



## House of Lords Select Committee on the European Union (Sub-Committee B)

### Inquiry into Re-launching the Single Market

#### Oral and associated written evidence

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**Professor Mario Monti**

**Oral evidence, 27 July 2010, Q 1–21**

*Evidence session no 1 : heard in public*

Members present

Bradshaw, L  
Clinton-Davis, L  
O’Cathain, B (Chairman)  
Paul, L  
Plumb, L  
Rowe-Beddoe, L  
Ryder of Wensum, L  
Walpole, L

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Bowness, L  
Inglewood, L  
Roper, L  
Young of Hornsey, B

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**Examination of Witness**

**Professor Mario Monti**

**Chairman:** My Lords, we are very grateful to Professor Monti. Thank you very much for coming here at very short notice. The public session of this Committee is about to start and it is going to be webcast, a full transcript will be taken and you can have a copy of the transcript within a few days and then it can be amended in terms of mistakes. The first member of this Committee to ask a question will be Lord Plumb, and I believe you are old friends.

**Lord Plumb:** A very warm welcome to this Committee. We are here to scrutinise legislation as it comes forward from Europe and we occasionally feel that some of it has bypassed us and we have not had the opportunity that we would have liked to have had, but we have your report before us which, for those of us who have been able to read it or dip into it, is very interesting reading indeed, and it takes me back a few years of history to the days when we got extremely excited about the single market and, even as you note in your report, Mrs Thatcher said then, “What we need are strengths which we can only find together and we must have the full benefit of a single market”. In this, therefore, the first thing I spotted was the Commission letter from the President of the Commission, President Barroso, and he made that very point, which I think comes in the first question, where he says, “The recent crisis has shown that there remains a strong temptation, particularly when

times are hard, to roll back the single market and seek refuge in forms of economic nationalism”, so the three areas that I think he refers to there, in particular, are nationalism, the possibility of further state aid control and of course the important issue of public opinion on the single market as a whole, particularly in terms of the 27 countries now which are part of this question of how the single market can be created, so I think we are delighted to know that there is a rethinking of that single market which is there set out in your report. I think the question we really ask is whether the current economic environment requires that rethinking of the single market and, if so, how, and how can we restore confidence in the market which is all-important of course in terms of taking the general public with us in terms of development, knowing that many people will say yes in terms of trade, but not in terms of policy.

**QI Chairman:** Professor Monti, I realise that I should have asked you if you wanted to say a few words beforehand to introduce your own report, and I am sorry, Lord Plumb, so would you like to have a few words first before you actually answer Lord Plumb’s question.

**Professor Monti:** Thank you very much, my Lord Chairman. My Lords, it is a great honour for me to be at the House of Lords and to be here before this Sub-Committee within the EU Select Committee. I remember with great pleasure the years when I was European Commissioner and I had the opportunity of several interactions with your Sub-Committee and the broader Committee. As a matter of fact, I would say very few introductory words which link very closely to the broad question asked by Lord Plumb, whom I wish to thank very much for allowing me to go back as well to several years ago. Your question, my Lord, is: does the current economic environment require a rethinking of the single market? I would say yes, for sure, but everything, to be frank, we definitely needed already a few years before. My own analysis that is set out in this report for President Barroso is that the phenomenon of integration fatigue was there and quite visible well before the financial and economic crisis. Let me just give you three elements of evidence for that: one, the Takeover Directive, which was such a painful legislative process in the EU, leading to such a minimalistic output, not really creating a single market for corporate control, as was the intention; the second piece of evidence is the Services Directive, also very troublesome in terms of consensus and falling short of the ambition that many had about it; and the third piece of evidence is the French and Dutch referenda in 2005 which were nominally on the new Constitutional Treaty, but largely debated in terms of the freedoms of the single market, and just think of the Polish plumber syndromes. Then came the financial and economic crisis which, in my terminology, added a market fatigue on top of the pre-existing integration fatigue because of course the intellectual, political and public opinion authority on the market model was, at least for a while, a bit eroded. If we think that the ‘single market’ is an adjective and a noun, the adjective ‘single’ has been somewhat vulnerated by integration fatigue and the noun ‘market’ has been somewhat vulnerated by the crisis, so for sure, my Lord, a rethinking is necessary. In my view, and this is the gist of the new strategy that I propose, as I said to President Barroso, I believe I will not produce a report just containing a list of recommendations for things to be done to improve and complete the single market. We have had many such reports in the past, my Lord Chairman. What I said to President Barroso is that I want to try and understand what are the reasons why things recommended many times were not adopted or, if adopted, in many cases were not actually implemented. This is why I conducted the six-month-long consultation with the European Parliament, with the national governments and with the stakeholders across Member States to try and understand these concerns, and I, as you may have seen in the report, produce a sort of a map of the concerns by areas, by stakeholders and also by clusters of Member States because the concerns in the, let us say broadly speaking, Anglo-Saxon Member States are

different from the concerns in the social market economies of continental Europe or the concerns of the new Member States and so on and so forth. I proposed that this rethinking of the single market be cast in terms of how to find some sort of new agreement or new compromise on how to relaunch the single market, which is more necessary than ever, in my view, at a time when it is most unpopular, remember, so this is obviously not a 'business as usual' situation if we believe that we must foster something that is more needed than ever at a time when it is particularly unpopular. Let me just say that it is more needed than ever, in my view, not only because it is a largely incomplete, but nevertheless fundamental, pillar of the whole edifice of European integration, but also for accommodation reasons. One of them pertains only to the eurozone Member States and the other one pertains to the whole 27. The one for the eurozone Member States is that we always thought that 'EMU' meant 'economic and monetary union' and that there should have been a very solid bedrock of an economic union on which the single currency would be, so to say, the cherry on the cake, but we had to admit that many Member States of the eurozone fall short in terms of embracing market competition compliance with the single market rules and so on and so forth, fall short of several non-eurozone Member States, like the UK, Denmark, Sweden, all the new Member States, and we know that, for a currency area to be optimal, there has to be a very flexible single market in that single currency area with free movement of resources, labour and others, et cetera. It can be said, therefore, that the stability of the euro in the long term as well as for the performance of the eurozone, strengthening the single market basis of the eurozone is fundamental. Let me just as a footnote say that, to the extent that the UK is going to take or to take again a political leadership in the single market project in the next few years, it will be able to plainly say the truth, namely that that is in the interests of the 27, but more particularly in the interests of the 16 Member States of the eurozone. If we move to the 27, a powerful argument of economic growth comes in support of moving much further in terms of the single market. Rightly or wrongly, most Member States within or outside of the eurozone will be engaging in fiscal consolidation in the next few years. This may not in itself lead to a recession, Ricardo effects and other things, but in itself is not likely to be an expansionary effect, so where can European growth come from in the next few years? Not from budgetary stimuli for sure, and little is left other than a powerful supply-side policy which would extract from the economy of the 27 more economies of scale, more efficiencies, more competitiveness which badly requires a better-functioning single market, extending to the service area, extending to the digital economy, et cetera, et cetera. My last word is that, to make the single market, which is more necessary than ever for everybody, move forward while it is so unpopular, we can no longer say just dogmatically, "The single market is good for you", but we have to identify the various categories of stakeholders and of Member States who do not have that conviction 100 per cent and should try to address the specific concerns, not of course giving in so much that the logic and the benefits of the single market are given up, but some compromise may well be worthwhile, in my view, to foster the construction. These words are coming, if I may say so, from somebody who has always derived intellectual inspiration, as Single Market and Competition Commissioner, from the UK approach to the economy and from somebody who has put the construction and enforcement of the single market and competition at the top of the list of the priorities, but in the longer term of these things I believe that a less dogmatic attitude and a broader political vision of what is needed may be healthy also for the UK, and maybe we will have a chance to say a few more things about the UK later on. Of course, I will be much shorter in my subsequent answers, but this was the answer to Lord Plumb as well as my opening remarks.

**Chairman:** Thank you.

**Q2 Lord Bradshaw:** Professor Monti, thank you very much for that, and I am building really on what you said because the Lisbon Treaty spoke of a highly competitive social market economy. My question is really: can the progress you have described to us be achieved in spite of the social concerns which certainly worry a lot of people?

**Professor Monti:** My Lord Chairman, my Lords, the answer has to be yes and I believe the answer can be yes, but that 'yes' will not come automatically. The single market is characterised by a high number of bottlenecks and missing links. Behind each of them is not a natural difficulty, but a set of specific economic, social and political interests. The construction of the single market requires policy, willingness and determination and simply requires that the forces in favour of shifting the frontier forwards of making this or that sector more competitive and integrated overcome the resistance which tries to prevent that from happening. Normally, it is rent-seekers who obviously do not like to give up their rents and it is politicians protecting those rent-seekers, and those rent-seekers being able, on occasion, through their power of persuasion and through their lobbying efforts, to persuade the public opinion at large that it would be a bad thing to remove those rents. One example I was reminded of by two of your Lordships while I was waiting outside is the elimination of the duty-free in 1999 on intra-EU travel, which of course was an absurdity in the context of a single market, but those who were making rents out of the duty-free shops persuaded the workers to march to Brussels, claiming that the abolition would imply 180,000 jobs lost.

**Q3 Lord Clinton-Davis:** Who was that? What happened?

**Professor Monti:** The transport unions for the cruise ships having duty-free sales on board and the shops at airports, strongly supported, in particular, by the UK Government, the German Government and the French Government against the Commission. Duty-free were abolished. Of course those rents went away, but I am not aware of job losses and, as you can see going through any of our airports, the industry prospers, so much so that we have to lengthen and lengthen every year the path we have to go through to reach the boarding gates!

**Chairman:** Good retail psychology!

**Q4 Lord Bradshaw:** The vested interests to which you have just referred, the duty-free people, an inquiry we did last year in this Committee was about European rail freight, and the 'obstructioneering' which goes on on anybody trying to provide intra-European services is absolutely amazing, but it is entirely to protect jobs, and that has to be got over.

**Professor Monti:** To conclude, my Lord, on your question, I believe that there is the possibility of not giving huge concessions to social interests, but some recognition to some of them, like in the area of the tension that exists between posted workers and the issue of the right to strike, and look at the *Viking* and *Laval* case law, and in some other areas. You will see in my report or you may have seen in my report that I make some recommendations concerning services of general economic interest, public procurement and social issues which, in my view, and again I tend to be a hawk, not a dove, on the single market and competition, would not dilute too much our construction, but would enable it to overcome opposition and to move forward.

**Q5 Lord Clinton-Davis:** I was a member of the first Delors Commission and I think Mario Monti and I are the only ex-commissioners here. Lord Cockfield, who accompanied me, was the inventor of the internal market, but Jaques Delors always had the view that

social concerns and the single market should be operated in tandem, not separately, but in tandem. Do you depart from that view?

**Professor Monti:** My Lord Chairman, it is indeed the case that the European Commission, at the time of Lord Clinton-Davis being a commissioner, set in motion the single market. I like to think that the single market is the joint product of this House and my home city because it was driven to a large extent by Lord Cockfield, as Commissioner for the Internal Market, and of course the basis of it was adopted in the European Council of Milan in June 1985. That is why I believe, and hope, that the UK can resume or conduct ahead, even with greater strengths than in the last ten years, the drive towards a more single market. The single market per se has produced huge social benefits. It has been a factor for job-creation, it has been a factor for cohesion, and let us just think of what it has meant for the new Member States' participation in the single market, so that is the cohesion after all, and I believe that we should be able to articulate more and more the pedagogical explanation to our public opinion of why more of the single market is good. At the same time, not always does the single market allow Member States to pursue their social objectives. I am a believer in the social market economy, not in the sense that many would perceive it in the UK, namely a detrimental departure from the market economy, but social needs are there at any rate and they are, in different forms, recognised by any national government. To me, what is essential is that social objectives be pursued in ways that do not conflict with the key function of the market which is to allocate resources efficiently. If Member States introduce political prices, state aids, incompatible with the European frameworks, to pursue social objectives, very often it is because the working of the single market has, year after year, limited the possibility for the Member States to pursue their social objectives through the classical, non-distorted instrument which is of course redistribution through the government budgets. That is why in my report, and I realise that the topic is rather sensitive, particularly in the UK, one little chapter is devoted to tax policy. Some tax co-ordination, and please note my words, some co-ordination, not total harmonisation, but some tax co-ordination and some tax co-operation is increasingly needed, not to fight, but to preserve the tax sovereignty of Member States with the progress of integration, otherwise lose it completely. It is also necessary, in my view, to avoid the following: what happens if there is no tax co-ordination at all? There is uncontrolled tax competition which has some positives because it puts discipline on governments to control their spending, but it has a huge problem. Tax competition is not neutral. It works mainly to the benefit of those tax bases which are more mobile, like capital, and the balance of it is that those factors of production of tax bases which are least mobile, like labour, particularly unqualified labour, are hit more and more to compensate. That is clearly something that makes redistribution through government budgets at the national level and employment policies more and more difficult. Therefore, thrown out of the door, the distribution objectives come back into the European Union through the window, but in this case distorting the playing of the market of state aids, of political prices, of blocking foreign acquisitions, et cetera, et cetera, so my view is: why do we not organise a moderate process of tax co-ordination also to take away the alibi from those who, on the basis of a lack of this, try to obstruct the single market? My last note on this is that there is the perception that some countries, like the UK, would be per se adamantly opposed to any notion of tax co-ordination. If I can point to empirical evidence, this is not the case objectively. In 1996/97, I was then Internal Market and Tax Policy Commissioner and we put together a proposal of a tax package which was adopted in December 1997 unanimously at the ECOFIN Council, and that included the principles of the Savings Tax Directive, it included the Code of Conduct on Corporate Taxation and some other elements. The UK Government, Chancellor Gordon Brown, was instrumental with others in having this agreement, and a member of the British Government, Dawn Primarolo,

became then Chairman of the group charged at the Council with the task of implementing the Code of Conduct on Corporate Taxation, so I hope that the country in Europe which has in its DNA, in its political tradition and in its intellectual vision the greatest strength for the single market will be able in the future to apply that pragmatically so as to maximise, not to minimise, the number of allies to bring this construction ahead.

**Q6 Lord Ryder of Wensum:** Good afternoon, Professor, and thank you very much indeed for coming to see us. A very brief supplementary: you mentioned the Primarolo Committee, and could you please remind us of what actually happened?

**Professor Monti:** Yes. The December 1997 Council Resolution at the ECOFIN reached the agreement among the Member States on several items which I just mentioned. One of them was the Code of Conduct on Business Taxation, which introduced a notion, subsequently used also by the OECD, of harmful tax competition, so its purpose was not to prevent tax competition in business taxation, but harmful tax competition, which was not so much a moral definition, but a finely specified, technical definition. An example is that the Code of Conduct did not put any limit to the possibility for Member States to go very low, even to zero, in terms of the rate on corporate taxation, but it did preclude the possibility for any Member State to apply more favourable treatments in corporate taxation to the companies coming from abroad relative to the generally applied regime in that particular country, so a set of well-defined 'beggar thy neighbour' policies. To implement these principles, the ECOFIN Council decided, at the proposal of the Commission, to set up within the Council a Code of Conduct Implementation Group. Members of that group elected as the first Chairman of the group Dawn Primarolo, then a member of the Treasury in London, who exercised very effectively the presidency for a number of years, and currently that group still exists and an Austrian, Mr Nolz, is the current Chairman. That group has a record of having eliminated a high number of harmful practices from virtually all Member States and now there are ideas in the Commission, the Parliament and the Council on how to bring that action further. I do not know whether that covers it.

**Lord Ryder of Wensum:** Thank you very much.

**Q7 Chairman:** I want to ask you a question, Professor Monti. Why do you believe that a 'package deal' between countries with a social market approach and those with the Anglo-Saxon tradition is necessary? In preparation for this session today, I have been asking various people of their description or their analysis of what is meant by the terms 'social market approach' and 'Anglo-Saxon tradition', so I thought it would be very useful if you could give us a very brief description of what you think the difference is between the two.

**Professor Monti:** The Anglo-Saxon tradition, which obviously is best embodied by the UK, has traditionally attached great importance to open markets, competition, relatively little state interference with market processes, some sort of benign neglect by Government on the composition of output in the economy as between manufacturing and services, again non-interference by the Government on foreign takeovers, let us say, on the nationality of manufacturing companies or financial institutions, and a few other things. I used the 'Anglo-Saxon tradition' because these features of course have been brought up historically in the UK, and I should pause here, my Lord Chairman, to say that of course it is a mistake to believe that the market economy in Europe was born British because, if we refer to post-war Europe, of course it was born German because it was Ludwig Erhard's Germany in the 1950s which brought about for the first time, on the basis of the Freiburg school of thinking, the market competition and all of that and, with the help of France and the Benelux countries, that became embedded in the Treaty of Rome, so what I often say in Germany

and in France when in the last several years they have become increasingly disenchanted with the market economy because they believed it was Anglo-Saxon, I sometimes told them, “Look, don’t be so modest in Europe because I’m not talking of the 18<sup>th</sup> Century, but in post-war Europe the market economy was born continental, and where was the UK in 1957 when the Treaty of Rome stipulated these features of the European market economy?” Well, I hope I can say neutrally that the UK was 22 years before Margaret Thatcher and nobody could connote the UK economy at that time, and some would connote it as part-socialist, but no one as neo-liberal, I am sure. Having said that by way of historical antecedent, in the last 15 or 20 years there is no question that the UK has been the greatest advocate of the market economy in Europe with these features, and the Irish would object to themselves being considered Anglo-Saxon, but they share largely this approach, and of course Saxony is a part of Germany, but the Germans would object to being considered Anglo-Saxon! Europe is a complicated landscape! The new Member States recognise themselves to a very large extent in the market approach of the UK. Why do I say that some sort of package deal would be necessary? Well, last year I wrote an article for the *Financial Times* which was entitled, ‘How to save the market economy in Europe’, and that was after the crisis. I saw greater and greater manifestations of rejections of the market economy in continental Europe. In my view, my Lord Chairman, in this country, even in the most advanced business community which has so many international contacts, it is not yet fully realised to what extent the rest of Europe has been losing faith in the market economy, and it is, in my view, a precondition if the UK wants to be at the political forefront of this movement to, first, recognise the concerns of the others, sharing them or not sharing them and seeing together what can be done. There is a paragraph in my report which I call ‘Unwavering supporters of the single market’, and of course the UK is in that category, which says that their stronger advocacy of the single market, the risks being less effective than they would like, is because they do not seem to be fully aware of the concerns that in many other countries have reduced the acceptance of the single market, and going to the social market economies, well the description of the model of those countries, of course with differences between France and Germany, would be more or less the opposite which I drew a moment ago, great importance for manufacturing relative to services, certainly not a lack of attention in the case of cross-border acquisitions, greater importance attached to the social element or to public services, et cetera, et cetera, but European integration is made up of one and the other. Jacques Delors had found a mediation between those who wanted more market, the UK, and those who had social concerns, structural funds, et cetera, et cetera. I believe that today basically what would be needed is a new compromise where France and Germany and others, but mainly France and Germany, would again commit themselves seriously to moving forward with a set of deadlines in terms of completion of the single market, services, digital economy, and in terms of even stronger enforcement of single market rules, competition rules, state aid control rules; something that would be very much against the German and French instincts right now. They, according to my consultations, might be ready to do that, particularly the Germans, if they were to see from the camp of the Anglo-Saxons some greater readiness to recognise some of their social concerns. In my view, some very, very limited concessions in the area of services of general economic interest, of public procurement and of tax co-ordination could well determine this new synergy. Allow me to say that, should there be this rapprochement between the social market economies and the Anglo-Saxons plus the new Member States, without deliberately wanting this, most of Europe would become somewhat closer to the Nordic countries, which are able quite well, I would say, not perfectly, but rather well, to reconcile a deep respect for market flexibility with an important role for social protection.



**Q8 Chairman:** Thank you very much. I think that is very good. I think that the nomenclature of 'package deal' in this country means everything, whereas you are actually suggesting that it should be the softly-softly approach in terms of recognising the differences and the coming together of the Anglo-Saxon and the social concerns. Is that reasonable?

**Professor Monti:** Absolutely.

**Chairman:** Lord Ryder, did you want to bring in a certain point there?

**Q9 Lord Ryder of Wensum:** Thank you very much indeed, Chairman. In your report, chapter 4, you deal with regulation in the single market, and there is no obvious moment in this Committee where I can ask this supplementary, so I hope you will forgive me for doing so now. You mention regulating the single market, but not too much, and then you have another paragraph on reinforcing enforcement, and this of course is referred to on page 9, line 7 of the Executive Summary. The British Chamber of Commerce, which is an organisation very well inclined to the Union and what it stands for and indeed to the single market, has pointed out that in the last 13 years regulations coming from Europe and connected with the single market have cost British industry £40 billion. I wonder whether in your main report, which I have not been able to read, you have dealt with this sort of complaint, and I wonder whether, with all your experience, you feel that those responsible for the single market and its development can do more to ensure that we have fewer regulations and, if necessary, we can deregulate?

