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CEMR

Response to the Consultation on the
Communication

Towards a Single Market Act

Brussels, February 2011

Conseil des Communes et Régions d'Europe • Council of European Municipalities and Regions

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Towards a Single Market Act

For a highly competitive social market economy

50 proposals for improving our work, business and exchanges with one another

Communication from the Commission

COM(2010) 608 final

CEMR Key points

1. The Single Market is not an end in itself, but a tool for implementing other policies. As such, it contributes to the creation of a European competitive **social market economy**, an objective of the EU Treaty, and to achieve the Europe 2020 Strategy.
2. However, the **different cultures, traditions and values** in the Member States need to be taken into account in the further development: Imposing a uniform economic and social model could lead to lack of support for EU interventions.
3. The **principle of local and regional self-government**, explicitly recognised in the Lisbon Treaty as well as the principles of subsidiarity and proportionality are not sufficiently taken into consideration in the Communication.
4. High **quality and accessible services** of general interest are crucial for local communities and the provision of local and regional public services is important for territorial **cohesion**;
5. The announced Commission proposals for public services should consist of pragmatic and appropriate solutions, being **reasonable and proportionate** for local and regional authorities.
6. It is necessary to **ease the regulatory framework** in the area of public procurement and to reduce the administrative and legal burden for public authorities.
7. In relation to State aid and public procurement, the European Commission has followed a rather market-focused approach, which needs to be **balanced and fair** for private and public actors.
8. In addition to consultation procedures, the Commission could enhance a **dialogue** with local and regional authorities and other relevant stakeholders that have to enforce EU legislation.

General comments

1. CEMR welcomes that the European Commission launches a broad **consultation** on the Single Market Act before proposing a number of initiatives and actions. The 50 initiatives are an impressive amount, and in following up the consultation, the Commission should prioritise the actions and propose timelines for their realisation.
2. The Communication follows up **Mario Monti's report**, who had presented a very thoughtful assessment of the Single Market, also addressing critical aspects and challenges for the European Union.
3. We appreciate that the Communication confirms Mr Monti's statement that the **Single Market is not an end** in itself, but a tool for implementing other policies. We agree in particular with the first part of the statement. However, when reading the Communication, one rather gets the impression that the Single Market is the aim and other policies the tool.
4. We believe that the **different cultures, traditions and values** in the Member States should be respected and taken into account when further developing the 'highly competitive social market economy, aiming at full employment and social progress' (article 3 TEU). Imposing a uniform economic and social model could lead to lack of support for EU interventions.
5. With more countries to join the European Union and an increasing **diversity**, the concept of the Single Market may need to be reviewed, aiming at general principles, output-oriented results and less detailed centralised regulation.
6. We understand the European Commission's role as guardian of the application of the EU Treaties and legislation, which includes the control of Internal Market distortions to trade with protectionist measures. This does, on the other hand, not provide sufficient grounds for blanket rules over how to organise **public services locally** that serve mainly the local population.
7. The Commission links the Communication with the **Citizenship Report** and CEMR agrees that the Single Market should be to the advantage of the citizens. CEMR will address this question during its Conference in September on "Active Citizenship" in Rybnik, in the framework of the Polish Presidency.
8. For the citizens, the **social dimension** of the Single Market is relevant and the European Commission needs to better explain how to implement article 9 of the Lisbon Treaty, requiring assessments of new EU initiatives on their impact on employment, social protection, social exclusion, education and training, etc. In these areas, local and regional governments are directly concerned and play a crucial role.
9. It is also necessary to take a **differenciated approach** in areas where there are sometimes conflicting interests; waste, for example, is becoming increasingly a good to be dealt on the market. The European Union's added value mainly consists in setting common standards in

order to avoid fragmentation of the European market for the relevant fractions. However, the proximity principle as an important element in the waste management, promotes the treatment of the waste close to its production and for sustainability reasons, we believe that the environmental considerations should prevail.

10. We understand that the **Europe 2020 Strategy** provides political priorities for the European Union, but we wish to highlight that the Single Market has further objectives, embedded in the Lisbon Treaty, to contribute to economic growth, development, economic, social and territorial cohesion, etc. The priorities of the Single Market Act should better reflect how they contribute to their achievement.
11. Local and regional public services play an important role for territorial **cohesion**, which is not sufficiently recognised in the Communication. Local and regional authorities are drivers of cohesion and therefore their economic potential should be better taken into account in the further development of the Internal Market.
12. High quality and accessible services of general interest are crucial for economic survival, quality of life and the stability of local communities. Therefore, we wish to highlight that the benefits of the Single Market need to be better spread to the territories.
13. We appreciate the reference to **local and regional authorities** and the recognition that many aspects of the Act fall within the scope of their powers. In the dialogue with stakeholders that the Commission proposes, CEMR and its members wish to participate and play a constructive role. The Commission could enhance the **dialogue** with local and regional authorities as well as with other stakeholders, that have to enforce EU legislation.
14. The Single Market Act should acknowledge the EEA Agreement and include a reference that the Single Market consists of the European Union and the three EEA countries.
15. CEMR as the European umbrella organisation of local and regional government wishes to express its view mainly on the proposals concerning public services and public procurement.

