

EUROPEAN ECONOMIC AREA

STANDING COMMITTEE OF THE EFTA STATES

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EEA EFTA Comment

on the forthcoming Internal Market Strategy for Goods and Services

1. The EEA EFTA States refer to the European Commission Work Programme 2015, in particular the forthcoming Internal Market Strategy for Goods and Services.
2. The EEA EFTA States emphasise our commitment to a well-functioning Single Market as a key driver in boosting economic growth and jobs throughout Europe. We share the view that societal challenges for consumers and workers arising *inter alia* from labour mobility and the digitalisation of society and the economy must be assessed in an Internal Market context. Therefore, the EEA EFTA States also welcome the new strategy for a Digital Single Market launched in May 2015 and look forward to the announced new strategy for Labour Mobility expected later this year. It must be underlined, however, that a holistic approach may be needed to tackle some challenges to the Internal Market, as the division between online/offline can sometimes be artificial.
3. In regulating the Internal Market, unnecessary administrative and regulatory burdens should be avoided, without weakening standards in areas such as health, environment, consumer protection and food safety. The EEA EFTA States support the efforts to identify and examine unjustified or disproportionate regulatory and non-regulatory restrictions. Special attention should be paid to sectors that are important for EEA competitiveness and cross-border trade and where the gains for growth will be worthwhile. To this extent the EEA EFTA States welcome the increased emphasis on Better Regulation and the REFIT Programme.
4. With regard to the Internal Market Strategy for Goods and Services, we have the following suggestions and ideas which we believe should be taken into account by the Commission.

Services

5. The EEA EFTA States are of the opinion that further harmonisation at EU level is not the preferred option at this stage. Instead, emphasis should be put on better application of existing tools and principles, including those that have proven to work in the goods

area. Based on this approach, we propose that the following elements be included in the strategy:

6. **Improve the notification procedure for national legislation/rules applicable to services, (cf. Articles 15(7) and 39(5) of the Services Directive).** The EEA EFTA States encourage further discussions on how to improve the notification procedure for services. The experience gained in the field of goods could serve as a basis for such discussions. This is a necessary action as an alternative to creating harmonised rules at EU level, and will contribute to avoiding new unjustified barriers to trade in services being created at national level. Possible changes in the notification procedure need to be followed up by further guidelines on what should be notified, as well as further guidelines on the application of the proportionality principle.
7. **Ensure uniform application of the proportionality principle.** One of the challenges of the Services Directive has been the application of the proportionality principle at national level when assessing the need for new legislation. There are differences in this regard throughout the EEA. In order to ensure conformity and thereby contribute to the better functioning of the Internal Market for Services, we invite the Commission to give further guidance on this matter.
8. **Consider to what extent the principle of mutual recognition can be applied to services within the scope of the Services Directive.** The application of this principle in the services area raises some specific challenges compared to the goods area. The content of a specific service may differ from country to country, according to national legislation. Furthermore, legal requirements applicable to services may relate not only to the service as such, but also to the service provider. We therefore need to assess whether the principle of mutual recognition can be applied (i) to all or only some services, (ii) to all or only some aspects of the services provided, and (iii) to all or only some requirements that the service *providers* are obliged to fulfil.
9. **Consider IMI as a tool for cooperation between competent authorities to facilitate the application of the principle among EEA States.** The Internal Market Information System (IMI) has already proven to be a useful tool for cross-border cooperation between authorities in several areas.
10. **Continue to support the development of European standards, also in the services sector.** Market-relevant standards will contribute to cross-border trade in services by increasing confidence and transparency for consumers and service providers. We support the horizontal approach in defining common aspects of services suitable for standardisation.
11. **Use the knowledge gathered about construction, retail and business services to enforce the implementation of the Services Directive.** The Commission has gathered a lot of information on the state of play of the Internal Market within these sectors. The time has come to make use of this knowledge.
12. **Consider the need for harmonised legislation if the above instruments and actions prove not to reduce the current barriers to trade in services in the EEA.** We need to create a functional Internal Market for Services to boost growth and jobs. We should not *a priori* exclude alternative instruments to reach this goal. Therefore, we should not

completely exclude that harmonisation may be needed in some sectors covered by the Services Directive, if the instruments proposed above do not deliver as expected. Thorough impact assessment is needed to determine the nature and scope of such legislation.