**Professor Monti:** Thank you, my Lord, that is a very crucial point. I forgot to say, by the way, concerning the British Chamber of Commerce that in my consultations, as in my past experience as Commissioner, I found the stakeholders in this country particularly well-prepared to help public authorities, in this case a consultant to a public authority, with solid arguments and evidence, et cetera, and also the panel of stakeholders in the EU which is set up at the Department for Business, Innovation and Skills has been extremely helpful and, with them, the British Chamber of Commerce, with whom I will be having a meeting in Brussels again in September. I entirely agree that over its history the EU has vastly exceeded in terms of regulation and we are now, and again this is a sort of market fatigue, going through a very delicate moment because public opinion tends to attribute the crisis to a lack of regulation because of course they have in mind financial regulation, and there my view is, by the way, that there has for sure been some lack of regulation, but, by and large, it has been a problem of insufficiently strong enforcement of existing rules, particularly in the US even more than in the European Union. I tried to present the case in my report that it is perfectly compatible to believe in some areas of financial regulation that one today has to do a bit more, yet have a view in favour of less regulation in other areas of the economy. I believe that it is an issue of competencies and of legislative techniques. In the area of competencies, I happen to believe that the division of roles between the Union and the Member States and the regions, et cetera, should not be cast in marble, and it is perfectly possible to have a two-way movement, and for certain topics it may become clear that we need more co-ordination, but for others they may be mature enough to be able to be handled more at the level of Member States than at the level of a community, and may I give you one complete example. Since 1 May 2004, we have in force in Europe Regulation 1/2003, which I proposed and was adopted by the Council and Parliament, which has set up the European Competition Network, which now is a very concrete example of management through networks. The Commission in the area of competition of course keeps a key reference role, but the role of the national competition authorities is much, much enhanced. I believe that in many areas of regulation of the single market it should be possible to make things lighter and more decentralised. Let me note in terms of legislative techniques that, in

many cases, the directives end up, and this Committee must be very, very knowledgeable on this topic and this Sub-Committee in particular, being over-burdened, unduly detailed, unduly cumbersome for companies and unduly costly, whereas, if one goes back and looks at the original proposal by the European Commission, the Directive was much simpler and leaner. What happened? Well, there is the compromise between the Parliament and the Council to be reached at the level of negotiating the Directive, then the gold-plating or over-zealous position at the level of transposition to the Member States, and what needs, frankly, to be told also to the business community who write in and complain about this is that in so many cases behind a national government's attitude in the Council and in the transposition, which goes in the sense of over-burdening, there is a request by a local business community.

**Q10 Chairman:** Indeed, yes. I am afraid we are very much aware of that, Professor Monti, no question; it happens all the time. It happens in human life, I think.

**Professor Monti:** Also, to eliminate in part this phenomenon, the report leads, wherever possible, to less regulation overall, but in terms of the technical distinction between regulations and directives, we propose less directives and more regulations, which allows for prompter entering into force, for a more level playing field and eradicates the possibility for this gold-plating.

**Q11 Lord Paul:** I have a very quick question to ask. When we talk in business to the counterparts in Europe, they sort of sometimes say, "Oh, you people in Britain are complaining too much about the regulations without understanding them". Is it something where perhaps we take the regulations much more seriously than our counterparts in Europe do, or is it just a perception?

**Professor Monti:** Sorry, I understood part of the question, that in the UK there is complaint about regulations.

**Q12 Lord Paul:** When we talk to our business friends in Europe, they tell us that the British, because they do not like to be in Europe, complain too much about the regulations. Now, is it that we take the regulations much more seriously, or is it that the Europeans take them in the manner in which they should be taken?

**Professor Monti:** I do not know whether the British like to be in the European Union or not. I have the impression at any rate that they do like to be in the single market of the European Union ----

**Q13 Chairman:** Yes.

**Professor Monti:** ---- luckily for us all, and it is perfectly true, in my view, that the UK has more the tradition of being a law-abiding society than many others and, as I have said many times publicly on the Continent, that explains also why the British authorities are sometimes more difficult than the average in the process of adopting rules and regulations because then they tend to take them more seriously than others, and the statistics about infringement cases in the Court seem to conform with this. This also points to another important aspect for the UK, the great importance for the UK to have a Commission and a European Court of Justice which are both strong enough to do their job as enforcers so as to equalise the degree of being respectful of the law across the European Union.

**Q14 Lord Walpole:** Professor Monti, what role should the single market play within the context of the Europe 2020 strategy, and what is the significance of Europe 2020 in ensuring the completion of the single market project?

**Professor Monti:** Indeed, the Europe 2020 strategy is the overarching economic policy strategy as proposed by the European Commission and adopted by the Parliament and the Council. I was discussing precisely this question, my Lord, last week when I was invited by President Barroso to a meeting of the Commission to discuss with the college my report and the follow-up that they are working on, and I said to President Barroso and his colleagues that in my consultations around Europe I often found the question: but why is the single market not one of the flagship initiatives, as they are called, the key initiatives within Europe 2020? I said to the President, “The answer I privately gave to these questions has always been that of course the single market is not a flagship because it is neither a flag, nor a ship, but the single market is the sea and the wind which allows all the seven or eight flagship initiatives to sail and to navigate, and the Commission seemed to be on this page”. Therefore, my answer would be that Europe 2020 is an overall, comprehensive, overarching strategy and it would be illogical, and I do not think this is the intention of the European Commission, to separate it from the policies on the single market and it would be particularly illogical because many of the initiatives under Europe 2020 ultimately depend on the powers and the prerogatives of Member States, whereas the single market is one of the few areas which are directly of Community competence, so the relationship I see, through the follow-up to this report, is to give more incisiveness to the single market which should also help, in the process, the achievement of the initiatives of Europe 2020.

**Q15 Lord Walpole:** Thank you very much. That is an answer which I found absolutely fabulous.

**Professor Monti:** Thank you.

**Chairman:** Another satisfied customer!

**Q16 Lord Rowe-Beddoe:** Professor, in the Executive Summary of your report of May 2010, very early on you refer to the two mutually reinforcing trends, namely integration fatigue and market fatigue. I would be very interested to ask you how you consider the UK is facing these two mutually reinforcing trends currently?

**Professor Monti:** Thank you for this question, which brings us closer to your home which I feel very much is mine, if I may. The UK is definitely affected by market or integration fatigue much, much less than most other Member States of the European Union, but it is not completely immune either, in my view. Two specific events which have caught the attention also of the rest of Europe are ‘British jobs for British workers’ and some initiatives or proposals to make the process of hostile takeovers more susceptible of an examination by public powers under the national interest. These may be mild manifestations of integration fatigue if happening in other countries, but they have been unexpectedly strong having come within the context of the UK, quite apart from the actual concrete follow-up, but this is something that would have been definitely unexpected from the UK before the crisis. However, let me stress very loudly that at any rate the UK is much less affected by market or integration fatigue. Does this mean that the UK can afford to neglect the overall phenomena of integration and market fatigue? By no means, in my view. As I said, it is politically crucial for the UK to fully understand, and to fully engage in, the debate with the other Member States on their integration fatigue and market fatigue in order to see how they can be overcome. Lastly, I would say, with all the profound respect I have for this country and what it means for Europe, I am sure you are aware that the authority, the

prestige and the power to lead associated with the UK vision of the market economy after the crisis are weaker than before the crisis, so, irrespective of parties in Government, the ability of the UK to drive Europe now, let us say, on the single market in the next few years, unless something is done, will be less strong than the ability that the UK had a few years ago to drive Europe towards economic reform, so there is a much more reserved attitude, sometimes bordering on the negative prejudice nowadays, vis-à-vis these manifestations which I hope will come out very strongly of the UK to drive the process towards the market again, so this is why I believe that the unwavering supporter of the single market, in order to become an effective supporter, will have to become slightly more articulated in understanding the others' positions.

**Lord Rowe-Beddoe:** Thank you, Professor. I must say, I am surprised by the early part of your answer and I am, in a way, quite encouraged that your perception is that relatively the United Kingdom is actually much more positive in this than it would appear if you just read, listen to, or observe our media. I found that very interesting, thank you.

**Q17 Lord Ryder of Wensum:** I am conscious of time, Professor, and I think you have really answered most of this question in response to previous questions, but what role do you see for Britain in the completion of the single market, and in what sense do you think we can help to generate extra political momentum?

**Professor Monti:** Yes, my Lord, in fact I think I have tried to tackle this issue, which is important for you and it is even more important for the broad context of the single market. I already said what, in my modest view, is the new attitude that the UK should bring to its, hopefully, leading role towards more of the single market in the new circumstances. If I can go quickly a step further to what role do I see for the UK and what sort of approach to generate a new political momentum, that implies also: with which allies? To be very frank and without of course betraying the confidentiality of the consultations I have had with individual members of governments in various Member States, I would say that I see a potential particular synergy between the UK and Germany. I have the impression that the current German Government at the federal level is more inclined than in the recent past to go ahead with market competition and some liberalisation than deep Germany is, the Länder, the municipalities, local Germany. In Germany, I had a lot to do when I asked them to eliminate the state guarantees to the Landesbank, for example, which they did. With the UK, which is being watched with great interest currently in Europe and which in Europe is believed to be looking for areas of European policy where it can be particularly constructive with European partners, it will become almost natural to believe that the single market can be one of these, if not the one. Germany, I believe, and this is a personal view of course, would be particularly interested in being engaged, and it would be interesting for it to be engaged. Staying more or less on the same latitude, I will move a bit further east to the new Member States. Many of them have difficult domestic political situations, but most of them do keep the enthusiasm for the newly found market and growth and competition that they had when they joined the European Union and, if I may say so, one of them has particularly strong credentials to play this role and that is Poland. Poland will be chairing the Council of Ministers in the second half of next year after Belgium now and Hungary, and then it will be Poland. Poland has the advantage of having a better economic situation right now than most, it has its traditional assertiveness that we know well and may well be brought to use that assertiveness for the first time, not on an issue of national interest as it has done so many times or of regional interest, Ukraine, energy security, a relationship with Russia, but on an issue for the 27 where it could really raise the flag that, for different reasons, the others have a bit let down. Poland will never be able to be a founding member of the EU because it was not there in 1957, but, as I suggested to them in my consultations, they could become a

refounding member of the European Union if they embrace this policy weapon of the single market. Of course I did not mention France, but France, if it could be shown on two or three specific things, which have been magnified in domestic French debates, that there is a readiness by the others to take those concerns on board, I think France, which, by the way, next year will be engaged in the Presidency of both the G8 and the G20 and will have an interest, therefore, in showing their rather strong EU profile in those contexts, could be more positive than it was in the recent past.

**Chairman:** Thank you very much indeed. Professor Monti, we have three members from other sub-committees here. We have Lord Inglewood, Lord Roper and Baroness Young, and they have expressed interest in the last three questions, so I wonder if we could canter through them fairly rapidly. We are very aware that we have taken up far too much of your time, but it has been fascinating, so thank you.

**Q18 Lord Inglewood:** Commissioner, when Lord Cockfield laid down the nuts and bolts of the single market, digital technology more or less did not exist at all. Subsequently, in the ensuing 20 or so years, various important initiatives were brought forward at the European level to bring the new technology into the workings of the single market, and it appeared that a digital sector was developing, but, if one now looks at the way the world as a whole is working, it seems that the digital impact is not sectoral, but actually you cannot have a single market unless all the implications of digital technology are fully embedded in it. Do you think that is right, and do you think that is an important element in taking the single market forward?

**Professor Monti:** Indeed, I think that is perfectly right. I think the impact of a well-functioning digital single market can be huge, can really be a multiplier for all activities in the single market and can be also enormously full of impact on the ability of the EU and its Member States to pursue and to achieve their other policy objectives; think of health and how much digital can do for healthcare, and think of the labour market. There is relatively little integration of the labour market within the EU, the national labour markets, also because the informational aspect is still far from perfect and digital can do enormously there and in many, many other cases, so I am a strong believer in the digital single market. I am delighted to see that the European Commission has moved very promptly with the initiatives of Commissioner Kroes, and of course there are tricky legal and other issues to be tackled, and I make a number of proposals in my report. One last aspect I would like to underline is that the digital single market will be particularly important for the new generations of Europeans. I saw the statistics, which are appalling: 60 per cent of cross-border transactions attempted on the Internet cannot be completed for one reason or another. If we think of who uses the Internet for cross-border transactions, music downloads for example, it is particularly the young. We always say the young generation will not be attracted by the idea of a united Europe because it avoids war because for them ---

**Q19 Chairman:** There is no war.

**Professor Monti:** They see Erasmus, of course, which they like a lot. They do see some positives. If they hear that there should be a single market and they are unable to use it in their daily or nightly life at the computer then this discredits Europe very much. In addition to the huge economic and financial policy reasons that militate in favour of fast progress in the digital single market there is also this problem of perception.

**Q20 Lord Roper:** Professor Monti, in the current debate on economic governance which has followed the crisis and where there is a great deal of work being done both by the

President of the Union and also the Commission, how far do you think that this current debate of work on economic governance should link to the discussion of the single market in your report and elsewhere?

**Professor Monti:** My Lord, this is the key aspect. I understand that you will be discussing EU economic governance as a whole. I believe the single market should have a role in that. The last chapter of my report deals with that. Synthetically I believe that in order to have a more effective policy for a stronger single market we need to modify the way in which the single market is governed in each of the three European institutions: the Commission, the Parliament and the Council. I think this would also have to have implications for the set-up in the Member States. In particular, one of the novelties brought in by the Lisbon Treaty is the permanent President of the European Council. I make a proposal there that although the power of initiative and the power of enforcement, so the beginning and the very end of proposals, should firmly stay with the European Commission and the Court, all that is in-between a proposal and the adoption of a directive or a policy initiative has to navigate the Council. If the Community Patent takes 30 years to come to fruition, if it does, that is for bottlenecks in the Council. The Parliament also, but normally the Council. The idea is not only the governance of public finance or macroeconomic governance but also the impulsion for the single market could gain strength if the permanent President of the Council were to consider among its responsibilities that of driving this process. In my consultations with President van Rompuy I did stress this aspect having interesting reactions. It should be a coherence over time so as to avoid the time inconsistencies in handling single market files as we have seen in the past with six monthly rotations and also a consistency across councils because this area, the single market, is really in the hands of the Competitiveness Council for most aspects but also the Ecofin Council for financial services and taxation and the Social Affairs Council, et cetera. It is a fragmented area that needs a comprehensive or holistic approach and I believe the President of the Council could help in that respect.

**Lord Roper:** Thank you very much.

**Chairman:** Finally, Professor Monti, and thank you so much for your patience in all of this, Lady Young.

**Q21 Baroness Young of Hornsey:** Thank you, my Lord Chairman. Professor Monti, we on the Social Policies and Consumer Protection Sub-Committee are considering an inquiry into the Posting of Workers' Directive, which you have already referred to on a couple of occasions this afternoon. Given the series of European Court of Justice judgments and also given, as you have put it in the report, the gulf between social partners on this issue, how can economic freedoms and movement and the right to strike be reconciled? This would seem to be a particularly difficult problem to address given that the EU regulation on the right to strike is prohibited by treaty. What actions and what remedies can be taken in this respect?

**Professor Monti:** I also believe it is a very important issue in itself and also because of the negative reflexes it has on the perception of the single market. I believe it is an important issue to the point that, as I think is mentioned in the report, I held consultations with BUSINESS EUROPE to find a way and I believe we achieved some progress. I know that Commissioner Andor is working intensively on a follow-up concerning these aspects. I am not able to put a proposed defined solution in your hands which would be agreeable to both parties, but one aspect on which some interest was expressed was that of having some declaration that the right to strike would at any rate not be prejudged. I must say that worked in Council Regulation 2679/98, which is mentioned in my report, which was the regulation that we introduced in 1998 to reinforce the enforcement instruments on free

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movement of goods against blockages that in that particular case happened each springtime with French farmers against trucks bringing Spanish strawberries to the rest of Europe. The powers of enforcement of the fundamental free movement of goods have been strengthened by this regulation, however making sure that those powers would not be used simply to deter the manifestation of fundamental labour rights, like the right to strike. This is the very first approximation to that topic. If you go ahead with an inquiry this would be very interesting.

**Baroness Young of Hornsey:** Thank you very much.

**Chairman:** Professor Monti, it has been a fascinating afternoon. Thank you very much indeed. It has lasted a very long time but you have held our interest the whole time, and that is a bit difficult for some of us who have been at it for a long time. Thank you very much. Before we leave will you permit me to say a few words to the Committee. I want to thank Laura, it is her last meeting with us. She has been wonderful in the last few meetings that she has supported me. Thank you for all you have done for the Committee for the best part of two years. Thank you.

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## **The Committee on the Internal Market and Consumer Protection, European Parliament and the European Conservatives and Reformists Group**

### **Written evidence, The Committee on the Internal Market and Consumer Protection, European Parliament (EUSM 4)**

#### **I. The need to re-launch the single market**

- Does the current economic environment require a re-thinking of the single market?

To a degree, yes it does, but without backtracking on the single market's achievements. The relaunch of the single market within the EU2020 agenda should ensure a clear link between citizens' consumers' and businesses' needs and EU legislative and non legislative initiatives, supported by high quality impact assessments delivering smarter regulation. It is also vital that the information flow from the EU legislators and stakeholders is significantly improved to ensure the benefits of the single market are properly communicated. It is also of primary importance to emphasise the considerable economic advantages the single market has already brought about, safeguard these achievements, and resist protectionist tendencies brought on by the financial crisis. The resulting economic crisis has highlighted weaknesses in the single market both in terms of the failure of this agenda to remain at the heart of the European integration process and in terms of its capacity to predominantly and visibly deliver benefits to citizens, consumers and SME's.

Accordingly, the European Parliament's Internal Market and Consumer Protection Committee (IMCO) decided to launch an own initiative report on "Delivering a Single Market to Consumers and Citizens", which was adopted in Plenary on the 20th of May.<sup>1</sup> This own initiative report provided input for Professor Mario Monti's recommendations to Commission President Barroso on how to revitalise the Single Market integration process. Professor Monti published his report, "A new strategy for the Single Market, at the service of Europe's economy and society" on the 9th of May 2010.<sup>2</sup>

In terms of problems, Professor Monti points to the erosion of political and social support for market integration in Europe, uneven attention given to various components of an effective and sustainable single market (both as regards the traditional sectors and new sectors of the economy) and a sense of complacency leading to maintenance but not active promotion of the single market.<sup>3</sup> The European Parliament's Resolution on Delivering a Single Market to Consumers and Citizens similarly identifies a lack of information about rights and opportunities, fragmented regulation, a lack of legislative initiatives in a number of key areas, poor transposition, inadequate application and enforcement of rules, and a lack of administrative coordination and cooperation.<sup>4</sup>

When he came to present his report to the Parliament, starting with the IMCO Committee on the 10th of May, Professor Monti stressed how the financial, economic crisis, the EU2020 10-year programme for achieving "smart, sustainable and inclusive" growth among the

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<sup>1</sup> P7\_TA-PROV(2010)0186.

<sup>2</sup> Available at [http://ec.europa.eu/bepa/pdf/monti\\_report\\_final\\_10\\_05\\_2010\\_en.pdf](http://ec.europa.eu/bepa/pdf/monti_report_final_10_05_2010_en.pdf)

<sup>3</sup> Mario Monti, A new strategy for the Single Market, at the service of Europe's economy and society, p. 6.

<sup>4</sup> P7\_TA-PROV(2010)0186, recital A.



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Member States and even the Greek crisis all had the single market (or lack of it) in common. He stated that the single market is less popular than ever and at the same time it is more needed than ever.<sup>5</sup> Parliament's resolution also underlines that the crisis should provide 'a window of opportunity for reforming, consolidating and improving the current structure of the single market'.<sup>6</sup>

- How should confidence in the single market be restored?
- How should the objective of a "highly competitive social market economy", enshrined in the Lisbon Treaty, be achieved?

Single market policy should be based on a holistic and citizen based approach focussed on the free movement of persons goods and services driving economic growth and job creation by stimulating creativity and innovation, while working towards societal progress.

