recognize the tendency towards increased unfair competition and the need to react and safeguard European interests. The best way to preserve fair global competition and a level playing field is through common rules applicable to all, rooted in the WTO. Thus, it is encouraging that the incoming Commission aims to make reform of the multilateral trading system a top priority. This must include an update of the rules so they address unfair market-distorting trade practices and reflect today's digital economy. In parallel, we may need EU instruments to handle distortive behaviour from companies from third countries operating within the Single Market without relaxing the principles of independent enforcement and free and fair competition.

A fair Single Market fit for the digital age

Effective implementation and enforcement are key components towards making the Single Market both fairer and smoother for law-abiding businesses, consumers and workers. We need a firm and ambitious long-term action plan for better implementation and enforcement, containing concrete initiatives on how to improve the uniform implementation, application and enforcement of our common rules. We have several proposals, highlighted in the attached non-paper regarding better implementation and enforcement.

Moreover, I encourage you to ensure that European legislation is digital-by-default and future-proof as this it is a precondition for a well-functioning Digital Single Market. In Denmark, we have introduced a set of principles on digital-by-default and future-proof regulation. I would be happy to share our experience on the use of these principles in lawmaking and further discuss how such principles could be implemented at the European level. Attached you will find a non-paper explaining the Danish principles and priorities on this agenda.

Cross-border digital services is a vital tool to make life easier for citizens and businesses within the Single Market. In this context, I would urge you to take into account the special situation of the public sector as a guarantor of maintaining public confidence in digital infrastructure systems and public digital procedures for instance regarding data transparency and interoperability, and trustworthy electronic identification.

Regarding the new SME Strategy, I hope focus would be on the possibilities for SMEs, solutions to the challenges posed by climate change and rapid digitalization and ways to make it easier to scale-up and participate in European and global value-chains.

Digital trust as an enabler of Artificial Intelligence

I have positively noticed the aim of the new Commission to deliver a European approach to artificial intelligence within your first 100 days in office. In this regard, the aim should be to make data ethics a competitive advantage for European businesses going hand-in-hand with innovation. A European approach could make us a frontrunner in the responsible use of artificial intelligence and data. By introducing a European Data Ethics Seal we would enable consumers to easily identify companies who take data ethics seriously. Together with a requirement for the largest European companies to publish their data ethics policies, the digital economy would become more transparent for consumers. Attached you will find a non-paper explaining our suggestions to this agenda.

Moreover, access to cross-border digital service in the EU is important for the non-discrimination of businesses, workers and citizens when operating and acting on the internal market. However, I would urge you to take into account the special situation of the public sector as a guarantor of maintaining public confidence in digital infrastructure systems and public digital procedures when making new proposals for the use of data, AI and the further development of cross-border digital ecosystems in the EU.

A modern and responsible framework for the platform-economy

It is time to modernize the regulatory framework of the platform economy in order to ensure digital responsibility, better cross-border enforcement and to address emerging issues that are not dealt with under the current rules. In doing so, we should also tackle the increasing fragmentation of the regulatory framework for digital services that constitute barriers to scaling up within the Digital Single Market. A modernized framework for the European platform economy should maintain the essence of the e-Commerce Directive, namely the country of origin principle, which the European platform economy has benefitted immensely from. At the same time, we face an important and necessary discussion regarding liability regimes and the responsibilities of especially large and influential companies in handling data versus the possibilities for smaller companies to develop new business models and scale up across the Single Market. We should modernize the regulatory framework to find horizontal solutions that address the emerging issues in the platform economy, eradicates regulatory fragmentation through uniform application and enforcement of the notice and take down of illegal content across the EU while strengthening the competitiveness of the European platform economy.

Strengthening the European defence industry through competition

The development of a well-functioning and competitive Single European Defence Market, open also to SMEs, is crucial if the EU is to strengthen

the technological and industrial base that is able to deliver the defence capabilities that Europe needs. The European Defence Fund can be an important instrument in this regard - if the key principle of ensuring strong competition for all funds is adopted in its implementation and work programmes.

I hope these ideas will be useful for you in laying out the agenda for your important portfolio for the coming years and I look forward to working together with you to strengthen European competitiveness to the benefit of all Europeans.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Kollerup'. The signature is written in a cursive style with a large initial 'S' and a long, sweeping underline.