The further development of the Single Market and the provision of local and regional services of general interest

16. The Communication is still rather vague when it comes to **public services** and services of general interest and we hope that this is an indication that the debate is ongoing and the Commission willing to discuss how to further proceed.
17. CEMR believes that the **principle of local and regional self-government**, explicitly recognised in the Lisbon Treaty (Art. 4 TEU) and the protocol on services of general interest as well as the principles of subsidiarity and proportionality and the related protocol (art. 5 TEU) are not sufficiently taken into consideration in the Communication.

18. We understand that the Commission will soon provide further proposals and clarification in its Communication on SGEIs¹ and call on the Commission to propose pragmatic and appropriate solutions with the announced initiatives on SGIs and Public Procurement.
19. We do not question the concept of the internal market as long as it benefits the citizens, public authorities and private sector, but the efforts to take to achieve them must be **reasonable and proportionate** and the benefits need to be **balanced and fair**.
20. CEMR observes that in the past years, the European Commission has increasingly issued detailed **technical provisions and interpretations** on the application of internal market rules on local and regional services of general interest which have serious impact on local and regional government.
21. This has led to **micro-management** and individual responses from the Commission on single cases, which we consider not being the appropriate form of implementing and applying EU legislation.
22. We understand that the Commission engages in **cutting red tape** in particular for small and medium-sized enterprises and the Small Business Act includes some concrete measures to achieve this objective. However, CEMR calls for a similar initiative for public authorities that are experiencing increasing administrative burden, issued at European level.
23. Uncertainties mainly concern **State aid and public procurement**, where we have the impression that the Commission has been rather overly market-focused without really trying to understand the specificities of local and regional authorities and the conditions how they organise their services.
24. A worrying example was the European Commission's decision, based on State aid legislation, on social housing in the Netherlands, which had a serious influence on the organisation of a local service of general interest². The Commission ruled not only on the funding but also on the accessibility to **social housing**. However, we believe that the latter is not a question to be addressed on EU level and on State aid rules, but with respect of articles 4 and 5 TEU, it should be left to the appropriate level, respecting the principles of **subsidiarity and proportionality**.
25. The announced '**tool-kit**', aiming at providing assistance to public authorities and explaining how the European Commission interprets the SGI Protocol Provisions (and following up the Communications from 2007) cannot replace a political debate and decision on the relevant questions.
26. The possibility to extend the **universal service obligations** to other areas, as proposed by the European Commission, necessitates further clarification to which services the concept could be extended. Broadband services, for example, should be included into the Universal Service

¹ on Article 14 on Services of General Economic Interest, the Protocol on SGIs, Article 36 of the Charter on Fundamental Rights of the EU on Access to Services of General Economic Interest

² Case E 2/2005

Obligation concept, but for other services, the concept may not be appropriate. In any case, the provisions of the Protocol on SGIs to the Lisbon Treaty need to be taken into account.

27. CEMR welcomes the assessment of the European **public procurement legislation** and the announcement that the Commission will make legislative proposals in 2010 (proposal 17). We have expressed our view last year in our policy paper on 'over-reliance on public procurement as a policy instrument'³. Our comments will serve as the basis of our contributions to the further debate on the modernisation of the public procurement legislation.
28. We support Mario Monti's view that the Commission should align the procurement rules with the rules on compensation in order to ensure a consistent approach concerning small services of general economic interest.
29. As far as a legislative initiative on **services concessions** is concerned, CEMR has responded to the Commission's consultation in 2010⁴, expressing its reservation towards a legal framework and favours – if the Commission will propose legislation - a 'light' version, as explained in our response.
30. We await the Commission's Communication and series of measures on services of general interest (proposal 25) and hope that our view, as expressed in our "European Charter on local and regional services of general interest"⁵ will be taken into account.
31. We welcome the Commission's willingness to **increase consultation** with local authorities in the consultations prior to the adoption of proposals and in particular with regard to the work of expert groups.
32. CEMR regrets that local and regional authorities are not represented in the relevant **expert groups** of the European Commission (e.g. on public procurement). We have addressed this issue several times to the Commission, but never received a satisfactory response.
33. CEMR wishes to emphasise that it will continue to contribute in a constructive manner and on the basis of the experiences of its members to the further development of the Single Market, and in particular on the organisation and financing of the services of general interest.

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³ http://www.ccre.org/docs/public_procurement_cemr_key_points_en.pdf

⁴ http://www.ccre.org/prises_de_positions_detail_en.htm?ID=112

⁵ http://www.ccre.org/docs/charter_sgi_en.pdf