However not everyone agrees on the means. There is a longstanding ideological debate between those in favour of a free market and those stressing the need for market intervention. Parliament's Resolution on Delivering a Single Market to Consumers and Citizens takes the view that the major challenge facing the Union is to find a balance between an open economy, capable of stimulating economic growth and job creation and providing an integrated response to the major challenges of the future and an economic system which is equally up to the task of delivering consumer protection and the social and environmental safeguards that citizens require.<sup>7</sup> It also takes the view that the old perception of the single market should be supplemented in order to make it more inclusive.<sup>8</sup> Similarly Professor Monti's report stresses that "a market is an instrument, not an end in itself".<sup>9</sup> The aim is for the Union to be a highly competitive social market economy in accordance with article 3 of the TEU.<sup>10</sup>

A second shift in focus which both Parliament's resolution and Professor Monti's report call for is that single market policy be based on the grassroots concerns of citizens, consumers and SMEs. The citizen becomes a unitary concept and can be an entrepreneur, a consumer and a worker simultaneously. These various interests should be taken into account when devising single market policy. As Professor Monti highlighted in his presentation, the particular prominence given to a citizen based policy approach, which features in his report<sup>11</sup> as well as in Parliament's resolution<sup>12</sup>, is entirely new compared to the focus of earlier strategic documents, and the reorganisation in priorities this entails should reinforce the relaunch of the single market.

- Will the completion of the single market be achieved at the expense of EU welfare and social dimension?

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<sup>5</sup> Mario Monti, A new strategy for the Single Market, at the service of Europe's economy and society, p. 20.

<sup>6</sup> European Parliament Resolution on "Delivering a single market to consumers and citizens", P7\_TA-PROV(2010)0186, paragraph 9.

<sup>7</sup> European Parliament Resolution on "Delivering a single market to consumers and citizens", P7\_TA-PROV(2010)0186, paragraph 24.

<sup>8</sup> European Parliament Resolution on "Delivering a single market to consumers and citizens", P7\_TA-PROV(2010)0186, paragraph 13.

<sup>9</sup> Monti report, p. 12.

<sup>10</sup> Reflected in paragraphs 13 and 24 of Parliament's Resolution on "Delivering a single market to consumers and citizens", P7\_TA-PROV(2010)0186; p. 26 Monti report.

<sup>11</sup> Paragraph 2.2 at p. 38.

<sup>12</sup> Paragraphs 5, 13, 18.

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On the contrary, the single market is the key to achieving better welfare and social progress. The single market represents the heart of the European Integration project. By developing it, the Union aims to achieve economies of scale that bring about a highly competitive social market economy, full employment and social progress for its citizens.

Open markets and consumer protection are two sides of the same coin since the creation of a single market is the best way to deliver value and choice to consumers, including vulnerable consumers. At the same time confident, well-informed and empowered consumers, who demand high quality products and services, play an important role in making the EU competitive globally.

### *Social dimension*

In its resolution on Delivering a Single Market to Consumers and Citizens, the European Parliament maintains that economic integration activities will take off better if citizens are convinced that their social rights are being safeguarded and that internal market policies will have a positive impact on social policies.<sup>13</sup>

One way to guarantee 'adequate social protection' and the 'fight against social exclusion' in accordance with article 9 TFEU is to ensure a meaningful assessment of the social impacts of all single market proposals, alongside economic, consumer and environmental impacts.<sup>14</sup> Also as the single market for services deepens, more questions will have to be raised on how to simultaneously ensure that services of general (economic) interest are able to fulfil their objectives.<sup>15</sup>

### *Consumer protection*

There are too many gaps in creating a single market that deserves the confidence of consumers and more needs to be done to inform and empower consumers.

The fragmented regulatory framework across the Union on consumer protection generates significant compliance costs for businesses wishing to trade cross-border. The single market effects of this fragmentation are a reluctance on behalf of businesses to sell cross-border to consumers which in turn reduces competition and choice and therefore consumer welfare. IMCO is currently considering a draft report on the Commission's proposal for a Directive on Consumer Rights.<sup>16</sup> The proposal recasts and updates into a single text four existing directives on consumer protection (contracts negotiated off business premises, unfair terms in consumer contracts, distance contracts, consumer sales and guarantees).

As regards future initiatives in its resolution on Delivering a Single Market to Consumers and Citizens, the European Parliament urges the Commission to focus on prioritising 'consumer-friendly' legislation relating to the single market. It also asks for this prioritisation to be

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<sup>13</sup> European Parliament Resolution on "Delivering a single market to consumers and citizens", P7\_TA-PROV(2010)0186, P7\_TA-PROV (2010)0046, paragraph 36.

<sup>14</sup> European Parliament resolution of 9 September 2010 on "Better lawmaking – 15th annual report from the Commission pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality", P7\_TA-PROV(2010)0311, paragraph 18. IMCO will address this issue again in its opinion to the own initiative report launched from the JURI (Legal affairs) committee on "Guaranteeing independent impact assessments"(INI/2010/2016).

<sup>15</sup> IMCO will address this issue in its opinion to the own initiative report launched from the EMPL (Employment and social affairs) committee on the "Future for social services of general interest"(INI/2009/2222).

<sup>16</sup> COM(2008) 614.

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followed by adequate information campaigns so as to bolster citizens' positive perceptions of the single market.<sup>17</sup>

At the moment enforcement of consumer rights across the EU is far from uniform. Figures show important differences between Member States in terms of budgets for market surveillance and the number of inspectors engaged in this activity. In its Resolution on "Consumer Protection" of 9th of March, Parliament called for Member States to redouble their efforts and increase resources in order to ensure that laws protecting consumers and guaranteeing competition are enforced in retail markets.<sup>18</sup> IMCO is currently preparing two own-initiative reports on this question. The first one relates to the functioning of the retail market.<sup>19</sup> The second one relates to the revision of the General Product Safety Directive (expected in 2011) combined with an assessment of market surveillance based on a comparative study commissioned by the European Parliament.<sup>20</sup>

- Is there a need for a "package deal" between countries with a "social market" approach and those with an "Anglo-Saxon" tradition?

This was an idea initially developed in Professor Monti's report and the European Parliament has not taken a clear line on the issue. Elements of his proposal may return in the Commission's "Single Market Act" which is due to be adopted in October. They will then be discussed based on their individual merits.

Parliament's resolution on Delivering a Single Market to Consumers and Citizens does state that "any strategy and policies to revitalise the single European market should be coordinated by the European institutions and based on a pragmatic, comprehensive and wide-ranging deal supported by all the Member States and focussing mainly on priorities for which the Member States will truly take ownership and which they will implement effectively at national, regional and local level".<sup>21</sup>

Here we also notice a difference between the European Parliament's approach and Professor Monti's report. Professor Monti is trying to bridge the gap between 'the different cultural traditions, concerns and political preferences'<sup>22</sup> of various Member States, whereas the European Parliament endeavours to deliver the single market to consumers and citizens. Together they make up the fabric of European integration which concerns both citizens and states.

- What role should the single market play within the context of the Europe 2020 strategy?
- What is the significance of Europe 2020 in ensuring the completion of the single market project?

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<sup>17</sup> P7\_TA-PROV(2010)0186, paragraph 67.

<sup>18</sup> European Parliament Resolution of 9 March 2010 on Consumer Protection, P7\_TA-PROV(2010)0046, paragraph 41.

<sup>19</sup> Based on the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Retail market monitoring report "Towards more efficient and fairer retail services in the internal market for 2020", COM(2010)355.

<sup>20</sup> Revision of the General Product Safety Directive and Market Surveillance, INI/2010/2085.

<sup>21</sup> European Parliament Resolution of 9 March 2010 on Consumer Protection, P7\_TA-PROV(2010)0046, paragraph 16.

<sup>22</sup> Monti report, p. 9.

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Strengthening the single market and consumer protection are key to achieving the EU Treaty goal of a sustainable and highly competitive social market economy and key therefore in reaching the targets set out in the EU2020 strategy. The Commission's Communication on the Single Market Act, which is due to be published in October, is the next step in the relaunch of the Single Market process and the Act itself should aim to significantly contribute to the goals of the EU and EU2020 strategy by proposing a series of concrete measures to address the problems identified, strengthen and complete the the Single Market. The success of this process is therefore a prerequisite to fulfilling the objectives of the EU2020 strategy.

In its first Resolution on EU2020 of 10th of March, the European Parliament stressed that the Single Market should be key for the EU2020 strategy and that Council and Commission should come up with proposals for completing the Single Market.<sup>23</sup> Following this, in its resolution on Delivering a Single Market to Consumers and Citizens, the European Parliament stressed that "the single market is a very important prerequisite for the success of the EU 2020 strategy".<sup>24</sup> Parliament confirmed this view in its second resolution on EU 2020 in which it explicitly refers to Professor Monti's report and to its resolution on Delivering a Single Market to consumers and citizens, which called for a Single Market Act.<sup>25</sup>

- To what extent can Europe 2020 address "the main bottlenecks [...] related to the working of the internal market and infrastructure"?

The Single Market Act should propose a range of measures addressing the main bottlenecks and "missing links" identified in the infrastructure of the Single Market and its effectiveness in addressing these problems will determine whether the EU2020 strategy is successful or not. A Single online Market in particular could make a significant contribution to achieving growth, jobs and more affordable products and services for consumers.

Given the clear added economic value a Single online Market would deliver, the European Parliament has recently adopted a Resolution on "Completing the Internal Market for E-commerce".<sup>26</sup> However, the figures on the state of play in relation to the development of e-Commerce in the EU show that in 2009, only 7 percent of European consumers have shopped online in another Member State. Investigative research by the EU into e-commerce practices revealed that 60% of customer attempts to buy items across EU borders fail, with the transaction or shipping declined by the vendor, even though the buyer would have saved at least 10% in e-shopping abroad (including shipping costs) in half of the 11,000 cases analysed.

The Resolution identifies six priority action areas for increasing and strengthening cross border e-commerce:

1. Reinforcing user's access to the internet in Europe;
2. Overcoming the fragmentation of the online market;
3. Overcoming the fragmentation of consumer protection rules;
4. Increasing trust in online shopping;
5. Creating incentives for businesses to sell online; and

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<sup>23</sup> P7\_TA-PROV(2010)0053, paragraph 24; the second resolution was adopted on 16 June, P7\_TA-PROV(2010)0223.

<sup>24</sup> European Parliament Resolution on "Delivering a single market to consumers and citizens", P7\_TA-PROV(2010)0186, paragraph 16.

<sup>25</sup> European Parliament Resolution of 16 June on EU 2020, P7\_TA-PROV(2010)0223, paragraphs 10,11.

<sup>26</sup> (INI/2010/2012)

## 6. Protecting minors using the internet

IMCO has been actively pursuing the broader development of the Digital Agenda<sup>27</sup>. ICT can help in removing administrative and regulatory barriers to cross-border trade. In this context, the use of e-procurement should be further stimulated and it is expected that the Commission Communication on a Single Market Act will include a measure to this effect. IMCO has also called for all EU citizens to be made aware of their basic digital rights and obligations through a European Charter of citizens' and consumers' rights in the digital environment.<sup>28</sup>

Standardisation<sup>29</sup> is a major enabling factor for the exploitation of new technologies. There is, however, a significant gap in the transfer of R&D results into the development of standards. We need to improve mutual awareness and cooperation between standardisation bodies, innovators, academia and the research communities. The inclusion of new knowledge in standards, in particular from publicly funded research and innovation programmes, will undoubtedly promote innovation and competitiveness. Industry-led initiatives aiming at standards and open platforms for new products and services should be supported in EU-funded programmes.

Interoperability and the global recognition of standards can help promote more rapid innovation by lowering the risks and costs associated to the take up of new technologies. Europe's standard-setting framework must catch up with fast-moving technology markets because standards are vital to interoperability. The Commission should continue the review of European standardisation policy by following up on its White Paper on "Modernising ICT standardisation in the EU".

*5 October 2010*

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<sup>27</sup> European Parliament resolution of 5 May 2010 on a new Digital Agenda for Europe: 2015.eu, P7\_TA-PROV (2010)0133.

<sup>28</sup> European Parliament resolution of 5 May 2010 on a new Digital Agenda for Europe: 2015.eu, P7\_TA-PROV (2010)0133.

<sup>29</sup> IMCO is currently working on an own initiative report on the Future of European standardisation, INI/2010/2051.

## **Written evidence, Malcolm Harbour on behalf of European Conservatives and Reformists Group (EUSM 5)**

### **I. The need to re-launch the single market**

- Does the current economic environment require a re-thinking of the single market? How should confidence in the single market be restored?

In the current economic climate, when Member States are tempted to take protectionist measures, it has become imperative to reinforce the benefits of the Single Market for businesses, consumers and citizens. Day-to-day frustrations with its inadequacies are felt by citizens and SMEs, for example in surcharges on cash machines, administrative burdens, the inability to buy certain goods online or unnecessary barriers to trade elsewhere in the EU. These have a deeply corrosive effect on the image of the Single Market. Therefore, placing citizens, consumers and small business at the heart of the Single Market should be the underlining justification for all EU initiatives. Any EU enterprise sapping regulation should simply be repealed or replaced by smarter regulation consistent with the "think small first" principle (putting small businesses at the forefront of all legislation and ensuring they are not hampered by bureaucratic proposals). Quality consultations and enhanced scrutiny of impact assessments will ensure the EU only acts when there is "EU added value". Furthermore, the EU's communication strategy needs to be overhauled, improving the readability of all texts, and clearly explaining the added value to consumers and business.

To restore confidence further, consumer safety should be at the forefront of the agenda as it remains indispensable for the functioning of the Single Market. Safe products, comprehensive information and cracking down on anti-competitive behaviour will ensure that consumers and SMEs benefit from choice and open markets. The ECR group is fighting to improve the standards of products entering the UK market, by revising the Consumer Product Safety Directive to ensure better testing and enhanced market surveillance, particularly for products from outside the EU, especially from China. The recognition of professional qualifications will also be another key objective in opening up the Single Market. Finally, we should strive to ensure enforcement of Single Market legislation by monitoring and effective screening. We already have a large amount of Single Market legislation but this must be implemented effectively by Member States so that they can reap the benefits of open markets.

- How should the objective of a "highly competitive social market economy", enshrined in the Lisbon Treaty, be achieved? Will the completion of the single market be achieved at the expense of EU welfare and social dimension? Is there a need for a "package deal" between countries with a "social market" approach and those with an "Anglo-Saxon" tradition?

The ECR's clear position is that social issues, such as social security, education, healthcare, and employment law must be the prime responsibility of Member States, and the principle of subsidiarity must be respected. However, public authorities spend over 16% of Europe's GDP and must provide a stronger commitment to driving innovative solutions and market opportunities with this spend. In particular, delivering better public services whilst addressing climate change and an ageing population will ensure that the EU welfare and social dimension is embedded in the process of completing the Single Market. The ECR has encouraged small

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business to take full advantage of public procurement contracts as a means to achieving new growth, and public authorities to think "small first". Furthermore, as part of the "Better Regulation", "Better Lawmaking" and the Impact Assessment process, all Commission proposals should undergo an "innovation test". To enhance competition and choice for consumers, Single Market rules must be enforced effectively by Member States, and the principle of mutual recognition (introduced in the goods package), and mutual justification (introduced in the Services Directive), must be upheld and supported by a "fast track" mechanism to resolving mutual recognition problems.

We are not in favour of a "package deal" - quoting Professor Monti - to 'compensate' people for freer trade by introducing social legislation as this would clearly hamper the effectiveness of the Single Market. The focus should be to encourage those with social market traditions to adapt, particularly given economic realities. This is why we are looking to the promised Single Market Act, for which the ECR group led the drive, and which must restore new impetus to the Single Market by identifying areas for further liberalisation. On the social front, Single Market solutions must lead the drive towards a low-carbon economy, reaping the full benefits from the EU's advanced environmental goods and services sector. Developing standards here are key to strengthening the Single Market and boosting the EU's global competitiveness. We will be urging Commissioner Barnier to focus on areas of real economic added value such as eliminating barriers to cross-border trade in business-to-business services. We will be leading the negotiations on the precise content of the package of reports which the European Parliament will be drafting in response to the publication of the Act.

- What role should the single market play within the context of the Europe 2020 strategy? What is the significance of Europe 2020 in ensuring the completion of the single market project? To what extent can Europe 2020 address "the main bottlenecks [...] related to the working of the internal market and infrastructure"?

The Single Market is an overarching part of the EU2020 strategy since, the other objectives can only be achieved if it functions correctly. A Single Market for consumers and citizens is indispensable to the success of the EU2020 strategy, placing citizens and small business at the centre of the process. Accordingly, the EU2020 strategy must be transparent to stakeholders in the EU law making process, and show real benefits. In particular, in this latest strategy, there is a whole series of so-called *flagship initiatives*, which need to be promoted better. An outcome-focussed, measurable and delivery orientated basis for policy and law making is still crucially lacking in the Commission and in many Member States. Finally, accountability for the whole EU2020 strategy process has not been truly addressed. Decisive action is now required.

## **II The role of the UK**

- Is the UK affected by market or integration fatigue?

All EU Member States have been affected by fatigue in respect for market liberalisation as well as the prospect of a return to nationalist measures. UK consumers and businesses are disproportionately affected by the ongoing crisis precisely because, of all the EU economies, ours is the most open. This has exacerbated the negative sentiment in relation to the benefits a true Single Market could otherwise contribute in quickly returning to sustainable growth. Many Member States are clearly still not committed in practice to increasing market liberalisation and the tenure of many political messages is worrying. The UK, rather than

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delay the problem further, is tackling the crisis head on and is therefore more realistic in addressing the challenges ahead and in delivering solutions which will have a much better chance of success in the long run. The UK should continue leading the way in the EU in this regard.

- Should the UK drive the completion of the single market? If so, what so of approach should be UK adopt to generate a new political momentum?

We believe the UK should be a strong defender of the Single Market and clearly stay committed to removing the remaining barriers. The UK should drive it forward within Europe and continue pushing for more free trade with the rest of the world, at a time when calls for protectionism at home and abroad are growing. In our view, the UK should support measures to make it easier for small businesses to take advantage of the Single Market and resist unnecessary, enterprise sapping and burdensome regulation. With this objective in mind, we have consistently tabled amendments supporting the "Small Business First" principle in EU proposals and to give British people greater opportunities in the European job market. This approach boosts support from citizens and business and gives EU initiatives more legitimacy as many stakeholders are micro- or small business managers: the main employers and growth engines in the EU. The UK should also champion consumer protection by ensuring consumers are well-informed and can take advantage of the Single Market when shopping on the Internet or in retail stores.

### **III Institutional elements**

- In order to deliver the re-launch of the single market is there a need to refocus the way that the relevant measures are dealt with by the EU institutions?

This is clearly one of the main lessons which must be learnt from the overall failure to reach Lisbon 2010 objectives. We recently called on the Commission to explain how each proposal in their forthcoming work plan will be of benefit to citizens. We have stressed that the advantages of the Single Market should be more readily available to citizens, and called in this context for a list to be drawn up of the 20 main sources of dissatisfaction with the Single Market, asked furthermore for better coordination of all proposals, while also pushing for major improvements to the quality and independence of impact assessments.

Our political group in the European Parliament is keen to reduce excessive waste and bureaucracy and increase probity into the EU institutions and funds to ensure taxpayers get the best possible value for money, especially when Member States are tightening their belts. We are working hard on our reform agenda and consistently fight for increased scrutiny of Commission proposals to ensure there really is "EU added value".

- What role should be played by national parliaments?

With the new responsibilities given to national parliaments following the introduction of the Lisbon Treaty, Member States need to play their part too. They should step up their scrutiny of Commission proposals and take advantage of the 8-week deadline to check that proposals comply with the subsidiarity principle. It is fundamental that we share best practice with our European colleagues and check if an objective can be achieved better at local or regional level first, rather than at EU level.



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As European Parliamentarians, we think that it is also our responsibility to strengthen our role in engaging with national parliaments over the impact of Single Market legislation. We are encouraging colleagues across the European Parliament to take this role seriously as well. For example, in order to provide British people with greater opportunities in the European job market without inconvenient and bureaucratic obstacles, we have led the way in involving EU national parliaments to investigate how problems with the recognition of professional qualifications from different Member States can be avoided in future, while guaranteeing consumer safety and the higher quality of service standards.

- Should the President of the Council take more of a lead?

The ECR group takes every opportunity to encourage the Council President to take on more of a lead on the Single Market since, at every summit, Member States seem to be arguing about goals in other areas, such as education and dealing with poverty. Actually completing the Single Market for consumers and citizens and small enterprises lacks visibility in Council communications. Rather than prioritising vague new goals, the Council should focus on achievable and concrete ones, such as rationalising and completing Single Market legislation.