Simon Kollerup

Strengthening the Single Market through better implementation and enforcement

Proposal

New transposition and application tools are needed to ensure that current rules are transparent and uniformly implemented and complied with across Member States. Among these are:

- Templates and analyses to ensure transparent implementation: Drawing on the experiences in financial services, the use of implementation templates should be made obligatory on a trial basis to ensure that businesses have access to an overview of the specific areas where national rules differ from the adopted EU legislation. This should be supported by ongoing analyses on the differences in implementation across Member States which should be initiated by the Commission in order to increase knowhow and transparent implementation.
- A strengthened Single Market Scoreboard: The Single Market Scoreboard should be developed to promote enforcement and strengthen compliance in practice. The Commission is for example encouraged to broaden its scope to cover the qualitative implementation of legislation. Furthermore, the Single Market Scoreboard should reflect the developments in terms of national rules on goods and services by linking the Scoreboard with the number of notifications in the TRIS and IMI databases.
- Criteria for infringement procedures: Building on the principles set out in the Communication “EU law: Better results through better application”, the Commission should develop and apply a set of criteria as a basis for launching infringement procedures. These criteria should be used to ensure consistency in the detailed process of assessment and selection. The criteria should also indicate overall political and strategic priority areas of the Commission, including prioritisation of violations entailing distortion of competition.
- Single Market implementation reviews: With inspiration from the Environmental Implementation Review (EIR), the Commission should conduct implementation reviews on a regular basis of each Member State’s implementation of selected pieces of horizontal Single Market legislation. The aim should be in constructive dialogue with Member States to set out proposals on how to improve the implementation to strengthen the basic principles governing the Single Market. Inspiration may also be found in the better regulation method related to “neighbour checks”.
- Strengthening enforcement: Efficient and systematic efforts to enforce regulation are indispensable to the optimization of the entire policy process. It must be clear what determines policy outcomes – the rules or their actual application. In order to strengthen the Commission’s work in this area an institutional strengthening should be considered, e.g. by assigning a vice-president with responsibility for better regulation, implementation and enforcement. Explicitly highlighting implementation and enforcement as the responsibility of a vice-president would raise the political focus on this agenda and make it a central element in every new policy initiative.

Challenge

Diverse application of the EU-law increases administrative burdens and reduces legal certainty for businesses detrimental to cross border trade and investment security. Optimizing European businesses’ framework conditions, including legal certainty necessitates coherent and effective application of the rules governing the Single Market. A more transparent and uniform application of the Single Market acquis will

benefit especially SMEs that are disproportionately affected by diverse application of EU-rules due to their scarce resources and limited capacity to keep track of a complex and quickly changing legal environment.

Background

The enforcement and implementation agenda is a prominent priority in the current Commission. The launch of the compliance package, including e.g. the regulation on a Single Digital Gateway and an action plan for SOLVIT are important initiatives which aim at simplifying the life of businesses in practice. However, more can be done by building on existing mechanisms and applying these more systematically and with more transparency. Making the very basis of the Single Market function better is a precondition for developing the Single Market further.

Proposal

Data Ethics as Corporate Social Responsibility

The Commission should consider a revision of the directive as regards *disclosure of non-financial and diversity information by certain large undertakings and groups*. The revision should include provisions for certain large undertakings - to prepare a non-financial statement containing information relating to their data ethics policies as part of their annual management reports.

European Data Ethics Seal

The Commission should encourage the development of a European Data Ethics Seal by the relevant industry and standardization bodies. The seal should be awarded to companies, products and services that meet a pre-defined list of data ethical requirements e.g. companies or products that meet high standards for data security, companies or products that do not collect unnecessary data on the user, or companies or products that have been tested for bias etc. The European Data Ethics Seal could be a way to operationalize the Commission's idea of "ethics by design" and make it visible for consumers which companies, products and services to trust - and thus creating a market incentive for producers to become more data ethical.

Standards on AI Trustworthiness

The Commission should investigate the possibilities for promoting the use of technical standards on AI Trustworthiness in the European legislation. ISO/IEC and CEN/CENELEC as well as the IEEE are currently working on different aspects of standardization of AI and ethics/trust. The inherent agility of technical standards could create the necessary balance between long-term durability and short-term efficiency.

Challenge

Trust is the most important component in ensuring wide uptake of digital technology and solutions. It is thus of the utmost importance that the European Union succeeds in creating a legal and ethical framework that can ensure citizens' trust in the new technologies. Moreover, the responsible use of data has the potential to become a competitive advantage for European businesses in the competition with American and Chinese companies. In order to give EU businesses a first mover advantage, the EU should take concrete steps to strengthen data and AI ethics through transparency, and thus empowering consumers and businesses to choose products and solutions that are based on a responsible use of AI and data.