Goods

13. The Internal Market for Goods is very advanced, but there is still room for improvement. Correct transposition and application of the rules at national level are paramount. Furthermore, even small improvements may be important in total, because of the volume of trade in this area. The EEA EFTA States support the following actions:
14. **Increase awareness and knowledge about the principle of mutual recognition among national authorities and businesses through education.** Taking into account all thinkable requirements that national legislation may impose on products, practically no products are fully harmonised at EEA level. Despite a high level of harmonisation of legislation in the goods area, the principle of mutual recognition is important and its application needs to be further improved at national level. The EEA EFTA States experience a lack of awareness and knowledge about this among both authorities and businesses. Awareness must therefore be raised with regard to mutual recognition of products legally marketed in one Member State and exported to another Member State. This would include intensive awareness raising among all stakeholders of Regulation (EC) No 764/2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State. Furthermore, there is a need for a strategy on how to remedy this situation, for example by including education on this principle in relevant curricula, administrative practices and in information to market surveillance authorities.
15. **Elaborate guidelines for market surveillance authorities on how to react when economic operators fail to comply with EEA law.** Harmonisation of sanctions is not the way forward. It should be left to national governments to decide the **level** of penalties. We do, however, see the need for a better and uniform understanding of how market surveillance authorities should react when faced with a formal non-compliant product, even if this product does not necessarily represent a serious risk.

Goods and services

16. **Conduct a study to identify possible barriers to trade when goods are accompanied by services.** Many products are sold with different kinds of services included, e.g. assembly, maintenance and follow-up support. Furthermore, imported business-to-business services may constitute an important input into the manufacturing of goods. We need to assess whether barriers to trade in services have a negative impact on trade in goods.
17. **Ensure a holistic approach in the impact assessment of new legislation for products and services.** New EU legislation must reflect the increasing integration of the goods and services markets.
18. **Establish a Single Digital Gateway.** There are several useful tools to help both stakeholders and authorities within the EEA. There are two main common challenges

that need to be met in order to fully release the potential of these tools: streamlining of these tools across the EEA and ensuring that potential users can easily find, access and use these tools in their everyday work. We support the idea of making a Single Digital Gateway for all the points of single contact, information points and helpdesks (*cf.* A Digital Single Market Strategy for Europe).

19. **Monitor voluntary certification and marking schemes for goods and services operating at national level. Take necessary actions if appropriate.** Such schemes, although voluntary at the outset, may for different reasons become *de facto* mandatory in specific sectors. In some cases certification schemes may operate in a way that is inconsistent with EU law, e.g. with regard to CE marking. As there is no harmonised law for services falling under the scope of the Services Directive, and there are few European standards developed, there is a risk that the number of national certification schemes for services, supported by national standards for services, will flourish.
20. **Initiate a discussion with EEA States on the actions or initiatives needed to meet new challenges within the Internal Market.** To remain competitive, European enterprises should not be hindered by unnecessary legislation when developing innovative products and services. The role of EU and national authorities should be to ensure that businesses can benefit from new technological developments and new business models such as the sharing economy and 3D printing, and to ensure a high level of consumer protection. A discussion with the EEA States is needed to identify possible challenges and appropriate actions at European level.

Public procurement

21. **Further simplification of public procurement rules.** Although the new directives increase flexibility and introduce simplifying measures, the EEA EFTA States are still concerned about the complexity of the directives for both contracting authorities and economic operators. Overly complex rules can lead to costly procedures for both parties and too much focus being put on the purchasing procedures compared to the contract product or the service. They also lead to a high risk of litigation. We therefore urge the Commission, in line with its strategy for “Better Regulation”, not to introduce new elements that may increase the complexity of the legislation on public procurement and introduce additional administrative burdens for contracting authorities and economic operators.
22. **Further digitalisation of public procurement procedures.** We believe that digitalisation is central to achieving greater simplification in practice for public authorities and economic operators within the field of public procurement. Significant efforts have been made to boost digitalisation, both at EU and national level. The EEA EFTA States would welcome further measures in this respect in the strategy.