We believe the biggest single flagship initiative the EU should be working on is to set out a clear step forward for the delivery of real benefits for citizens, consumers, and small and large enterprises in the Single Market, as well as tackling R&D and innovation issues, particularly the transfer of knowledge and technology. The President of the Council could focus Member States' leadership on clearly defined spheres of activity where Europe will undoubtedly add value, design a clear set of targets and frameworks, and actually deliver added value over a defined timetable.

- How should the Commission exercise its enforcement role?

The ECR group has led the IMCO Committee in taking a strategic, pro-active role in shaping internal market policy and in pressing the European Commission to take a bold approach on key Single Market dossiers. The Commission frequently reports back on how it is helping Member States and tackling those who are falling behind. In particular, we have been urging the Committee to positively influence the European Commission to look for new ways to eliminate remaining barriers to a complete Single Market and further open up key markets such as communications and public procurement.

We have been calling for a "Single Market Test" for all proposed new EU laws to ensure that these enhance the Single Market, and can be properly enforced by all Member States, which should enable the Commission to take a step back from enforcement activities, and dedicate resources to better quality policy development and impact assessment. The role of the DG Internal Market must not just be seen as the bureaucratic implementer of existing rules and regulations, but actively championing the internal market within the Member States, and across the entire Commission.

#### **IV Sectoral aspects**

- The use of tax coordination as a mechanism for driving the completion of the Single Market.

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The EU is hampered by low private sector funding. Retained profits are the most viable source of research funding and while tax cuts may be delayed until the current economic climate improves, there should be an aspiration of low taxation across the EU in the medium term in order to stimulate new growth. The principle of tax competition among the EU27 must remain inviolable. In particular, tax regimes across the EU should encourage private sector financial investors in innovative companies, and should relieve the tax burden for SMEs.

- The role the Services Directive has played in completing the single market. Whether the perception of the Directive has dampened enthusiasm for further single market reforms.

The Services Directive has the potential to deliver many benefits to consumers and business but is simply not recognised for it. Many improvements in the business environment and cutting back bureaucracy have already been achieved. The massive task of screening legislation and removing business barriers has been completed in most Member States but this must be finished off throughout the Union. Most are expecting the complete adoption of all changes to existing legislation or the adoption of new legislation by the end of 2010. "Single points of contact" have been established in all but two Member States, and provide information in at least English. Many also provide for the completion on-line of all procedures and formalities in setting up shop abroad. With regards to the mutual assistance and administrative cooperation, the "Internal Market Information System" is up and running in most Member States but not all. Crucially, the volume of mutual assistance remains low and this must be addressed, particularly for SMEs wishing to trade cross-border. Full implementation of the Services Directive is one of our top priorities.

Furthermore, the Services Directive did not go far enough in the number of sectors covered and we believe it is now time to fully complete the Single Market for services. The European Commission should come forwards with a list of sectors where future collaboration can produce the greatest economic benefit and where barriers still need to be broken down, for example through market monitoring. The Commission should also adopt a new approach in ensuring the better enforcement of Single Market rules. Innovative methods, such as mutual evaluation envisaged in the Services Directive, should be used more frequently to ensure better enforcement. A reversal of the burden of proof in particular, as agreed for the "goods package", should be introduced for Single Market rules. The presumption should be in favour of open markets unless a Member State has a clearly defensible public interest.

- The Digital Agenda, and its plans for creating a digital single market.

The Digital Agenda is the key driver of making the Single Market fit for the future. The Single Market must "go digital". Barriers to a fully functioning e-commerce sector must be addressed to give businesses the ability to trade cross-border and consumers must have the confidence to take advantage of the enhanced range of goods and services on offer. Our group has been instrumental in pioneering a Single Market Act featuring opening up the online Single Market as a priority. However, this must be underscored by an effective intellectual property rights system addressing fragmented copyright regimes across Europe. We consider that Member States and the European Commission must be more ambitious in their approach, in providing effective systems to better ensure the protection of the rights of creators while opening up new forms of access for consumers.

5 October 2010

**Oral evidence, 15 November 2010, Q 22–49**

*Evidence session no 2 : heard in public*

Members present

Baroness O’Cathain (Chairman)  
Lord Bradshaw  
Lord Brooke of Alverthorpe  
Lord Fearn  
Lord Haskel  
Lord Plumb  
Lord Ryder of Wensum  
Baroness Valentine  
Lord Walpole

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**Examination of Witnesses**

**Malcolm Harbour MEP and Louis Grech MEP**

**The Chairman:** Thank you very much indeed for coming. Members should remember to declare any relevant interest the first time they speak. *Hansard* is taking a verbatim report and you will have a copy of it, which of course you can amend. The first question, of which you have notice, will be asked by Lord Fearn.

**Q22 Lord Fearn:** What does the Internal Market and Consumer Protection Committee believe to be the priority areas of the Commission’s Single Market Act?

**Malcolm Harbour:** Shall I start? First of all, it is a pleasure to be back and to give evidence to your Committee since you became Chairman. I think it is also the first time I have had an opportunity to be here since I became Chairman of the Internal Market and Consumer Protection Committee. I am very pleased that Louis Grech from Malta, one of my very hard-working vice-chairmen, is also here. As you know, he was rapporteur for our report on the single market for consumers and citizens. We can fairly say that the genesis of the Single Market Act was that report. I know you also heard our very good and distinguished colleague Mario Monti on the subject. Obviously, we will speak from our own distinctive points of view from different parts of the political spectrum, but I think you will also get the impression that the committee as a whole is determined to give the Single Market Act thorough scrutiny and make some real progress on it, and perhaps we can return later to how we are to do that.

I think that in any proposal which has within it 50 items it is invidious to single out priorities because that is not what the Single Market Act is about. The most important deliverable that I, and I think the committee, shall be looking for in the Single Market Act is that it results in a clearly time-tabled programme of actions that we perceive as necessary to drive further forward the single market and address some of the problems but also the opportunities that are identified in it. That is what we look for in the Single Market Act. As part of that action programme, which we hope will be no more than a two-year one, we will

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look for a clear commitment from Member States, the Council and prime ministers to deliver those commitments. That is what we will achieve. On the question of prime ministers, I add one point. I am sorry it is a slightly long answer because you asked me for one priority. I think the Council of the European Union under the presidency of Herman Van Rompuy also needs to pick this up. I went to see him at his invitation a few weeks ago and said to him that I thought the Single Market Act and the completion of the single market had to be on his agenda for prime ministers to stimulate the competitiveness of the European economy.

**Q23 Lord Ryder of Wensum:** I am still a bit bewildered. Can you be more specific about where you hope to improve the Single Market Act to the advantage of those who deal in goods and services? If I may say so, in Europe far too often—this is not a judgment or observation I make about the evidence you have given—people talk in extremely eloquent generalities but fail to deal with the specifics.

**Malcolm Harbour:** If you looked at what my committee and the Commission have done over the last five years, Lord Ryder, I could persuade you otherwise from your view. I would cite just two issues. First, the Directive on the single market for services, which is also the subject of a later question, has been the most ambitious and wide-ranging programme member states have ever undertaken to remove discriminatory legislation against service providers and provide information for cross-border trade in services. That is clear evidence that over the last five years there has been a clear commitment there. Second, if you look at the goods package, which included a number of crucial measures, the most important one I cite is essentially the reversal of the burden of proof in cases where the import of a product that is already legitimately on sale in one European Union country is sought to be blocked for sale in another. The Member State concerned is now obliged to produce a public interest statement about why it is not allowing that product to go on sale. In my view that will deal with a lot of spurious issues about requirements for additional testing by a national testing authority, which in some cases is exactly the same specification. The goods package and the services directive are clear evidence of what we want to achieve. You will see in the Single Market Act proposal that, first, the complete implementation of those remains a firm commitment of member states but needs to be followed through. Second, we need to examine how that is being followed through. Third, we need to encourage companies that produce goods or deliver services to take advantage of the new provisions we have put in place.

**Q24 The Chairman:** If I may ask a supplementary, has it come into effect?

**Malcolm Harbour:** Yes, both of them have come into effect.

**Q25 The Chairman:** What sort of impact have they made so far? How long have they been in effect?

**Malcolm Harbour:** Effectively, from the end of last year. You are to talk about the Services Directive later. The Services Directive has not met its original timetable but there has been very substantive progress. The Services Directive—I am anticipating the evidence and can come back to it later—is probably the single market measure that has focused more attention on transposition than any other measure in recent times. Member states have been meeting together under the co-ordination of the Commission. There have been a number of conferences animated by different Council presidencies to get MEPs and officials together to see how that implementation is going forward. We had a hearing on it in the

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European Parliament a few weeks ago. This Committee was invited to send a representative to our meeting about the implementation of it. We will get that delivered. I think the timetable was over-ambitious.

As to goods, that has also been implemented. The committee has to put more focus on that because we think that the goods package, which had a much lower profile, is being implemented at the moment but not enough businesses know about it and are challenging some of the blocking they still find. We would like businesses to be far more aggressive in telling us what their problems are because we are confident that the legal remedies are now there.

**The Chairman:** I know we have skipped to that, but we will come back to it later. I just want to say that, if ever you have any evidence or firm facts or statistics on how things have improved and on what sort of goods and services, it would be most useful if you could send it to us.

**Malcolm Harbour:** Yes.

**Q26 The Chairman:** Mr Grech, do you have any comments to make further to the question put by Lord Fearn?

**Louis Grech:** In general terms I agree with Mr Harbour. However, one thing I do not agree on is the real rate of progress on the services directive. There has been a lot of lethargy and fragmentation within the Commission, and I think most member states are not exactly on an even keel as to how it is being implemented. We all know about the bottlenecks relating to the services directive, for example, but we also know that, whether through voluntary reluctance or not, it is not being implemented. For example, I think the Point of Single Contact is essential and fundamental to make it really work. That is far from what we should be achieving.

On the Single Market Act it is not a question of finding bottlenecks. I think it should go further than that. First, there is a lot of fragmentation. Whether on procurement, the Digital Agenda or the services directive, there is a lot of fragmentation. If I go on too long, tell me. Basically, fragmentation starts at the Commission end. You have so many bits of legislation that nobody knows exactly what is happening. I think the Commission's first job is to ensure there is an integrated policy within the Commission. I agree completely with Mr Harbour who is much more of an expert than I am. I have been on the committee for the past year and a half, and before that I was on the Budget Committee, which is a totally different thing. I agree with Malcolm Harbour that the President of the Commission, Mr Barroso himself, and the President of the Council should promote the relaunch of the single market, not the bottlenecks, because that is the micro side. We are really interested in the macro side to make it work.

**Q27 Lord Haskel:** I refer to something Malcolm Harbour said. Do you agree that probably the most important priority area of the Single Market Act is to persuade businesses within Europe that they have a much bigger market for their products or services? Surely, rather than look at it internally we should be looking at it from the point of view of businesses and service providers and persuade them that they have much more opportunity through the Single Market Act.

**Malcolm Harbour:** I agree with you, Lord Haskel; that is one of the major aims. Linking that back to what I said earlier about the goods package and the Services Directive, we need

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to get businesses to understand the level of information already there and how they can take advantage of it. To help them is the joint responsibility of member states and the European Commission. A lot of the Points of Single Contact are up and running. I am probably more optimistic than Louis because I was partly responsible for the services directive, so I have to discount that slightly. Nevertheless, the direction of travel is important. Things are happening, but there are many businesses that are not taking advantage of the information that is already there. We have to remember that businesses may need other encouragement and support to understand how entrepreneurs will create jobs, particularly in innovative businesses, which is something else on which we are working, so that is part of the problem.

We also need to communicate to citizens why the single market is so important. This is part of the political support for the single market. The importance of the work Louis Grech did was to position the single market for consumers and citizens. He was asked by the committee to prepare that report because we felt those were the areas where we needed better to communicate the single market, as well as to businesses. He used the expression—he will use it again—“a holistic approach to the single market”. The fact that he has to underpin Europe’s competitive position in the global economy is something that Member States and governments have not been very good at articulating to citizens either.

**Q28 Lord Brooke of Alverthorpe:** Mr Harbour, thank you for your response. You have identified one of the major areas of the Act. In response to Lord Fearn’s question, can you point us in the direction of the other major areas as you perceive them? There must be priorities among the 50 items within the Act.

**Malcolm Harbour:** As I said to Lord Ryder, having an action plan is the most important thing. Within that, the full implementation and communication of the goods and services package is probably the central thing to move the economy forward. There are two other crucial elements of the existing single market acquis and regulation that need reform and promotion. One is public procurement. The single market for public procurement is probably by far the most unexploited area of single market activity, not just because an insufficient number of public contracts are being advertised in the whole single market system but also because it is an underused tool to encourage innovative companies in, for example, green procurement and new activities in health, to name but two areas. The problem with public procurement is that it has been seen by too many as an obstacle instead of an opportunity. For me, that is crucial. As a result of activism by my committee, in conjunction with Louis Grech’s excellent report my Green colleague Mrs Rühle prepared a report on public procurement that has had an equal effect, because Commissioner Barnier has undertaken to carry out a far more extensive review of public procurement in the Single Market Act than he promised to before. I would commend your Lordships to look at that because in the UK it is an area that also needs attention. The other area that remains problematic is mutual recognition of professional qualifications. Again, we have already had an interparliamentary meeting on that in my committee. We shall be undertaking a major study next year in anticipation of a major review of it in 2012, which is also included in this proposal. In summary, the legislative building blocks for the single market are the key areas on which we have to move forward.

**Q29 The Chairman:** You have probably undersold the single market consultation paper. Although people throw up their hands in horror when they realise there are 50 separate parts really there are not because they are grouped into 14 parts and are only sub-headings of one major thing.

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**Malcolm Harbour:** They are, yes.

**Q30 The Chairman:** It is very helpful that you have told us about the three major ones out of the 14.

**Malcolm Harbour:** If I may add just one comment—perhaps Louis Grech may also wish to contribute to it—to help your future work, my committee has decided to do three separate co-ordinated responses on the Single Market Act because we believe there is so much in it that will benefit from treatment like that. We have taken three chapters, which focus on: developing enterprise and sustainability; citizens and social aspects; and governance and implementation. The committee will appoint three rapporteurs from three different political groups to do a report on each of those, and we will also have a co-ordinated response from other committees. My committee is determined, having initiated the idea of the Single Market Act, to make sure that it has thorough scrutiny, promotion and visibility in our house.

**The Chairman:** Mr Grech, is there anything you want to add to that?

**Louis Grech:** Another priority is the digital agenda. Eventually, that will probably be the most important priority to combine most things because you need it in order to take the single market forward, whether it is procurement or the services directive. In terms of the Single Market Act I think Michel Barnier tried to build up the single market and not just address bottlenecks, but I do not think it has gone far enough. In order to make the single market a real vision that will bring about economic wealth, the strategy needs more focus. I am aware it is not easy to address the various divergent views about the single market, such as whether it should be a social market economy or take a holistic approach, but there should be more focus on the way we are to achieve the single market. That is the major challenge, not to identify and do a health check of the single market, which I think is relatively easy—to consolidate is a bit more difficult—but to bring about an integrated process of the single market. One thing that amazed me when drawing up my report was the fact most people took it for granted that the single market was an irreversible process. I think it could be reversible. The protectionists and nationalists, whether it is perceived for the right or wrong reasons, have brought about nationalism and protectionism, which is a real threat to the effective implementation of the single market. I think the only way to address the single market is to convince citizens first. As to citizens' perceptions, the people I interviewed either had a negative perception of the single market or thought that it was really there in order to suit big companies like international companies. No. It is the SMEs that will ultimately gain from that a lot, but you need to convince citizens that it is working for them, not against them.

**The Chairman:** We come back to communication. Lord Walpole, I think that leads us to your question.

**Q31 Lord Walpole:** I do not declare an interest or anything, but I live and work in a rural area where the word “digital” is really known about. Do you think the Commission's proposals for the completion of a digital single market are ambitious enough? What do you see as the most important specific actions that would encourage development of such a market? I think this is what the EU is all about. You have the digital thing everywhere and it is all the same, is it not? I support Galileo because I think it is rather a good thing. I think secretly we ought to have done it ourselves but we could not afford to. It was super that it

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was done in the common market, and I think the same is true of the digital thing. We can do so much more if we get together, can we not? From what I have read about what the Commission proposes, I do not think it is ambitious enough. Is it?

**Malcolm Harbour:** I think you are right, but perhaps I may preface my remarks by saying it is very important, as you indicate, Lord Walpole, not to get hung up on the word “digital”. My approach is to say that the digital single market is the single market, because if you now look at every single business that accesses the single market one of its strong components will be the internet or an electronic-based offering, whether it is selling to businesses in particular or to consumers. In areas like public procurement we are moving increasingly into areas like electronic procurement, electronic invoicing and so on. In a way, that is why I do not identify the Digital Agenda as a priority. I think it ought to become much more a horizontal that permeates everything and all the individual things we are talking about need to embrace that digital area. That means for me the priority is to find a catalyst to make the public investment we need to ensure that all communities, even the most rural ones, have access to a functional broadband service that will enable them to do transactions with business or Government through their terminals, and also that in every area—because enterprises are found everywhere—we have a higher-speed broadband. The Commission has designated 30 megabits per second as sufficient to undertake business with the objective of getting more than half of European households on 100 megabits per second, which means they can transact all sorts of transactions, receive video and so on. For me that is the enabler of what else we should be doing. On top of that are a number of crucial things, for example making money transfers work better, dealing with invoices and some of the issues about consumer aspects to give consumers more confidence—in particular, that if they are doing transactions they can ensure delivery and get adequate redress. We are working on some of those issues. Issues around copyright are extremely difficult and sensitive, as you will know from the Digital Economy Bill in this House and work going on at European level at the moment.

**The Chairman:** Mr Grech, do you want to add anything to that?

**Louis Grech:** I am not a negative person but a realistic one, I suppose. The problem is that the Single Market Act does not say anything about making the Digital Agenda easier and less costly. I do not see anything specific in those terms. Fragmentation between member states and Parliament is another area and I do not think that the single market at this point is addressing that particular issue.

**Q32 Lord Plumb:** It seems about 20 years ago that we became a bit starry-eyed when talking about the movement of goods, services, people and capital through the frontiers, believing that it could happen. It is encouraging that 20 years on you are trying to make it work. I am all for that; I think that is good. I declare an interest. My interest is related to goods; that is, the export and import of food products to and from other European countries. Talking to many from those countries, it seems to me that protectionism is creeping in, that people are beginning to say there is a problem—it may be a small “disease” problem and so on—and therefore they must stop imports from here, there and wherever else, using that as an excuse. That has gone on for a number of years; we know it only too well. Vaccination takes place in one country and not in another and, therefore, a problem can be spread that does not exist in one country, and so on and so forth. In your opinion what is the risk of the tendency towards protectionism among member states for various reasons? In the questions you might have received, it adds that the financial crisis has receded. I think that is pushing it a bit. We hear this morning of the further problems in



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Greece, Ireland and elsewhere, and I guess we see it here. That is the question and I wonder whether you can you expand on it.

**Malcolm Harbour:** I think there is a paradox underlying the whole idea because, as I indicated earlier, for the last five years we probably made a bigger single advance within member states in opening up the single market, particularly in services, by removing a lot of protectionist legislation, at a time when we have been running into an economic slowdown. First, while there has been some rhetoric from senior politicians about protectionism the fact remains that the single market has remained very much open for business and is unchallenged in terms of its concept. Second, where there have been cases in which member states have perhaps been tempted to intervene to help national champions or companies, the state aid rules have generally operated pretty effectively. That is not to say they have operated successfully in every case. Essentially, the counterpart to having an open market is clear controls over state aid. The Commission has been slightly more elastic in some areas, particularly in the digital economy which Lord Walpole talked about, in allowing member states to invest themselves or to support investment in infrastructure, networks and so on. Nevertheless, that core principle remains solid. The question is: what do citizens feel about it? I think this relates back to the comment we made earlier. This is not just about business; it is about citizens. We know there has been quite a lot of public comment about companies coming in from other countries within the European Union and apparently taking jobs from the people who work locally and about whether this is fair or unfair. I do not think governments have been very good at explaining why that is happening and how important it is. That is very much a political question that needs to be handled from the top. The previous Government set it out and the present Government needs to continue it. I do not detect a fundamental movement to unwind the single market, but I recall that Louis Grech has said—I listen carefully to what he says and have seen his report—we need to be politically vigilant because the single market is not a given; it may not necessarily be an irreversible process.