Background

Our ambition as a European community should be to break down national silos to ensure that the leading digital companies of the future will be European. EU has a very important global role in terms of promoting the responsible and ethical approach to data use. We are convinced that Europe not only could, but should lead the way for responsible use of data - and thereby potentially gain an invaluable competitive advantage on the global marketplace.

Digital-by-default and future-proof regulation

Proposal

To ensure that EU regulation is digital-by-default and future-proof, the Commission should introduce a set of principles on digital-by-default and future-proof regulation and initiate targeted measures at all stages of the legislative cycle to enforce these principles. These measures should have a two-fold purpose:

1. Enable digital administration to promote more user-friendly and efficient public services to businesses and citizens as well as to improve enforcement and prevent errors and fraud.
2. Provide a future-oriented regulatory framework to accommodate and enable businesses to innovate and apply new technologies and business models.

The set of principles could be the following six: 1) Simple and clear rules, 2) Accommodate new business models and technology-neutrality, 3) Digital communication, 4) Automated digital case processing, 5) Coherence and consistency across regulation and authorities - uniform concepts and reuse of data, 6) Improving enforcement and preventing errors and fraud. Needless to say, safe and secure data handling is a fundamental precondition that should accompany these efforts. See annex 1 for a description of the principles.

It is vital to ensure that the principles on digital-by-default and future-proof regulation are considered by the relevant Directorate-General in the early drafting stages of a proposal and in relation to the impact assessments. The implementation of the following procedures will ensure proper enforcement of the principles. An early screening could determine whether the principles are relevant and, if that is the case, whether they have been followed. The existing better regulation structure within the Secretariat-General could carry out the screening drawing on the expertise from relevant units in DG CONNECT and DG DIGIT. Measures later in the legislative process can also be considered - such as ex-ante digital-by-default and future-proof checks by the Regulatory Scrutiny Board. Finally, ex-ante and ex-post evaluations such as user journeys, user-friendliness tests and REFIT-activities can evaluate whether regulation has been meaningfully translated into user-friendly digital solutions and identify ways of making regulation more future-oriented and fit for the digital age.

Challenge

The accelerating digital transformation of businesses and society poses both new opportunities and challenges for EU regulation. EU regulation needs to be fit for the digital reality of businesses and citizens, enable user-friendly digital solutions and promote innovation, including new technologies and business models. Digital-by-default and future-proof regulation is a precondition for a well-functioning Digital Single Market, which is both genuinely *digital* by promoting innovation, new technologies and business models and *single* by enabling more seamless, efficient and user-friendly national and European digital public services that reduce burdens for businesses and citizens operating across the EU. This is an opportunity to improve public services and provide European businesses with the competitive edge which is crucial for succeeding in the fast-moving global digital economy.

Background

Existing and new regulation is often not designed to accommodate the way in which new technologies and business models can create new value for businesses and society. We still see proposals that are not suited

to the current digital reality of businesses or are difficult to digitalise and automatise by public authorities. The Commission has already included a “Research and Innovation Tool” and a “Digital Check” in its Better Regulation Toolbox. These are steps in the right direction, but there is a need to step up these efforts by placing principles on digital-by-default and future-proof regulation at the heart of the Commission’s better regulation machinery. This will ensure that EU regulation is suited to the digital reality, reduces unnecessary burdens and enhances well-functioning national and European digital public services for the benefit of businesses, citizens and the authorities themselves. We stand ready to engage in dialogue with the Commission to develop such measures as we have introduced similar measures at national level.

Annex 1: Principles for digital-by-default and future-proof regulation

To ensure that EU regulation is digital-by-default and future-proof, the Commission should introduce a set of principles on digital-by-default and future-proof regulation and initiate targeted measures at all stages of the legislative cycle to enforce these principles. These measures should have a two-fold purpose:

- I. Enable digital administration to promote more user-friendly and efficient public services to businesses and citizens as well as to improve enforcement and prevent errors and fraud.
- II. Provide a future-oriented regulatory framework to accommodate and enable businesses to innovate and apply new technologies and business models.

Needless to say, safe and secure data handling is a fundamental precondition that should accompany these efforts.

Principles

The following principles should be promoted at EU-level:

1. Simple and clear rules

Simple and clear rules are easy to administer and contribute to more uniform administration and digital support. If the legislation is unclear or complex with many exceptions, requirements, schemes or discretion it can be difficult to administer - also digitally. Legislation should focus on the main objectives while detailed specifications should be handled in delegated or implementing acts which will enable easier and continuous updating of the legislation.