**The Chairman:** Mr Grech, do you have anything to add to that?

**Louis Grech:** I think the idea of protectionism is widespread, not because there is any movement to eliminate or threaten the single market—I agree completely with Mr Harbour—but basically because most of the citizens I have interviewed, instead of thinking the single market will create more wealth and jobs and, especially after the economic and financial crisis, will defend social safeguards, believe that it will not create more wealth, it will not give them jobs and it will never defend their social rights. I think this is fundamental. Whenever it suits them, when something is good, governments on the whole say they did it; when something is bad it is due to the single market. We have that kind of problem and need to convince citizens as consumers and SMEs more than anybody else.

**Q33 Lord Haskel:** During discussions last week when I was in Brussels—thank you very much for your courtesy at that time—I became conscious of a kind of protectionism of which I had been unaware before. One or two people complained about the fact that social security was received in one member state and spent in another. One gentleman from Austria complained that people went to Hungary to get their teeth fixed because it was far cheaper. There was a feeling that if you received social security in one member state you should spend the money in that member state rather than another. I just was not aware of that. I wonder whether you have anything to say about that.

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**The Chairman:** Lord Haskel, I am sorry, but we have to adjourn for 10 minutes because of a Division.

*Sitting suspended for a Division in the House.*

*On resuming—*

**The Chairman:** We were dealing with Lord Haskel's question about social security.

**Malcolm Harbour:** I was at the same meeting and heard what I thought was a rather baffling question. It is difficult to see why if you receive a social security payment in one country you should be prevented from spending it in another. I am not sure I see that as a single market issue as such. There are broader issues around the delivery of public services, which were very pertinent to our review of the services directive and may be part of the underlying issue here, and about public services provided on an economic basis with open tenders and the ability of service providers from other countries to provide those services on a contractual basis to another public authority. That was something for which we fought very strongly in the services directive to ensure the market was kept open. But one aspect of the Services Directive was that, because of the sensitive nature of public services, member states were able to apply more controls and checks on the types of companies that supplied those; in other words, whereas there is generally a right to provide a service in another country and complete freedom of establishment, there was a slight carve-out for that area. Nevertheless, I think that was an important element we achieved in the original Services Directive.

**Q34 Baroness Valentine:** I think you have touched on this a little already. What role does the IMCO believe public procurement, including e-procurement, can play in revitalising the single market?

**Malcolm Harbour:** I have already covered a number of those points, but perhaps I may elaborate further. First, it is quite clear that in far too many cases public tenders that should be advertised on the European tendering system are not being put on the system. Relative to the size of public procurement, I think all the statistics show that there are many contracts not going on to the system; in other words, it is not working to anything like its full potential. Second, some of the bureaucracy that is seen to be around the conditions and associations for putting together tenders seems to be applied rather more scrupulously—shall we say, rather more bureaucratically—in some countries than in others. I think the Commission would be right to look at the tendering conditions. In particular, the first crucial point is that in a number of countries small enterprises are actively discouraged from going into the public market by the bureaucratic tendering requirements. That is true in the United Kingdom. We know that the coalition Government has already made a pledge to make changes in that respect and we need to make sure that happens in other countries.

The other issue in terms of economic recovery is that it is broadly agreed across all parties that Europe needs to stimulate and encourage innovative companies and new business start-ups far better than it does. This is a crucial element of our global competitiveness. It is clear that other countries, particularly the United States, use public procurement much better as an instrument to encourage that. For several years the Commission has had a package of so-called pre-competitive procurement guidelines that demonstrate that within the existing public procurement rules it is possible for a public procurer to work with an innovative company, indeed perhaps in partnership with another research institution like a university, to develop an innovation and then apply it to solve a particular problem they have

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identified. That so-called pre-competitive procurement, which is essentially to procure research and development as part of a long-term package, is perfectly permissible under the terms of the existing public procurement legislation. It does not need any new legislation; it is a matter of getting a change of attitude and approach by people who are putting together public contracts to do this. I mentioned the specific areas of health and green technology, but transport is another area where there is huge potential. I give you a simple example close to home. I am in danger of overrunning because I am an enthusiast for this and have been one of the real champions of it. If you look at the National Health Service in this country and its procurement budget, there is fantastic potential for applying innovative solutions and using the health service as an area for developing innovations in medical treatment, remote healthcare, information technology and pharmaceuticals, which I do not think we are fully exploiting. I think that is true across the European Union.

**Q35 Lord Haskel:** I could not agree with you more. Are you aware of the system we have in this country whereby, when central government or local authorities require some sort of technological solution, they give the Technology Strategy Board the details and that board puts it out for small and medium-sized companies to bid for and get funding assistance for?

**Malcolm Harbour:** Yes.

**Q36 Lord Haskel:** The last time I looked at it, as I was a little bit involved in its formation, there were about 460 such contracts working. Would that work throughout Europe?

**Malcolm Harbour:** It certainly would. I am aware of that programme and followed it with great interest. Indeed, I went to see Mrs Geoghegan-Quinn, the Commissioner for Research and Innovation, together with Mr David Connell of the Judge Business School in Cambridge, who has been a strong advocate of this area and has seeded the ideas for the UK programme. You will see that the Innovation Union flagship strategy of the European Union produced by Mrs Geoghegan-Quinn, which we are not talking about today but which I strongly commend to you, has clearly identified the potential for a programme of that type both to work at European level and to encourage all member states to set aside a proportion of their procurement budget to encourage innovation. That has now moved to the European level. My committee in particular can claim some responsibility for that because my report, which the committee supported in 2008, raised all of this to the political agenda. Curiously, the promotion of pre-competitive procurement—this is why the single market is so important—was not done by the Commissioner for Internal Market and Services but by the Commissioner for Information Society. They saw it as a key vehicle to encourage more innovative solutions in information technology, but clearly it has far wider implications than that. Mrs Geoghegan-Quinn has now picked it up and it is in the Single Market Act, and Mr Barnier will include it in his review of public procurement. One thing we seem to be achieving at European level is much more of these horizontal initiatives where we see commissioners now working together better to co-ordinate these activities. Therefore, in the Single Market Act you will see a lot of activities that are not Mr Barnier's direct responsibility. This is part of the holistic vision of the single market that I think was very well advocated in Louis Grech's excellent report, even more so than Mario Monti's proposals.

**Louis Grech:** I agree. I have two points. The evidence is that direct cross-border bidding is almost non-existent unless you have an ally in that member state, so in reality it is not really working. I agree about its full potential, but a lot has to be done. I do not think the Single

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Market Act has addressed the problem of the interaction between national, European and regional levels. There is still a problem dealing with it in a consistent, integrated manner. We have to address that problem first. Transparency is not there; also, it is not cheap and easy, so any cross-bidding, which is ultimately the idea of having a European procurement policy, is not there.

**Q37 Baroness Valentine:** I have a follow-on question. On stimulating innovation, surely if businesses believe that in practice innovative proposals give them a better chance of winning contracts, that will encourage further work on innovation, so is it not about the working practices of the people who assess the bids and the natural tendency to be risk averse rather than to encourage things that may go wrong? Do you have any comment on those working practices as opposed to funding solutions to these? The other issue that I often hear in that space is that if you put forward your best ideas as you go through the process, you just get them taken away but you do not actually win the contract. Can you comment on any of that?

**Malcolm Harbour:** I would comment on both points. Your core point is risk aversion. The problem faced by companies with a new invention is the ability to find funding to develop it from people who perhaps do not appreciate or understand the value of it. You may argue that means it is not a good innovation. On the other hand, if they persuade a potential customer that there is a clear application for this innovation and the customer then works with them to develop it, that deals with some of the issues about risk aversion, but it also means that the invention itself is developed more quickly because it has a clear end user.

The third point is that an innovation that has that kind of backing is much more likely to attract someone to provide the capital it then needs to be developed into a final production solution, because you have underwritten, if you like, quite a lot of the risk associated with that. As far as intellectual property is concerned, it is quite clear from the way the public procurement process would work that any intellectual property that may be generated during that process will be jointly shared by the company that is promoting it and the customer, if the customer chooses to do so; in other words, if it is a straight research and development procurement where the customer ends up owning the intellectual property, that would not come under the provisions of the public procurement directive.

So intellectual property management is crucial, but I would say that at the core of anything that we have seen on innovative procurement it is quite clear that you have shared intellectual property and that the company concerned clearly has to manage that because that is part of its long-term value. To take the UK, what we want to see in the wider economy is a British or European public authority working with a European company to develop an invention that is then so powerful that it has worldwide application. That company will grow and thrive on the back of that. Even if we set aside a relatively small percentage of the 16% of the European economy that we spend on public procurement, it would have a real material effect on driving innovations in the economy.

**Q38 Lord Bradshaw:** We move to another area: the mobility of labour, as I understand it. There is a question about a review of the Posting of Workers Directive. We want to know what your views are on it, and how much it will affect the working of the Single Market Act.

**Malcolm Harbour:** I will start on this. Louis and I may have different perspective on this. The Posting of Workers Directive has been in place since, I think, the late 1990s. It is a long-

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established piece of European legislation that was intended to address the concerns that workers posted from one country to another might undercut workers in the country where they were going to work, for example by means of avoiding minimum wage legislation and the requirements on employers of holiday pay, pensions and so on.

The Posting of Workers Directive was absolutely clear about the fact that core labour standards had to be observed. It was an area that came up strongly in the services directive, because some of the bureaucratic requirements of the Posting of Workers Directive were applied very unevenly from country to country. In some cases if you wanted to post workers to another country you had to apply in advance and send forms to the receiving country concerned.

As a result of the services directive, important clarification was put forward by the then commissioner, which was agreed in conjunction with the services directive, to try to improve the operation of it. I think the real issue on the table now is more fundamental than that; it is to do with the fact—this has resulted from two European Court cases—that for some people observing core labour standards is not enough. If there has been a collective bargain in the particular industry concerned, then they consider that that effectively that becomes the core labour standard, not the minimum wage or whatever wage level should be paid. That is at the core of the dispute at the moment.

I am not very much in favour of defending that; I would stick to the existing Posting of Workers Directive, but it is clear from the evidence given to you by the European Trades Union Congress and others that they are looking for more action in order to enforce collective bargaining arrangements. I think that is the issue at the core of this discussion. Louis may have a different view and may want to convince you otherwise.

**Louis Grech:** No. Ultimately, if we really want to make the relaunch of the single market effective it must have a social dimension. The Lisbon treaty is pretty clear on that. If we want it to be acceptable and have a citizens' approach, obviously we have to look at the economic side and redefine the economics of the single market. At the same time, we have to ensure that the citizen has the necessary trust. I do not think that at the moment there is trust in the single market. I think there is a social dimension. Obviously, we are trying to find a balance. I believe in an open economy, yes, but at the same time the single market can work only if the citizen is safeguarded socially and in terms of the environment. When we come to the social dimension of the posting workers directive, yes, we need to review that legislation. I think things should be clearer and more transparent in terms of workers' rights, because ultimately I believe in the Citizens' Charter. The Citizens' Charter should include the right to live and work abroad. Ultimately that is the essence of being in an integrated Europe. You really cannot have an integrated Europe unless you ensure there is harmonisation of certain social rights. I think that is fundamental if you really want to have less tension between what is capital and what is social.

**Q39 Lord Bradshaw:** Next year the Commission will have some legislative proposals on this. How long will it take for that to go through the machine?

**Malcolm Harbour:** We have not seen the timetable for that. It is true that in the Single Market Act there is a commitment by the Commission to review the operation of the existing Posting of Workers Directive. This will not be the first review; there is a suggestion that it should review the social market clause in the Lisbon treaty to see whether that of itself would bring about any change in the operation of the Single Market Act. But we imagine that is a proposal that will come out fairly quickly from Commissioner Andor, who is responsible for employment. Whether member states will accept a change is a different

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matter. All of these are decided in co-decision, and there will be a lot of detailed discussion about this in the Council.

**Lord Bradshaw:** So, there is a long way to go.

**Q40 Lord Brooke of Alverthorpe:** Gentlemen, both this committee and the Internal Market and Consumer Protection Committee have recommended that the principles of smarter regulation should underpin everything the Commission does. Does the IMCO have any views on how well the Commission is currently meeting that objective? Will the Communication on Smart Regulation have an impact on the smooth functioning of the single market?

**Malcolm Harbour:** This takes us into a whole other area of my interest. I think issues around smarter regulations are almost deserving of a report on their own. Perhaps I may comment on some of those issues. My committee is currently doing an opinion for the Legal Affairs Committee on the Smart Regulation Communication. My first observation is that we have been talking a lot already about implementation of legislation, particularly in connection with the Services Directive and the goods package. My committee has said in a number of reports, including Mr Grech's report—which is very strong on issues around governance and implementation—that it is absolutely crucial that the smarter regulation process is seen as a circular one and not simply an end in itself; in other words, simply to produce another impact assessment and leave it at that is not good enough. The Commission must get much better at post-implementation audits about how legislation is working and at co-ordinating the transposition of legislation to make sure it is done in a more consistent and effective way. It is also important for single market legislation that the impact assessment itself takes into account the design of the legislation to ensure it is not over-complex to transpose into member states and listens to what member states say about some of the complexities of the ideas and what enforcement mechanism might be needed to do that. That is an integral part of doing a better job. That applies very much in the single market area, because we are concerned about the inadequacies of some of the legislation. The second point is that the development process of legislation under a smarter regulation regime needs to be thought through again much more in terms of a development process. At the moment the Commission tends to do a single impact assessment, which in some cases is preceded by what might be called a strategic review that looks at legislative alternatives, perhaps accompanied by a Green Paper. The report of the Court of Auditors on impact assessments, which by the way is an important counterpart document to the Smart Regulation document, is a very comprehensive report in which my committee is specifically mentioned as being best practice by way of using impact assessments. That is why I draw it to your attention.

**The Chairman:** Congratulations.

**Malcolm Harbour:** They say the Commission needs to be much more open in sharing some of its strategic analysis and the choices it makes and opening them up to public discussion before it firms up on a particular strategy. It can then go to the next stage of developing that strategy into a final product. Many of those involved in business will see that this is a very common process in business. My argument in the whole debate is that, if the Commission put more work into the development stage, the actual scrutiny and agreement of the legislation—this is Lord Bradshaw's point—would be much quicker because we would have a better product to start with. At the moment we have a very bad product, the consumer

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rights directive, of which your colleagues on the committee of the House dealing with consumers have been very critical. The nature of it is that we have 2,000 amendments to a directive that has only 45 clauses. This is an example of badly developed product. I do not think the smarter regulation document that you have is in any way ambitious or sufficiently forward thinking; it is rather too self-congratulatory about what the Commission has achieved. I do not think it takes enough account of how we, or indeed our national Parliament, should be working more closely with them. My concluding point is that we are the first committee in the European Parliament to insist that, when the Commission submits to us a legislative proposal for scrutiny at our first meeting on it, it comes to the committee and presents the full impact assessment, explains its reasoning behind it, the strategic choices it have made and the design of the legislation, and we can question it on those choices before we start work on detailed scrutiny of it. I think that has been very much an aid to the work we are doing. Commission officials welcome the opportunity to present this work in public, because too often they have been asked to make impact assessments purely as a political totem pole by certain colleagues in order to say, "Well, we've solved all these problems by impact assessment but they never bother to read them."

**Q41 The Chairman:** Mr Harbour, before I was Chairman you contributed to the work of this Committee on the impact assessment report.

**Malcolm Harbour:** I did.

**The Chairman:** What do you think of a post-assessment?

**Malcolm Harbour:** I think the post-impact assessment or audit is absolutely crucial.

**The Chairman:** That is done nowhere.

**Malcolm Harbour:** That is not entirely true. For example, I mentioned the Mutual Recognition of Professional Qualifications. First, I think we will get a report early next year about how well the Directive has been transposed in member states. In 2012 the Commission is required under the terms of the legislation to produce a review of how it is operating and proposals for its potential reform. Part of the strategic approach I mentioned is that my committee is already working on the mutual recognition of professional qualifications. Indeed, some Members of this House have met us. We had a review of it recently. Chairman, I think you were there.

**Q42 The Chairman:** That is right. These are the medical ones?

**Malcolm Harbour:** Yes. We have invited national parliaments to contribute to that. We commissioned our own research report. Next year we will do our own review about how the Directive is operating. We will make political statements about that and that will go into the Commission's review. That is in line with my own thinking about the fact we need to be far more strategic about the whole development of smarter regulation and also updating existing legislation, not simply wait for the Commission to send us legislative proposals. I have also taken this up with the President of the Commission. Under the Lisbon Treaty European Institutions should be engaging much more with national parliaments. Part of it is that at the moment you receive all the legislation in advance, but that is much too late. This House is particularly good at working ahead with us and sending us strategic reports, but that needs to become much more commonplace in national parliaments.

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**Q43 Lord Brooke of Alverthorpe:** I have a couple of quick points. One is about the ideas that your committee has been developing and putting into practice. To what extent is this applied right across the commissioning area?

**The Chairman:** Exactly. That was what I intended to ask you.

**Malcolm Harbour:** I go to the Conference of Committee Chairmen. Each committee is sovereign unto itself and each chairman has his own distinctive views about how committees should be run. I am very pleased to have an excellent team of vice-presidents, of whom Louis is one, and co-ordinators. We have agreed to work together and perhaps break new ground. Other committees are having a look at what we are doing, but at the moment there is no specific requirement, except impact assessments that are now coming in as part of the new inter-institutional agreement that has just been negotiated with the Commission, so you will see some changes there.

**Q44 Lord Brooke of Alverthorpe:** My second question is about post-legislative scrutiny. We are not particularly great in the UK in doing the amount of post-legislative scrutiny that should be done, if we do any at all. We have some work on regulation, but the extent to which we should examine what we pass and change it in the light of experience is fairly minimal. Can you say whether there are any countries in Europe that do it better than we do that would be worth looking at?

**Malcolm Harbour:** I am not sure I am that well qualified to do that. I am aware of the Better Regulation Unit, as I think it was called. I am not sure of the current formulation of the UK unit. I do not believe it has been transformed into smarter regulation in Britain. I know that a study was conducted by Michael Gibbons, who is chairman of the current Better Regulation Unit. As to fellow enthusiasts for this approach, I think the Dutch, Danes and Swedes are particularly strong in this area; indeed, those governments jointly did a report on smarter regulation in the European Union. But we need a consistent approach. It seems to me that the problem in the United Kingdom is that we have kept reformulating our ideas about so-called better regulation units and I do not think we have been entirely consistent. Although I have criticised the Commission's Smart Regulation report for being a bit complacent, we should nevertheless give it credit for having been consistent in developing a whole impact assessment process, improving it progressively, subjecting it to internal audit and trying to ensure there is consistent improvement in impact assessments that are carried out in all parts of the European Commission. I do not think the European Commission has had anything like enough credit for this work because, unfortunately, it still seen as a byword for complex and obtrusive regulation. In some cases there are problems, but that charge is not really fair at the moment, certainly in comparison with some of the regulation that I see in member states, not least my own. I do not know whether Louis has Maltese experience to contribute.

**Louis Grech:** Even less than here. The only thing I would like to say about smart regulation is that I am a firm believer that the wider use of Regulations is better than Directives. I think the use of Regulations will make it more efficient across member states.

**Q45 Lord Haskel:** I am sure the Commission presents its impact assessment to your committee so you can give it a single market test.

**Malcolm Harbour:** Yes.



**Q46 Lord Haskel:** Mr Grech, do you feel that the impact assessments pay proper attention to the social dimension and the Citizens' Charter, about which you told us a little earlier?

**Louis Grech:** I do not think they do. I think that is one strong point. My report said that any impact assessment, any single market test, apart from the mutual evaluation assessment, should definitely take into account the social dimension. My socialist group criticised the Single Market Act because it put the social clause in the text but not the proposals. We are saying that this is fake. One criticism of the Single Market Act is that, whether it is in consumer protection or social dimension, we feel it is a bit too fake and, obviously, it could be too wishy-washy. Yes, we do believe there should be a single market test and any assessment should take into consideration the social dimension. I think there is an agreement across the board that if you are to make an economic and environmental assessment, you definitely cannot exclude the social dimension.

**Q47 The Chairman:** Mario Monti has argued that the Anglo-Saxon Member States' aims of a stronger single market could be achieved by accepting other Member States' desires for stronger consumer and social protection, but your evidence places greater emphasis on delivering the single market to consumers and citizens. Can these two approaches be reconciled? Indeed, would any such approach be politically acceptable?

**Louis Grech:** I think Professor Monti is trying to bridge the gap from within the Council more than the single market. Obviously, he is trying to reconcile what he calls the Anglo-Saxon approach, which is basically about taxation policy and whether there should be tax harmonisation or tax co-ordination. Obviously, the UK and other countries, including Malta, would rather have a competitive tax base, and there are varied arguments for both. To come back to your question, I have discussed this with Professor Monti. I understand his view that ultimately one needs to have one economy because he is talking about economic tensions ultimately; he is saying that to avoid these conflicts and tensions both sides should give something. We think that the citizen or holistic approach encompasses that and has less potential to create an immediate bottleneck. The approach we recommended in our report would bring about more consensus than if one tried to reconcile divergent views. What Mario Monti said is valid; bridging is essential but might take longer. I think we should address the single market urgently and the holistic approach is potentially more practical.

**Malcolm Harbour:** Of course, if you are to have a bargain there must be two sides to it. I do not think Mario Monti has developed the case that there is any bargaining situation. I do not accept his concept that somehow there is an Anglo-Saxon vision about the single market. From my experience of the Services Directive it was interesting that, if anything, the polarisation of that Directive was that the new Member States, whatever the political persuasion of their governments, were extremely enthusiastic about it. Spain was also a very strong supporter of the single market, so I do not think it is an Anglo-Saxon issue at all. If anything, I think the principal problems and some of the challenges for us in trying to reach an acceptable compromise on the Services Directive were related particularly to France and Germany. Therefore, I do not think there is a particular concept in here or a need to construct a bargain because, as Louis points out, it is worth recording that his report, which was very supportive of the importance of the single market to European consumers, citizens, the EU economy and entrepreneurs, got 580 votes in the Parliament with less than 100 against. It was broadly supported across the political spectrum by people from all countries, so there was no evidence of any sort of bargaining relationship. In particular, I do not think anyone suggests on issues around consumers that you can construct a single market at the

expense of consumer protection, underinformed consumers or consumers who are not properly empowered. We have always believed that actively engaged, empowered and well-informed consumers are indispensable to make the single market work. To pick up Lord Walpole's earlier point, they are particularly the ones who will use the internet to investigate prices and make decisions. They may not complete their transaction on the internet, but there is no doubt at all that the internet has given consumers huge power to decide quality and the cost of products. One of the areas we have not explored this afternoon—it links quite strongly into this—that makes the single market work is the improvement of the quality of information that consumers have, particularly around services and things like having quality marks for service provision. I do not see that there is bargaining here, but I accept—this takes us back almost to the opening of the discussion—that we need to promote the single market much more energetically to citizens at all levels of society and say this is really important for them because this is the way, in every country of Europe, we will seize our advantage in the global economy. If we are to develop a really strong position in Europe alongside China, India and the United States, we have to be able to work across this market of 450 million people and encourage businesses to take advantage of this and become more innovative. We have to encourage universities to supply ideas and be able to exploit them on a broader canvas, but we rarely hear about these sorts of things. I think that is the real message that has come across from our report and relates back to what the Single Market Act is all about. Mario Monti always has a brilliant phrase. Last week when we talked about the flagship initiatives, the single market and the Single Market Act he said to us that the Act was neither a flag nor a ship; it was the sea and the wind that moved forward the European economy and the platform on which we had to build these other great initiatives. I think that is the context in which we have to move forward.

**Q48 The Chairman:** Thank you very much. Are there any questions that you think we ought to have asked you? Are there any gaps in the evidence we have taken from you that you think are wide and glaring?

**Malcolm Harbour:** I am not sure I want to take up too much of your time. You have been very generous in allowing us to elaborate answers in different directions.

**The Chairman:** It has certainly been worthwhile.

**Malcolm Harbour:** I would perhaps come back to what I said about timetable and engagement. We are extremely grateful to this committee for the work it does. Its reports are extremely useful and helpful to us. We hope that you will be able to align now, because you started this inquiry before the Single Market Act came out.

**Q49 The Chairman:** Before the consultation paper.

**Malcolm Harbour:** Yes. My question to you is whether you will be able to incorporate your views on the Single Market Act as part of your broader inquiry because that would be very helpful to us. We should also look at how that might feed into our own report. We are also interested to hear from you in the broader context about whether we are giving you enough information, whether the meetings to which we are inviting you to exchange views with us are helpful and also to have your insights into some of the issues we have talked about in improving the quality of what we are doing. Finally, standards are the one issue that is very much at the top of my agenda at the moment and are also covered as part of the Single Market Act proposals. My committee has just completed a very good report on the European approach to developing international and European standards and how to engage all stakeholders in that process. That report was done by our colleague Mr Kožušník

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and is now available. The Commission will be sending us a new legislative proposal on standards; we expect it early in the new year. I think that is a very important one. I would link that to my third point. My committee is very conscious of the fact that the European single market does not exist in isolation but has a very important global dimension. In creating a single market, as Pascal Lamy remarked when he was Trade Commissioner, the technology that Europe has is extremely important, because other economies—the United States and India, where recently I led a delegation of my committee—have much less integrated and more fragmented markets than we do. We need to start moving our trade thinking beyond ideas about dealing simply with tariff barriers and packages of tariffs and look much more fundamentally at how we can create markets. I am very pleased that, in relation to the US and Europe, this week Mr De Gucht announced a major reform of the transatlantic economic dialogue and that the Transatlantic Economic Council will focus much more standards for future technologies, whether nanotechnology or green technologies. It seems to me much more sensible not to create the barriers of the future but to start aligning those technologies. This is now moving work out from my committee and yours to look at the global reach. Perhaps we have not thought enough about how important that is. The visit of my committee's delegation to India, a report of which we are happy to send you, has been very revealing to us about the ambitions of Indian companies to move into the global market and also how we can develop that sort of working relationship there.

**The Chairman:** Thank you both for coming and giving us your time. I know how difficult it is to fit things in. This has been very illuminating certainly for me, and I am sure that other Members of the Committee feel the same. We will be sending you the verbatim report. As I said in my opening comments, if there is anything in it that you want to correct, please do. Again, thank you. We wish you a good journey back.

Lord Liddle

## **Lord Liddle**

**Oral evidence, 22 November 2010, Q 50–87**

*Evidence session no 3 : heard in public*

Members present:

Baroness O’Cathain (The Chairman)  
Lord Bradshaw  
Lord Clinton-Davis  
Lord Fearn  
Lord Haskel  
Lord James of Blackheath  
Lord Rowe-Beedoe  
Baroness Valentine  
Lord Walpole

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### **Examination of Witness**

#### **Lord Liddle, a Member of the House of Lords**

**The Chairman:** Thank you very much for sparing your time coming to this. I’m sure that we’ll all find it very interesting. You probably know that we started this investigation with Mario Monti, who came here just before Summer Recess, in view of the fact that he had been commissioned by President Barroso to do the report on the single market. He was slightly downbeat about the single market, indicating it was in the shallows. Since then, we had Malcolm Harbour MEP, the chairman of IMCO, and a Maltese MEP, Louis Grech as witnesses.

So you are our fourth witness and we’re very grateful to you for giving this time. I would particularly like to thank you for allowing us to see the unpublished chapter of your book. I think one or two members thought that I had managed to purloin it, but it was willingly offered and willingly accepted.

**Lord Liddle:** Indeed it was, yes.

**The Chairman:** Right, so thank you very much. There will be transcription of this session, which you will see—you know the whole process—and you can amend it.

**Lord Liddle:** Yes. I’ve done it before once actually—

**The Chairman:** Okay, so you’re an old hand.

**Lord Liddle:** I know how horrific it is, really!

**The Chairman:** Lord Fearn.

**Q50 Lord Fearn:** Thank you, Lord Chairman. Lord Liddle, good afternoon. What do you consider to be the priority areas of the Commission's Single Market Act?

**Lord Liddle:** I think what the Commission is doing is basically what I recommend in my chapter. It does it differently, but the basic principle is the same, which is that unless we look at this as a fairly broad package, those of us who believe in market liberalisation—and I count myself as one—will not get very far. So, I think that the pick of the 50 proposals—it is 50, isn't it?

**The Chairman:** 50, indeed.

**Lord Liddle:** Yes. It's a very long list and obviously some of them have the look as though they've been made up in order to get to the number 50 for public relations reasons; to be able to say you have 50 steps. I haven't been through them to work out which of the 50 those are, but the key point is that the Commission is putting this forward as a package. I think the Commission is right in terms of its concept of a package because I think there are a lot of interests that need to be balanced here; I think that the political support for the single market has declined and therefore we have to look at these issues in the round.

**Q51 Lord Fearn:** I was just going to say: why do you think it has declined?

**Lord Liddle:** Why has it declined? I think that it aroused great enthusiasm when Jacques Delors launched the White Paper in the mid-1980s, and the 1992 objective—that was a great success, I think—created a momentum in which a lot of legislation was passed that did have a very liberalising effect on the single market. I think though that the general political context has got more difficult. The 1990s was a decade generally of very low growth in Europe and high unemployment. The 2000s, until the banking crisis in 2008, were better for Europe, and for the continent generally, in terms of employment particularly, and to some extent growth. There was quite a rapid growth in employment on the continent, which I think a lot of people in Britain didn't realise. I think the growth rate was more rapid there over the five-year period to 2008 than it was in the United States. However, I think there was a perception that a lot of the growth in employment was in marginal, insecure types of jobs, partly as a result of the two-tier labour markets that exist in quite a few European countries. I think the feeling that the process of having a competitive market isn't working for everybody is the fundamental reason why popularity has declined.

We always assumed—I always assumed—that if you get economic growth then it was going to be fairly distributed. I think that that assumption on the continent is in question and that there has been a polarisation—I think I talk about this in my chapter—between the winners and losers from globalisation. If you look at Germany, a lot of the mass manufacturing has gone to eastern Europe, which is a benefit of European enlargement, and German companies have made themselves globally competitive by restructuring their operations—this a benefit that the single market gave them, of course—so that they can do a lot of the basic manufacturing in the new member states. This helped them. The single market was, therefore, the reason why they've been able to maintain this tremendous export success. But of course, if you look at it from the point of view of the German worker, a lot of decent jobs in factories were lost and they were replaced by jobs more at the margin of the labour market. I think that that's one of the reasons why this polarisation process has undermined support for the whole single market.

**Q52 The Chairman:** Yes. I think that that's very valid, and I had come to that conclusion myself when I was in Berlin last year and was talking to various people about it. A point that

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you haven't brought out is that I wondered: was it just indigestion? When the single market began, how many members were there—15 or something, and there are now 27—and the new members must not have really taken to it like a duck to water, because they were too busy trying to upgrade. Do you think that's a valid point too?

**Lord Liddle:** I think that the impact of enlargement has been problematic. Let me say on enlargement that, again, like I'm a strong supporter of the single market, I'm a very strong supporter of enlargement—

For political reasons, to secure democracy across Europe, and all of those sorts of reasons. But I do think the social impact of it was rather underplayed when Europe was thinking about this. I think that what happened on enlargement is that, in order to get membership, many member states had to transpose the *acquis* into their own law, which they did very rapidly, but there have been a lot of complaints about enforcement and whether the *acquis* has been properly implemented. I think that in countries like Austria and Germany, this has aroused quite a few popular fears about wage competition and also migration, a very sensitive issue.

Perhaps I can tell you a little story on enlargement. I always remember, when we had the first British Presidency under the Labour Government, sitting with Tony Blair, and as part of these Presidency preparations you always get the employers and the trade unions coming to see you. A very gentlemanly, nice man from Austria, who was the President of the ETUC, came along to Downing Street and he said, "Tony, look, I'm all in favour of enlargement, but what you have to remember is that in Vienna, my members are paid 10 times as much as people 50 kilometres down the road in Bratislava and 20 times as much as they are in Romania. So, therefore, there's bound to be quite a lot of concern among people about the social impact of this".

I think that enlargement has, as I say, been very beneficial to business and in particular to Austrian and German business, and has made them very competitive on the world scene, but it has also had its social downsides. I think that we didn't—when I say "we" I mean those of us who believe in an integrated economic Europe and all of that—take these things into account sufficiently.

**Q53 Lord Haskel:** Thank you for your paper; I thought it was quite interesting.

**Lord Liddle:** Thank you.

**Lord Haskel:** You do in fact speak in your paper about protectionism and we wondered how real you think is the current risk of protectionist tendency among the member states, particularly as a result of the financial crisis?

**Lord Liddle:** Yes. To tell you the truth, I wrote this paper some time ago, so it was—

**The Chairman:** Overtaken?

**Lord Liddle:** When you write things for books and they then take another year to publish, the risk is they are very well out of date by the time you publish them. I think two things. On the immediate impact of the crisis, there was a great outbreak of member states, including the United Kingdom, doing their best to make sure that jobs weren't lost.

**The Chairman:** "British jobs for British workers".

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**Lord Liddle:** “British jobs” and all of that. One remembers Mrs Merkel’s grandstand performance on the question of Opel and General Motors.

**The Chairman:** Yes, indeed—I’d forgotten that.

**Lord Liddle:** This was regarded as absolutely an issue you couldn’t touch in the run-up to German elections. Actually, I think that although state aid went up a lot in 2009, I don’t think the Commission has made that many concessions to national protectionism, and I think that the single market has held together reasonably well. I think the bigger danger of protectionism is on the global scene where, for all the grand statements that leaders issue after summits about free trade and having a Doha agreement and all that sort of stuff, the number of trade defence instruments that are employed has been increasing quite a lot. So, I think it is an external issue more than an internal issue, and thank God we have the European Union to be able to have the collective strength to bargain on these external trade protection issues.

**Q54 Lord Haskel:** On the matter of protectionism, I should explain that the other week there was a conference in Brussels between parliamentarians from member states and Members of the European Parliament. The British Parliament was represented by two Peers from the House of Lords; nobody from the House of Commons went.

I participated in this, and for the first time I was exposed to the sort of nationalism and protectionism of some of the Members from the new east European member states. I was a little surprised; I mentioned it particularly in my note on the visit. For instance, they were calling for protectionism about where people could spend their social security. They were saying that if they earn their social security in one member state they shouldn’t be spending it in another. It seemed to me that there are some curious types of protectionism that are beginning to appear within the Union.

**Lord Liddle:** Yes. I agree with your comment about the new member states. Their support for free trade cannot be taken for granted, and I think it was a false assumption that was made by a lot of people in Britain that the new member states would be tremendous supporters of a liberal, free trade agenda. The truth is they are in part, and they very much don’t want protectionism, as they see it, on the part of France and Germany, but it is a nuanced picture. Let’s put it like that.

**Lord Haskel:** But they are quite nationalistic.

**Lord Liddle:** Yes, quite.

**Q55 Lord Walpole:** Can I say two things before I start and then I’ll ask my question? One is that I come from the countryside, which means that I could not find out on my computer this morning what was going on here today, but that’s neither here nor there. I did actually like your paper very much indeed, and I do so agree with you about motorcars. I thought it just got it right, if I may say so. But the question I’m going to ask you is whether the Commission’s proposals for the completion of a digital single market are ambitious enough and what are the most important things they should be developing to make such a market?

**Lord Liddle:** Yes. I’m afraid I can’t answer the second question because I’m not expert enough. I think that the Commission has been quite slow at thinking about how the single

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market is affected by big changes of technology and of politics that have occurred in the last 25 years. The development of the internet is one of these, and I think that the whole question of how you take advantage of the internet to promote competition could have been looked at more vigorously. I think that in their latest paper they are proposing a number of measures that, to my inexperienced eye, look as though they're at least directed at the right targets. I'm afraid I'm not expert enough to know what actually is being proposed, the detail of it and whether it's effective. I think that you should have a separate inquiry about that because I think that that is a very important subject: the internet and the single market in itself.

Clearly, though, what economists have always observed about the single market is that if you had real competition then prices would be driven down to a common level. Yet, in fact, within the single market there are still huge differences in prices. The possibility of internet shopping as a way of driving down those differentials in price I think is a very real one, but there are obviously lots of legal questions that have to be addressed to make that a proper reality.

There's also the question of infrastructure, and I think the Commission has produced proposals there. But I think the question of having compatible infrastructure across the single market is one of the big issues that, again, the Commission should have addressed more. That doesn't just apply to digital; it also applies to—

**The Chairman:** Trains.

**Lord Liddle:** And energy networks, grids and to transport. So, I think that is an area that does need much closer examination. Sorry for that rather inadequate answer.

**Lord Walpole:** No; it was an extremely helpful answer. I do live in the country, but I do live near Bacton, so I am interested in gas grids.

**The Chairman:** The problem is that his broadband doesn't work!

**Lord Walpole:** No. I can't send it down the gas pipe, I'm afraid.

**The Chairman:** Thank you very much. Lord Haskel, you were going to ask about the Services Directive.

**Q56 Lord Haskel:** Yes. You write about the Services Directive and you say that the problem with the Services Directive is that it was wrong in conception.

**Lord Liddle:** Yes.

**Lord Haskel:** We wondered what you think we can do to put it right and what measures are needed so that Services Directive will achieve its full potential?

**Lord Liddle:** Why do I think it was wrong in conception? I formed this view on the basis of watching the debate about it when I was working in Brussels in the Mandelson cabinet and then in Barroso's think-tank. I thought that what it did was attempt to set in EU law a set of very general principles that would liberalise trade in services. Now, we might say, "Fine, that's exactly what we should be doing". The trouble was that in the European Parliament it set every possible hare running about the dangers of service liberalisation and, particularly, a



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lot of arguments about liberalisation in public services, which of course, particularly on the Left in Europe, as in Britain, are very contentious issues.

I do think the Commission was negligent. This was not the Barroso Commission; this was the Prodi Commission, and it was put forward by Frits Bolkestein, who was a member of the Prodi Commission. I think, from members of that Commission whom I talked to, it went through virtually on the nod without much consideration in the Commission. I think a better approach would have been to look at areas of high economic significance and try and work out what the barriers to proper competition are in those areas, and try to do something about it. Now, in the Commission's White Paper—the 50 measures—there is a proposal to establish a high-level group to look at business services and come forward with actions. I think that is a very important proposal that I would hope the British Government would pick up with great enthusiasm. I think that business services doesn't arouse the political hackles. Generally when you talk about services, people start thinking about—

**The Chairman:** Health or something.

**Lord Liddle:** People start thinking about old people's homes and this sort of thing. Business services is clearly a huge economic area in the European economy. It's an area where we have many competitive advantages as well in the United Kingdom. So we have a strong interest in this. I would go for areas of high economic significance like that and really put a lot of weight behind that.

As it happens, over the three years since, the Commission has done two pieces of work. It has looked at many different sectors to see where the principal barriers remain to an effective single market. It has also completed a process with the member states of trying to talk to the member states about where they think the principal barriers are. So I suspect that in the Internal Market Directorate they are now pretty well informed on these issues, and that if one did adopt a targeted approach, they would have the necessary information at their fingertips to be able to come up with credible proposals. There is a lot of political resistance to this though, and this is why I think we'll only get this if we agree to other things.

**Q57 Lord Haskel:** You speak about promoting services of high economic value, but obviously the one with the highest economic value is the financial services sector. The problem is that the Commission seeks to just set the rules and leave it to the businesses or the market to compete within the rules so that that particular sector does better. But that is not going to work if we don't get the feeling within each of the member states that the rules are fair for them.

**Lord Liddle:** On financial services, of course, this was an area of services where a lot of progress has been made towards liberalisation. There was the Financial Services Action Plan that came out around the time of the agreement on the Lisbon agenda in 2000, if I remember rightly, and a lot of that was implemented. In retrospect, it was a flawed programme in that the single market is essentially a mixture of three things: a mixture of more liberalisation, more competition, but also re-regulation at the level of the EU 27 to replace 27 national sets of regulation in the member states.

**Lord Haskel:** And a level playing field.

**Lord Liddle:** And a level playing field. In financial services, what happened was that the regulatory side of it was inadequate. I think that is being addressed now. I am doing a piece of work on this now, but I don't know much yet about what the impact of this is likely to be.

Lord Liddle

There's a lot of legislation in the pipeline. The basic institutional structure has been agreed, but there are a lot of the rules yet to come. My view on that is that the City of London has a very strong interest in getting that right, but it's much more important for the City to be part of a well-regulated European Union than to be, as it were, on the outside of it complaining about it.

**Q58 The Chairman:** Can I just ask you a follow-on to that? Are you also going to be looking at insurance? When people say "financial services", most of them are thinking of hedge funds, banks, investment banking etc. But insurance is a big area, and it is highly uncompetitive for the consumer. Actually, the customer comes way down the pecking order in insurance companies. I say that advisedly, having been hit so many times by them in terms of huge increases and never having made a claim.

**Lord Liddle:** This is where you would've thought the internet and cross-border sales and all that would have an effect. That is the sort of thing that one ought to be looking at there.