2. Accommodate new business models and technology-neutrality

The legislation should foster innovation by accommodating emerging and new business models and promoting the use of experiments and sandboxing. It must also be technology-neutral to ensure that it does not regulate the use of technology which will subsequently become obsolete

3. Digital communication

The legislation must support user-friendly digital communication between citizens and businesses and the public sector. For citizens who cannot use digital solutions, other solutions must still be offered.

4. Automated digital case processing

The legislation should underpin fully or partly automated digital case processing. As a general rule, the legislation should apply objective criteria, clear and unambiguous definitions and common concepts rather than special concepts. The goal is to enable automation by using objective criteria when it makes sense and to ensure that it is still possible to exercise discretion in cases where it is professionally relevant.

5. Coherence and consistency across regulation and authorities - uniform concepts and reuse of data

Legislation should be coherent across policy silos in order to prevent fragmentation and regulatory uncertainty. Concepts and data must be reused across regulation and authorities to promote efficiency and coherence to thereby reduce burdens for both authorities, citizens and businesses. If data already exists that supports the concepts of the legislation, the legislation should reuse these or consider whether other similar concepts may be used for data that is already available.

6. Improving enforcement and preventing errors and fraud

The legislation must be worded to permit effective IT application and data-driven solutions and tools to ensure better compliance and enforcement through risk-based control. Such solutions can improve the combatting of fraud or reduce errors considerably.

A Competitive, Sustainable and Fair Single Market

The Single Market is a unique asset in the European cooperation connecting 500 million consumers with 26 million businesses. Over the last 25 years, timely and ambitious steps have resulted in the Single Market becoming a vital source of economic growth in all EU Member States providing for more than 56 million jobs across the EU. However, in an ever-changing environment where well-known challenges of climate change, unfair market practices, and digital transformation are imminent, and where new cross border challenges keep arising, new and targeted measures are needed to bolster and future-proof EU's global competitiveness. To this end, the EU should agree on a holistic EU Sustainable Growth Agenda where efforts towards a climate-neutral economy goes hand in hand with measures promoting a competitive, integrated and fair Single Market effectively combating fraud and circumvention of the common rules in support of growth, employment and consumer interests.

In line with the European Council conclusions of March 2019 and the Council Conclusions on the Single Market, Denmark outlines the following vision for a competitive, sustainable, and fair Single Market:

- **Becoming a competitive climate-neutral economy.** The transition to a climate neutral economy will broaden the realm of growth policies by giving rise to new business models based on climate neutral, circular, and digital solutions. Such innovation and job opportunities should be exploited to the fullest to increase European competitiveness while bringing environmental benefits to EU citizens. To this end, a clear political direction should be formulated with an emphasis on cost-effective and market-based measures that encourage businesses to invest in renewable energy sources, new infrastructures, and in research and development, allowing for the technological breakthroughs needed for European businesses to become climate neutral while remaining competitive on a global scale. Such investments should be sustainable and responsible, taking into account ethical, social, and management issues, including amongst other things human rights and labor rights.
- **Preserving EU leadership in clean tech solutions.** Tomorrow's industry will depend even more on a better use of new digital technologies allowing for more efficient manufacturing and new smarter products intended to strengthen consumer convenience and safety. To this end, businesses should have access to a non-fragmented, futureproof and innovative Digital Single Market underpinned by a safe, secure and responsible European platform and data economy. The further development of the European data economy should focus on making the responsible and ethical use of data a competitive edge for European businesses by amongst other placing the issue center stage in the Commission's work on artificial intelligence. Furthermore, it is important to promote the availability and use of data in the EU, which is central to the development of innovative solutions supporting the green transitioning such as data within the area of utilities, mobility, environment and the food sector, taking into account security and the General Data Protection Regulation.
- **A strengthened focus on resource efficiency and circular economy.** The EU needs to exploit the business opportunities resulting from the transition to a more sustainable, resource efficient and climate neutral economy. Policies need to provide the necessary coherence, consistency and certainty, creating incentives for a company's transition to a circular economy. To this end, a strategy for circular economy should be developed with a particular focus on how digitalization and artificial intelligence can support circular

solutions and business models. Such strategy should be underpinned by a comprehensive action plan for a transition to a circular and climate neutral European industry.