**Q59 The Chairman:** I think that's right, but it's just too complicated because of the existing regulations, or am I wrong, are not internet-friendly.

**Lord Liddle:** Yes. That's correct.

**The Chairman:** You have six pages of small print.

**Lord Liddle:** As I understand it, yes.

**Q60 The Chairman:** Right. Thank you very much. That's very useful. When's that work going to be finished?

**Lord Liddle:** Not for a while. Now I'm here I don't have that much time, but probably by the end of the summer.

**Q61 The Chairman:** That's great. At least that's not 10 years hence. Thank you. Now I'm going to ask a question. What can be done to ensure the successor to the Lisbon strategy—Europe 2020—can achieve its aims in terms of implementation and enforcement? That really links in the regulation and the enforcement and all the other things. Is it ever going to work, in effect?

**Lord Liddle:** We need to get renewed political momentum behind the single market. I think that's what the Commission is trying to do and what the Monti report was trying to do. That is in terms of liberalisation of product markets and the capital market. On the labour market, I think that the Lisbon process did result in quite a lot of labour market reform, but there's still a lot to do, and I talk about that quite a bit in this paper. I think it's very difficult, for these are essentially national responsibilities—welfare state and labour market issues. Obviously the process of what they call the open method of co-ordination, in terms of member states comparing their progress against a set of common guidelines, has its limitations. I think it does influence the climate of intellectual and policy opinion, and I think that has changed as a result of the Lisbon process. I personally favour—but I'm entering into controversial territory here—making payments under the EU budget to member states conditional on their progress in achieving reform. In other words, at the moment the structural funds—I'm in favour of the structural funds—are not used as a lever to secure

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reform. I think that a lot of people who are worried about national sovereignty would say that that was not an acceptable way forward, but personally that's what I favour.

**The Chairman:** That's interesting.

**Q62 Lord Haskel:** Could I just ask a supplementary to that? In your paper you do seem to imply that the success of the Lisbon strategy—Europe 2020—will be achieved if there is more intervention. Do you not think that the current feeling is that intervention has had its time and now it's time for less intervention?

**Lord Liddle:** Yes. Well, I think that this is where I disagree with the British Government's position. I'm not making a party point here because this was the British Government's position prior to the general election, I hasten to add.

The whole of the British effort in Brussels in this period of very slow progress on the single market was on better regulation, smarter regulation—all these areas. I'm sure that there is a point in regularly reviewing regulation to make sure that it's fit for purpose, up to date and takes account of all the changes that are made; but I always thought that it was difficult to establish a linkage between this programme and economic performance and, frankly, I thought that we, the British, wasted quite a lot of time on it. I think what happened was that lots of processes were set up, as happens in the European Union, to convince you that things are happening. So there were lots of review processes of legislation and all this sort of stuff, but I'm not convinced that it has had much real economic impact. I would like someone to do a study of all the better-regulation initiatives that have been made in Brussels and try and demonstrate to me that it has had a positive economic impact.

**Q63 The Chairman:** This is quite amazing because we have been talking about these things—impact assessments and then post-impact assessments. There's a huge sponge of stuff there. There's probably going to be some good in it, but quite a lot which is not.

**Lord Liddle:** It's "Where?"

**The Chairman:** Exactly. It is.

**Lord Liddle:** If I may, Lord Chairman, I would say that we should focus on something like business services. If you really want to drive the single market agenda, pick that as an area and really bang on about it at every opportunity rather than a lot of vaguer stuff about better regulation. That would be my view.

**Q64 The Chairman:** Except that better regulation is essential for the correct operation of business services. May I interject one little point at this stage? Both of us, and other people too, have referred to the 50 points on the White Paper. They've been very stupid about it, because perception is all. But to be fair to them, they are in blocks.

**Lord Liddle:** Yes.

**The Chairman:** They are much more accessible. But when you tell somebody that this new Single Market Act is likely to have 50 separate areas, people just say, "Ah, well"—they blank out. So perhaps somebody in your position could make an effort to tell them in future not to do it that way. It's all presentation really.

Lord Liddle

**Lord Liddle:** It's rather like the 20-20-20 targets on climate change.

**The Chairman:** Right. Lord James.

**Q65 Lord James of Blackheath:** Lord Liddle, the question's fairly simple, but I'd like to track it back into your opening remarks as well. The question really is the extent to which there is any role for public intervention to achieve a greater market liberalisation in completing the single market. I was intrigued by your earlier comment when you talked of the German motor industry having effectively spread itself into an interdependence upon, I suppose, component sourcing or sub-assemblies from the eastern states. It didn't sound like liberalisation in 1938 when Hitler did it. So what is happening now that is making it a favourable liberalisation programme and what lessons do we draw from it?

**Lord Liddle:** I think you'll find that the Slovaks and the Poles are very enthusiastic about it. They're—

**Lord James of Blackheath:** Is it getting—

**Lord Liddle:** They're enjoying very considerable economic growth as a result of this and I think that it's inevitable. It's Europe's mini-globalisation, really. The single market is Europe's mini-globalisation because it's production transferring to where it's most economic. I don't think you can stop that. I don't see that as German re-colonisation of Slovakia and Poland; I see it as creating lots of opportunities for people who previously didn't have them.

**Q66 Lord James of Blackheath:** Interesting response, but could you just give a little more as what you see as the sociological consequences of this domination by what would be a very large neighbour imposing the sourcing of something that might be seen as an opportunity to take cheap labour to its advantage, and of market domination rather than market liberalisation.

**Lord Liddle:** I think, Lord James, the biggest fears are probably in Germany, not in Poland, Slovakia and other countries. Germany is going through this process of coming to terms with its own national interest as a member of the European Union. That's clearly what's happening, and I think that Germany is very torn. It's clearly in the German national interest that enlargement goes ahead. They have very good relations with the eastern and central European countries. On the other hand, there are lots of fears in Germany of migration and the impact on the labour market. So it's Germany, really, where I think the tensions exist.

**Q67 Lord James of Blackheath:** Is there anything particularly that you would like to see happen to improve the public intervention process and achieve greater liberalisation?

**Lord Liddle:** This is a different point, but I think it's an important point. If we want to make the single market work, there are areas of it where intervention is necessary. Just freeing up energy markets, for instance—which, again, I'm in favour of—is not going to result in the stitching together of the electricity and gas grids in Europe, which we need for energy security. There's a public good in energy security. Knitting those together will require some kind of public policy intervention. That's what I mean, Lord James. That is the case with the transport networks as well. So, you have to have some balance. If you want to have a competitive market that crosses the borders, you won't achieve it simply through a process of liberalisation. That was what I was trying to argue.

Lord Liddle

**Lord James of Blackheath:** Okay. I'm glad we got to that point; I think it's an important one.

**The Chairman:** Thank you. Baroness Valentine.

**Q68 Baroness Valentine:** Thank you. I think these questions join up together. Perhaps I can just ask you a series of questions and leave you to interpret. Just to start with, I take it as a given that it's a good thing if small business grows, and it's a good thing if one commercialises research and development. But I am more or less permanently bemused by the public policy response to that thought and whether it actually achieves its objective. You talk in your chapter about the US versus Europe in terms of enabling small business to grow, and you draw some parallels. But what I take from it is that Europe is worse at growing its small businesses than America is.

**Lord Liddle:** Into big businesses, yes.

**Baroness Valentine:** Therefore, understanding what lies behind that is very important. I don't know whether this links up to my following questions, but I think it might do. How important are the Commission's integrated industrial policy and Innovation Union policy for the relaunch of the single market? Is the latter's 3% research and development target realistic? Perhaps before answering that you could just reflect on the US versus Europe in relation to small business and some of the research and development issues as well.

**Lord Liddle:** Yes. I think that the differences between Europe and America which the single market programme can help put right—not put right entirely, but help put right—are as follows. First, in America you have a much more integrated market. Therefore it's possible for a small firm to grow into a medium-sized firm and then into a big firm by specialising in a very narrow niche of that market. In the US, that narrow niche is a very big market just because of the scale of the market. In services, which is the area that is likely to grow fastest in future, we don't have a single market, so we need to create more of a single market particularly in business services, because this is where small firms have great potential to grow, and they can identify a niche in which they can provide something unique across the whole of the European market. That's one thing.

Secondly, it's much more difficult to get access to capital in Europe than in America. Obviously, circumstances differ between the member states, but venture capital is a big issue. Access to capital in Britain for growing firms is an issue, and I think that the present Government have accepted the recommendations of a report that was commissioned by the previous Government on that issue.

Thirdly, you need a strong research base. I have my doubts about the 3% R&D target; it seems to me to be poorly conceived. I don't see why Romania should spend 3% of its GDP on R&D. I think it depends on your stage of economic development and what kind of economy you are. Therefore, I think that the targets, if they're going to be set, should be less simplistic and more variegated. I think the key thing is that it's not just the "R", it's also the "D". This is based on my knowledge of British public policy from when I advised Lord Mandelson in the last two years of the previous Government here. On the "D" bit, we've made tremendous strides in Britain in terms of investment in research, and I'm very glad to see that the present Government have protected that in cash terms in their public spending review, but we're still not very good at getting the development out of the research. We need to do more there.

Lord Liddle

Are those actions that need European-level action as well as national action? Well, I think that a general European target isn't a bad idea as long as it's properly conceived, but I think that how universities relate to the innovation system in a country is the responsibility of a national Government. I think that Europe can make a contribution on research by making it much easier for researchers to collaborate around Europe and by having more mobility of researchers. A lot more can be done there.

The other difference between Europe and America is that growing firms in Europe tend to get swallowed up by their big rivals too early on. I think we should be encouraging the national and European authorities of the European Union to be more—I suppose possibly quite a few of these takeovers come under the threshold for the EU authorities to have any role—pro-competition in trying to make sure that the big boys don't swallow up the growing companies.

**Q69 The Chairman:** But surely you can't possibly do that, can you? You can if you have major companies in a contested takeover, but so much of the innovation in SMEs comes from people putting their own money in and then seeing that they want to get out, and then go and do something else. So you can't really regulate that, can you? And if the big boys want to do that instead of spending their money on getting brains and scientists in—they actually already have a proven track record in research—you can't blame them either. You can't possibly regulate that, unless, as I say, there are issues of competition. You can't have one widget maker in Bavaria taking over every widget maker in the whole of the European Union. That's not likely to happen though, is it?

**Lord Liddle:** No, I think you have a point there.

**Q70 Lord Haskel:** Can I just expand on that point? You were discussing the differences between business in Europe and business in America, and what the new Commission could do. Would you agree with me that one of the things that the Commission could do that would help small businesses in Europe an awful lot is to recognise that one of the big differences is that in America R&D consists of so many intangible things? When you talk to an American company, they will say to you, "Well, we're doing a lot of research in developing our brand"; or "We're doing an awful lot of research in developing the software for our products"; or "We're doing an awful lot of work in developing the training for our staff, for our customers". All of these intangible things seem to be in a separate box here, whereas in other businesses in other parts of the world they all seem to be in the same box. I wonder whether the European Commission couldn't try and modernise our attitude toward business rather a lot and put all these things together. 3% for science or technology is fine, but 3% for the whole lot is nothing.

**Lord Liddle:** Yes. I think that's a very good point.

**The Chairman:** It's just an ordinary business practice; it's like your training budget.

**Lord Haskel:** Exactly.

**The Chairman:** I don't know anything about this. Is it the case that you get tax breaks for "doing R&D", whereas "developing a brand" or "developing training programmes or the software" wouldn't really be R&D—at least I wouldn't think that—and you wouldn't get tax breaks?

Lord Liddle

**Lord Haskel:** You get some.

**The Chairman:** But not the same.

**Lord Haskel:** If you have a good accountant.

**The Chairman:** I think we've strayed off. Are you satisfied with the replies Lady Valentine?

**Q71 Baroness Valentine:** I have partly a follow-on from that, because this idea of innovation equating to research and development is something that, certainly in London, in the service sector, I have to do a double-take on.

**The Chairman:** Yes, I do too.

**Baroness Valentine:** You think of innovation within businesses as restructuring, a completely different way of doing business or whatever it is, and it quite often has nothing to do with going anywhere near a university to spend money on research. I completely agree with your point.

**The Chairman:** Interesting. Lord Rowe-Beddoe.

**Q72 Lord Rowe-Beddoe:** Thank you, Lord Chairman. Hello again, Lord Liddle. At least we managed to get out of that lift. Can I just go back for a quick question? I was taken by your terminology, "Europe's mini-globalisation", when you were referring to the enlarged market, and I wondered if my perception is correct. Compared with Germany, are we in the UK particularly slow at moving our manufacturing capabilities—our manufacturing requirements—east? That is my perception.

**Lord Liddle:** I don't think you're right, actually. I think what's happened is that a lot of the inward investors who came to Britain in the 1980s—particularly, let's say, the Japanese, for instance—have tended to leave their research facilities in Britain but take their manufacturing facilities to the new member states.

**Q73 Lord Rowe-Beddoe:** I accept that. I was thinking of indigenous business, but yes, I'm aware of what you're saying. That is correct. So we are not being slow—not we in Britain, necessarily—but industry and the manufacturing sector, whoever may own it in the UK, isn't moving at the same speed as Germany?

**Lord Liddle:** Well, I wouldn't know about that, I'm afraid. I just don't know. I just don't know.

**Q74 Lord Rowe-Beddoe:** Okay. I turn to taxes, which are very much a subject of today, and the new initiative on fiscal co-ordination mentioned in your chapter with Professor Monti. Do we need—do we have to have, should we have—tax harmonisation or tax co-ordination between member states?

**Lord Liddle:** I used to be rather anti, but I have changed my mind. What I saw over the period of the last Government was that, early on in the Government, we were regarded as very competitive on business tax, and Britain gradually slipped down the league, and that was basically because, of course, other member states were following our example. We have suffered a huge loss of tax revenue as a result of the global crisis. I notice the present

Lord Liddle

Government are going in for reducing corporation tax, certainly in terms of the headline rate. Is this a sustainable policy? If our partners start doing the same, is it a sustainable policy? Are we not going to end up with simply insufficient revenues in order to finance the schools and hospitals and welfare provisions that we regard as necessary?

I know there are lots of sovereignty issues to do with tax, but there are a number of areas, like financial services, where it doesn't make sense for the UK Government to impose a tax on the British financial system if it isn't being similarly done on a European basis. Then, if it's done on a European basis, you have some negotiating position with the Americans.

On energy, I applaud the coalition's policy of wanting to set a carbon floor price in the European emissions trading system. I think that's necessary because I think, on the present carbon price, we won't encourage the new investment that we need in low-carbon things. But I think it's a very difficult thing to do if you don't have the other member states of the European Union doing the same. So I think that the realities of life drive us towards more tax co-operation, at the minimum, and I don't think we should be as frightened of it as traditionally in Britain we've been. That's my argument.

**Q75 Lord Rowe-Beddoe:** Harmonisation is one thing, but what would you say very specifically to the Republic of Ireland on its capital tax at the moment?

**Lord Liddle:** What would I say?

**Lord Rowe-Beddoe:** Do you think that it ought to be harmonised as a matter of urgency?

**Lord Liddle:** Well, I don't think it's anything to do with their present difficulties.

**Q76 The Chairman:** Corporation tax is 12.5%.

**Lord Liddle:** Yes. There are two points there. I think it has resulted in some businesses going there for tax reasons—there is no question about that—and I think that it causes resentment. Therefore, there is a sort of political argument that, if you're seeking help from everyone else, you have to sort of take that into account. But I don't think that, economically, it has anything to do with Ireland's present problems at all.

**Lord Rowe-Beddoe:** No, I wasn't suggesting that, but it has made a very unfair playing field, as I'm sure Baroness Valentine will tell you when she talks about inward investment to London.

**The Chairman:** Well, speaking as an Irish person, I think it's extraordinary that we should be giving them all this money when we don't have it; an amount of £7 billion and they say, "No, this is a line we're not going to cross. We're going to have 12.5%". I can't see that lasting.

**Lord Haskel:** The Chair is impartial.

**The Chairman:** I make this sort of observation as I'm linked in to the Irish Government on their global network. Look, if I were broke and expected that you were all going to bail me out, but part of the reason I'm broke is that I'm doing something that's unfair to the rest of you, you're not going to save me on fairness. It's nothing to do with impartiality; it's just common sense, Lord Haskel. Sorry about that.

**Lord Liddle:** I think you're right.



Lord Liddle

**Lord Rowe-Beedoe:** Thank you, Lord Liddle.

**Lord Liddle:** Thank you.

**The Chairman:** Lord Clinton-Davis, you're going to raise this to a higher plane. He wants to put in his own question, of which you have had no advance notice.

**Q77 Lord Clinton-Davis:** One thing is missing from your presentation in writing and also today: the question of leadership of the European Commission particularly. I personally think, as a former member of the Commission, that that's an absolutely vital criterion. Take, for example, the single-mindedness of Lord Cockfield, backed by the ingenuity and inspiring lead given by Jacques Delors, leading to the development of the single market. Without that it wouldn't have happened, in my view. We are singly missing today that inspiring leadership of the Commission; and it has been missing for a long time, under Santer and Prodi; and of course the present President of the Commission has a very difficult task, because now we have 27 members as against 17.

But what can now be done to rectify that situation? I find the situation at the moment very depressing, because that leadership is not forthcoming from the Commission. The situation could be ameliorated by the Commission doing much more relevant research, which it doesn't do. So, as long as the Commission remains unchanged, especially the leadership, what can now be done to remedy that situation?

**Lord Liddle:** That's a very difficult question, Lord Clinton-Davis, and I do agree with your analysis. Fundamentally, the problem lies in the member states and the quality of the people they are prepared to support to do these jobs. Jacques Delors was an outstanding President of the European Union. Lady Thatcher didn't agree with his politics, but she supported his reappointment, or she was persuaded to support his reappointment. But I don't see that attitude prevailing today.

Actually, I think that José Manuel Barroso, who I had the pleasure of working for, is a very able man, full of ideas and energy, quite a good communicator and, in terms of the kind of the issues we're talking about today, wholly onside. I think he's a good man. But I think that the Commission has declined in its power for a number of reasons. This is rather off the point of the discussion, but I think it is sort of relevant. First of all, it's a much bigger body, and therefore it doesn't operate effectively as a college like it did when you were there, Lord Clinton-Davis, as a commissioner. It's now 27. How many was it when you were there? 15, was it?

**Lord Clinton-Davis:** 17. In 1986, it became 17.

**Lord Liddle:** Yes, so it's a much bigger body than it was. Secondly, it only has one commissioner from the big member states, and one of the two commissioners from the big member states was normally a very big political heavyweight, and the big member states have a lot at stake in Europe, so we're weakened on the Commission. Another thing is that the European Parliament is much more powerful than it was when you were a commissioner, and this makes the commissioners scared. I've seen this: they are worried about the Parliament, they're worried about being voted out by the Parliament. The power of the Parliament, in all the discussions that take place in Britain, is something that just hasn't been properly appreciated, and that's why I think that a new political approach to the single market is necessary. In everything you do, you have to get the Parliament onside; it's not just a matter of persuading the Commission. I think those are all reasons why the Commission is not as strong as it was in the 1980s.

**Q78 Lord Clinton-Davis:** But don't you think that the Commission ought to change its tactics? Even when I was a commissioner in 1985 to 1989, the Parliament was an important part of what we had to do. We had to persuade them that the Commission was right. We couldn't take them for granted. Don't you think that individual commissioners should do much more to persuade the Parliament that the view of the Commission is right or ought to be modified, whatever it is? Don't you think it's important that the individual commissioners should take a rather different role from one of simply sitting back in Brussels?

**Lord Liddle:** Well, I don't think they are simply sitting back in Brussels, but I think that they're in a new situation from the one in the 1980s. In the 1980s, the Commission was seen and respected as a body that worked on a cross-party basis, on the basis of consensus, putting the interests of the European Union as a whole first. That was, I think, broadly speaking, how the Commission operated. Today, many of the small new member states see their commissioner as their man in Brussels; in other words, quite the reverse of looking at the interests of Europe as a whole. In fact they see the commissioner as there to make sure they get their fair share of whatever's going.

A very large element of the Parliament wants to change the nature of the relationship between the Parliament and the Commission into a political relationship. So in the Parliament there are a lot of people who want the Commission specifically to be a political coalition formed on the basis of the result of the European election. So the Socialists are very anti the Barroso Commission, because they describe it as a centre-right Commission, in a way that I don't think the Commission you were on in the 1980s would have been regarded as in any way at all. This introduces a lot of politics into the way that the Parliament treats the proposals that are coming from the Commission.