- **An action plan for a sustainable and competitive European retail sector.** The further development of the European retail sector should be linked to the EU's new sustainable growth agenda and the path towards a climate-neutral economy. To this end, the Commission should develop an action plan for a more sustainable retail sector including through circular economy and reductions of greenhouse gas emissions from European retailers and their supply chains. Such a plan should aim to further incentivize the sector's focus on sustainability and commitment to manage environmental impacts. The plan could include initiatives to reduce the sector's use resources in general, for example the use of plastics while promoting the use of recyclable packaging as well as to reduce the use throughout the whole value chain through actions in the retail sector. Such efforts should be conducted in accordance with existing initiatives at EU level, in particular the work of the Circular Plastic Alliance. Furthermore, the plan should address the need for electrification in order to integrate more renewable energy, improving the energy efficiency and recycling in the sector's production mode and supply chain.
- **Ensuring a fair and well-functioning Single Market through uniform implementation and effective enforcement.** An effective implementation and enforcement of Single Market legislation is a key component towards making the Single Market fairer and more beneficial for law-abiding businesses, consumers and workers. By streamlining enforcement efforts and effectively combating deliberate attempts to circumvent and abuse Single Market legislation, the incentive to abide by the Single Market rulebook will rise, leading to greater trust and legal certainty essential for upholding consumer protection and workers' rights and safety in the Single Market. To this end, the EU needs a firm and ambitious long-term action plan for better implementation and enforcement of Single Market rules, containing concrete initiatives on how to improve the uniform implementation, application and enforcement of our common rules governing the Single Market. For instance can the new European Labour Authority ELA play a key role in the enforcement of relevant Union law. A stronger focus on effective enforcement will allow businesses to rely on the same compliance set-up based on the same sets of rules when expanding their businesses across the EU thus reducing businesses' compliance costs leading to greater competition through a greater variety of quality goods and services to lower prices. The Single Market should be continuously adjusted to support the transition to a climate neutral economy in the EU by 2050 at the latest.
- **Effective and sustainable capital markets.** Developing open, transparent and globally competitive European capital markets is key for European businesses' possibility to invest in and finance e.g. the transition to climate neutral productions and value chains. The European capital markets should continue to develop towards securing a leading position for the EU in promoting sustainable and responsible investments, enabling the financial sector to support sustainable growth. At the same time, the effectiveness of the European capital markets could be increased by facilitating access to cross-border investments, thereby creating real value and tangible improvements for investors and businesses.
- **Strengthening efforts against fraud and financial crime.** It is paramount to create a level playing field in the Single Market where both law-abiding businesses and frauds have confidence in the rules being upheld and crimes being punished. Crimes or deliberate circumvention of EU law undermines the trust and confidence in the Single Market detrimental to both growth and welfare. The EU should therefore continue its fight against

cross border incidents of money laundering and tax fraud. Amongst other initiatives, the next steps could be to investigate the possibility to allocate special competences to an EU-body to fight money laundering and create a Single Rule Book throughout the EU by transforming parts of the anti-money laundering directive to a regulation. The EU should also assist/support the financial sector in building a common infrastructure that can strengthen customer due diligence processes with respect to legal certainty for individual customers.

- **Providing tools for overcoming increasing complexity and legal fragmentation.** The level of complexity and legal fragmentation in the rules governing the Single Market is on the rise. When EU-legislation fails to create common ground across Member States and break down barriers and new national, technical regulations are being adopted, businesses' burden of compliance increases. To overcome the increasing complexity and legal fragmentation especially in the digital economy, more focus should be devoted to ensuring clear, simple and coherent rules providing for legal certainty. Businesses should have easy access to tailor-made information regarding the rules they have to comply with when scaling across borders within the Single Market. A better national dissemination of rights and obligations for businesses could furthermore have a positive impact on businesses' compliance with EU-law.
- **Regulation that is digital-by-default and future-proof.** A continued strong better regulation agenda is essential to simplify legislation and reduce unnecessary burdens for businesses. European regulation needs to become more innovation-friendly and forward-looking to allow businesses to test, develop, and apply new business models. For Member States to support businesses' transformation and greater use of digital solutions, it is important that EU-legislation enable digital administration relying on state-of-the-art technology, reuse of relevant data and standards. To this end, the EU should ensure that digitization, interoperability and automatization are comprehensively considered in every step of the adoption of EU-legislation where relevant. Amongst other a set of principles on digital-by-default and future-proof regulation could be introduced and enforced at all stages of the legislative cycle.