Now, maybe we should move to that kind of party model, as it were, but at the moment we're somewhere caught in between, if you see what I mean. Coming back to the single market, I think that the politics of this makes it all very difficult to put forward a plan for the single market, because, of course, people will use political arguments against what the Commission is doing. They will say, "Oh, this is the centre-right Commission proposing this". I don't think that at all, but it makes it very difficult to get agreement.

**Q79 Lord Clinton-Davis:** Well, what you have said, in my view, reinforces the importance of having a President of the Commission who really counts. With respect to Barroso, he's done quite a good job; but under Santer and under Prodi we lapsed, and that is wrong.

**Lord Liddle:** Yes, though the Prodi Commission did have on it people of outstanding ability, like Lord Patten and Pascal Lamy; it is very difficult to argue that these people were not of the highest quality. But I think that there is a really serious point that's relevant to the inquiry here, which is that it is much more difficult for the Commission to mobilise a majority in favour of what it wants to do than it has been in the past, and that, in part, is why it has come forward with this kind of package-deal proposal.

**Q80 The Chairman:** Also, the power of the Parliament is also sort of on top of them. Thank you. Now a question from me: do the Commission's current enforcement powers concerning State aid and competition policy have to be reinforced, as suggested in the Monti Report, and, if so, how? We have dealt with part of that, but what are your views?

**Lord Liddle:** I think my answer is that Monti's ideas are quite sensible on this, and that I'm not in favour, as some people are, of taking competition out of the Commission and establishing a separate European competition authority. I think that would not work.

**Q81 Lord Bradshaw:** Thank you for your chapter. I've read it with great interest, but I've focused on the carbon reduction issue. We have a European Emissions Trading Scheme, which appears to be very weak. We have a crisis, really, in the energy industry, of people not connected to one another, and probably the market dominated by very big companies. Now, what do you see as the best way forward in terms of getting carbon put where it should be: near the top of the agenda?

**Lord Liddle:** Well, either introducing a carbon floor price into the ETS mechanism or having a carbon tax. The carbon tax is politically much more difficult, because it raises all issues about European taxes and all of that. It may be politically easier to get a carbon floor price agreed. I think that the present Government's support for that is to be welcomed, as I said earlier.

**Q82 Lord Bradshaw:** It seems that many large investment schemes depend on getting a sensible price for carbon, and I wonder how high that sensible price is.

**Lord Liddle:** Well, yes, I can't tell you what it is off the top of my head, but there are lots of people who've estimated it as perfectly achievable. It's not something that is so high that it would be just politically completely unacceptable, but this is crucial. Getting this right is crucial to lots of inward investment in Britain in the next two decades. But my fear is that, if we introduced a carbon floor price on our own, of course any remaining heavy industries that we have would be very disadvantaged, and that's why I think you need to have some kind of common European policy.

**Q83 The Chairman:** But it is really pretty fundamental to the single market, is it not, because there would be huge variations.

**Lord Liddle:** Yes, indeed.

**Q84 The Chairman:** You'll be glad to know we are almost through, and thank you for your patience. It has been a great session. These are two general questions: would any of the proposals contained in the Single Market Act help to achieve the objective of a highly competitive social market economy?

**Lord Liddle:** Would any of them? That sounds a very sceptical question.

**Q85 The Chairman:** Or will the European social model remain only an inspiration? We know this issue about the Anglo-Saxon and the European social models.

**Lord Liddle:** I think there's a lot of rhetoric about the European social model, and there clearly are many different European social models. So, that's one point. However, I think that, at least temporarily, the Anglo-liberal model or the Anglo-American model or whatever you want to—

**The Chairman:** Anglo-Saxon model.

**Lord Liddle:** Anglo-Saxon model.

**The Chairman:** According to Professor Monti.

Lord Liddle

**Lord Liddle:** It's operating at a bit of a discount, at the moment, I would say. There is a role for the European Union in areas like financial regulation, in areas like corporate governance, in helping to structure the kind of market economy that we want, and I think it would be a different type of market economy to the United States market economy. I think it would have many variants, but I think that there is a distinctive European approach to capitalism, and I think that that's on the up, at the moment. I think there's no doubt that the political wind is blowing in that direction.

**Q86 The Chairman:** Yes. Do you think the European model is a more caring capitalism, to use a strange expression?

**Lord Liddle:** Yes, but the difference is this: at the end of the war, the German market-ordering people, when they were rebuilding Germany, had as their concept that Government wouldn't interfere in the decisions of business, but you would have a set of rules for the way that business operated that would result in broadly socially acceptable outcomes, whereas what we've tended to do in Britain and in the United States—this is a very crude simplification—to accept the market outcomes and then think about how public policy can increase social justice. When I say “European model of capitalism”, we have to move a bit in terms of our corporate governance rules, our attitude to financial regulation, possibly even our attitude to employee participation, in that European direction.

**Q87 The Chairman:** Well, thank you very much. That's a very interesting point. First of all, can I ask members of the Committee if there any other questions that I have omitted to ask? No. Then, more importantly, Lord Liddle, is there anything you think we should have asked you that we didn't ask you, and would you like to answer it, if there is?

**Lord Liddle:** All I would say is that I thought it was a very interesting discussion, and thank you very much for inviting me along.

**The Chairman:** It was made so by your attendance here, and thank you very much indeed. We're very grateful to you. Thank you.

**Lord Liddle:** Thank you.

## **British Chambers of Commerce**

### **Written evidence (EUSM 9)**

1. This is a crucial time for British business as we look to find new sources of economic growth and rebalance our economy towards exports. Making the Single Market work better and raising awareness of the opportunities for business will greatly help the UK achieve those ambitions.
2. Indeed, the Single Market is the EU's greatest source of growth and jobs. Yet millions of businesses, particularly smaller ones, have yet to feel its full benefits. This may be because they are unaware of the opportunities it offers; or because they are coming up against illegal barriers to trade; or because the sector in which they operate has yet to be liberalised. Whatever the reasons, urgent action is required. The BCC therefore welcomes the political will already invested in its renewal by the European Commission, looks forward to the publication of the Single Market Act and will actively contribute to the debate to be launched by Commissioner Barnier.
3. The BCC also welcomes the opportunity to respond to the Committee's enquiry on the Single Market. We believe that the UK government and the European Commission should focus on eight key ways of making the Single Market work better, and these are set out below.

#### **4. Communication**

For many businesses, the Single Market is either taken for granted or seen as the reason for unnecessary meddling in their affairs. Without the support of the business community, Governments find it difficult to agree the harmonising measures essential to making the Single Market work.

The solution is a targeted information campaign explaining the benefits of the Single Market to businesses across the EU. The Commission and the UK Government have not done this since 1992. Now is a golden opportunity to explain the Single Market to newer, as well as long-standing, businesses.

#### **5. Services**

With services representing 70% of EU GDP but only 24% of total EU trade, there is much scope for boosting cross border trade. We believe that the Services directive provides the right framework for a single market in services. However it will only succeed in boosting trade if the member states speed up the implementation of its provisions. The BCC asks that the European Commission and member states:

- Ensure fully functioning Points of Single Contact (PSCs) in all member states by 2011, using the current implementation review to ensure the PSCs provide maximum benefit to businesses.

- Ensure that all PSCs provide their services in English.
- Launch a targeted information campaign that boosts awareness of the directive and its benefits to businesses – much like the Commission’s recent high-profile gender pay campaign
- Investigate speedier ways of dealing with infringements.
- Review within the next two years the scope of the directive.

## **6. Employment**

With many EU member states struggling with low growth, rising unemployment and significant government debt, it is vital that Europe’s labour markets are as flexible as possible. Proposals such as the current review of the Pregnant Workers Directive could squeeze public finances and impose unnecessary cost and complication on employers; they in turn will think twice about recruiting at a time when we desperately need private sector led employment growth.

The BCC believes that all proposals must be judged by their impact on employment and rejected by the Commission if they cannot be proved to improve not worsen prospects for growth. The Council and the European Parliament must reject amendments to Commission proposals that will threaten jobs and growth in the EU.

## **7. Implementation and Enforcement of Single Market Rules**

Effective implementation and even enforcement are key to the effectiveness of the Single Market. Instances of competitive disadvantage due to poor implementation or uneven enforcement MUST become a thing of the past, as both deter businesses from trading across borders. The BCC believes the following should be pursued as a matter of priority:

- The Commission should undertake systematic ex post assessments of all business-related regulation using a standard methodology.
- The Commission and member states should make use of the mutual evaluation and IMI systems that the Services directive has created as a means of improving enforcement.
- The Commission should publish correlation tables so that differences in implementation are exposed.

## **8. Smart Regulation**

Small and medium sized businesses (SMEs) are the major source of growth and job creation in the EU and yet are disproportionately affected by national and European legislation. The Commission’s SME Test is one way of ensuring that the impact of legislation on SMEs is proportionate. However the Test is not being systematically applied and decisions are being made with only a partial appraisal of the consequences for SMEs. Moreover the Council and to a lesser extent the European Parliament are failing to take the Commission’s impact

assessments into account when amending legislation and often add unnecessary costs that the Commission has sought to avoid. The solutions are as follows:

- Systematic and rigorous quantification of the impact of legislation on SMEs by the European Commission.
- The Impact Assessment Board must reject any IA that does not include the test.
- A greater use of derogations or exemptions for SMEs where the test shows that costs are disproportionate to the intended benefits.
- The Council and the Parliament to make routine use of the Commission's impact assessment as the basis for negotiation, debate and amendment of any proposal.

## **9. Sustainable Growth and the Energy Market**

More urgent action by the Commission and member states is required to ensure the EU's security of supply – including a more varied and sustainable energy mix. The BCC is calling for:

- Even implementation of existing rules governing the internal energy market
- Practical measures to encourage behavioural change and deployment of climate friendly technology - using FP7 and CIP to incentivise change
- The Commission must ensure that its revision of the Energy Efficiency Action Plan enhances support and incentives for business without creating further red tape.
- Member states must fully implement the EU's Third Energy Liberalisation Package: a single European energy market will enhance competitiveness and enhance security of supply. Liberalisation could lead to the maximisation of the use of existing critical infrastructure – which currently serves mostly national markets.

## **10. Digital Single Market**

Though the rapid growth in e-commerce is opening important new opportunities for the internal market in both goods and services, consumers and businesses continue to encounter practical difficulties making cross-border transactions or are failing to take advantage of the opportunities available. We believe that the Commission has identified the right priority areas for legislative action. Member states however need to:

- Support the Commission in its legislative work, in particular with regards to the review of the e-commerce directive and the e-signature directive.
- Take action to exceed EU targets for broadband reach and speed wherever possible.

## **11. EU Budget**

The 2007-2013 budget was a bad deal for the Single Market and for jobs and growth. No less than 46% of the budget was allocated to agriculture and rural spending, with cuts to growth-promoting investment in research and infrastructure in both new and old member-states.

British Chambers of Commerce

Moreover the funds that have been allocated to boost competitiveness have proven difficult to access. The BCC believes that:

- The Post-2013 budget should be set at not more than 1% of GDP
- There should be three major funds closely focused on achieving EU2020 targets
- The growth and competitiveness fund should account for 50% of the total and include assistance for R&D (alongside a radical reform of way funds are accessed); education and training; infrastructure (TENs); and the promotion of climate friendly, resource and energy efficient technologies.
- The competitive advantage that Europe has in environmental technology needs to be built on and sustained through easier access by enterprising SMEs to UK and EU monies earmarked for R&D and innovation (such as FP7, for example).

British Chambers of Commerce

*20 October 2010*



**Oral evidence, 13 December 2010, Q 88–135**

*Evidence Session No 4 : Heard in Public*

Members present

Baroness O’Cathain (Chairman)  
Lord Bradshaw  
Lord Brooke of Alverthorpe  
Lord Clinton-Davis  
Lord Fearn  
Lord Haskell  
Lord James of Blackheath  
Lord Plumb  
Lord Rowe-Beddoe  
Lord Ryder of Wensum  
Baroness Valentine  
Lord Walpole

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**Examination of Witness**

**Ms Karen Clements**, EU Consultant to the British Chambers of Commerce

**Q88 The Chairman:** Ms Clements, I want to welcome you and thank you very much for coming to the European Union Sub-Committee B and helping us with our inquiry into the EU single market. It’s very kind of you to come, and thank you very much for giving up the time. Members of the Committee with relevant interests will declare these. The session is on record and is being webcast live, and will be subsequently accessible via the Parliamentary website. You will receive a transcript of the session to check and correct, and this will be put on the public record in printed form and on the Parliamentary website. We have to ask witnesses if they could begin by stating for the record their names and official titles. Thank you.

**Karen Clements:** Thank you, my Lord Chairman. My name is Karen Clements. I am adviser to the British Chambers of Commerce on EU affairs.

**Q89 The Chairman:** Right. Is there anything you would like to say to the Committee before you are subjected to questioning by them?

**Karen Clements:** I would like to make a brief statement. The BCC, as you know, is a strong supporter of the single market. We value the benefits it’s brought, not just to our members but to the wider economy as a whole. We agree with the general consensus that there needs to be more market integration, not less, given the current economic and

financial climate. As the EU's only source of growth and jobs, the single market has to be revitalised as a matter of priority. We therefore obviously welcome the political commitment demonstrated by the Commission in the publication of the Single Market Act. We have some concerns, however, that, in its present form, it won't deliver the full benefits in terms of jobs and growth that we would hope to see.

**The Chairman:** Thank you, that's very helpful.

**Q90 Lord Fearn:** Good afternoon. We've seen the BCC's *Eight Ways to Make the Single Market Work*, but which of the proposals in the Commission's Single Market Act do you consider to be a priority in achieving these goals?

**Karen Clements:** Thank you. We believe that the Act should focus on four areas: on the services sector, on the digital sector, on the energy sector, and on the implementation and enforcement of existing rules. All the proposals contained in the Single Market Act that pertain to those areas should be fast-tracked, not without, of course, a proper assessment of their impact at Commission level and also, hopefully, at Parliament and Council level—although that's probably more hopeful than realistic—and pursued as a matter of priority.

**Q91 Lord Ryder of Wensum:** Good afternoon. If those are the priorities, can you please tell us what the less important ones are, and why?

**Karen Clements:** Well, I suppose we've set it out as a series of what should come first; so those sectors that we believe will deliver the greatest GDP growth, which are the three I identified. In digital, we would include procurement in that. It's actually included in the Innovation Union, but we would have put it in the digital agenda. Alongside all that, you need to ensure that the rules are fit for purpose and, once they are implemented, accurately enforce them so that you avoid an unlevel playing field.

As an example, I suppose those proposals that we would deem less urgent are those reviewing the legal basis of social businesses. We believe that the energy sector and digital sector will deliver more growth than the social business sector, for example. Also looking at the ecological footprint of businesses is, obviously, a laudable initiative, but we don't believe that that should be pursued as a matter of priority; nor, indeed, do we think, as a non-eurozone country, that proposals to co-ordinate or harmonise tax bases are necessarily required in order to complete the single market.

**Q92 Lord Haskel:** Your paper comes out very strongly in favour of raising the awareness of the opportunities in the single market. Don't you think that that's probably the most important thing to your members?

**Karen Clements:** Absolutely, which is why it's prominent in our single market poster. Having said that, the Single Market Act does not deal with information and communication policies, and I can understand why that is. I understand that it's looking at the infrastructure. It's then up to the Commission, Member States and stakeholders such as us to communicate better with those that are impacted by the proposals.

**Q93 Lord Haskel:** You don't think it's up to the Commission to try and communicate all of that?

**Karen Clements:** I think, absolutely, it's up to the Commission, but I believe that that's in the communication of the Act, not necessarily in the infrastructure of the Act.

**Q94 Lord Clinton-Davis:** You say in this paper that, for many businesses, the single market is either taken for granted or seen as a reason for unnecessary meddling in their affairs. Which would you say is the majority opinion?

**Karen Clements:** Well, I suppose, to a certain extent, we simplified our language in this poster in order to make it fit on a side of A3, or A1, as the case may be. Having said that, I do think there is a very real danger. In other questions, you've talked about the single market having a bad reputation amongst workers and citizens; it also has a bad reputation amongst some businesses, not least because they confuse the employment rules with integral parts of the single market. Well, they are an integral part of the single market, but they blame the single market for that, and I would say that it is the slew of employment legislation that has possibly put them off trying to trade with other European countries.

**Q95 Lord Clinton-Davis:** Are you saying that the majority opinion is against?

**Karen Clements:** No, absolutely not, no. I would say the majority of our members believe in the single market in terms of its ability to deliver jobs and growth within the European Union. That's not to say that they believe it's perfect.

**The Chairman:** Lord Clinton-Davis, you also want to ask about protectionist tendencies, don't you?

**Q96 Lord Clinton-Davis:** Yes, I do. I'm being very awkward—not unusual. There is a reaction among Member States at the moment to say that they have no alternative but to respond to the current financial crisis in a protectionist way, and certainly there is some evidence to support that view, which I don't really endorse myself, but I would like to know what evidence you have, particularly things that have been reported to you by your members.

**Karen Clements:** Yes, I agree. I think Commissioner Barnier shares those concerns about the rise in protectionism due to the financial crisis. I have to say we've not had any specific incidents raised as a result of the crisis. I would like to add that the majority of our members are SMEs; that very few of them, with the exception of certain members of the London Chamber, are involved in the financial services. That said, there is a general belief that there is a degree of protectionism, whether it's due to the financial crisis or not. Before the financial crisis really took hold, in 2009 we surveyed our exporting members and, of the 43% that believed that they had encountered a barrier to trade, 11% of those had encountered protectionism. So I wouldn't say that it's an overriding problem for our members, but there's certainly a perception that it exists and that they've come across it and it acts as a barrier.

I would say, though, that I think the protectionism on a global scale is perhaps a little bit more concerning with respect to the restrictive trade measures that are in place at the moment. I think there are nearly 300 trade measures in place that have been put there, to a large extent, by the developing countries who are now growing or rebounding, and very few of them have expired; certainly, those that were introduced as a result of the crisis. So, I think, unless the G20 tackles those restrictive trade measures, the longer they stay there the more institutionalised and entrenched they may get.

**Q97 Lord Clinton-Davis:** But you're talking about a general belief. How is that manifested? Is it through prejudice or is it founded on strong evidence? What is the nature of that general belief?

**Karen Clements:** Well, that's a very good question. It's one that we've tried to get to the bottom of, but it's often difficult to distinguish. I think our members lump nationalist and protectionist tendencies together, and it's a perception that they are being cut out of a market because of their nationality and because, whatever sector it may be, the Government is encouraging or promoting the use of national companies as opposed to foreign companies. I'm sorry that I can't give you more tangible evidence than that; it is something that we're going to be working on in 2011, however, to try to bottom out.

**Q98 The Chairman:** It is, of course, a fairly normal reaction to the problems that people have faced in exporting and in procurement even, or tendering for procurement for contracts, and I think we did get a sense of that when we had Mario Monti here as our first witness, who said that people have got tired of the single market and, of course, then they probably just say, "Oh, well, the point is everybody is concentrating on their own countries or protectionism at the moment." I think it's inevitable that it might have happened, but then, of course, it does make it very important that we should try and get to grips with this problem and say that the future is in the internal market, and try to banish those perceptions.

**Karen Clements:** Well, absolutely, and also, if you have a proper transparent system where you can see how each Member State has implemented a particular directive and how they are going about enforcing it, then it will be easier to uncover any protectionism that's going on and to do away with it, and that's what the Commission has started to do. I think the Single Market Act brings some fresh thinking to issues of enforcement and implementation, and ones that we would certainly like to see pursued strongly, quickly, urgently.

**Q99 Lord Walpole:** Good afternoon. We are supposed to say who we are and what we do. I live in the middle of the countryside and I used to be chairman of planning and transportation in Norfolk County Council in the '80s, and we had a bright idea: we thought we would put a computer into every post office in the county, and someone who could actually operate it. You couldn't do that now, you know. It wouldn't work. The villages cannot get it. Broadband does not stretch that far, and I don't quite know what broadband is, because what joins us up to our thing a mile and a half away, two miles away, is a copper pipe, which is obviously absolutely useless. Having said that, may I ask you whether you think the Commission's proposals for the completion of the digital single market are ambitious enough? I don't.

**The Chairman:** You're not supposed to answer your own question!

**Lord Walpole:** What do you see as the priorities in order to achieve such a market?

**Karen Clements:** Well, I would say they probably are. The Single Market Act has quite a variety of proposals. If they're pursued with speed and buy-in from all the institutions, they should deliver. There's a proposal on radio spectrum, which I think would probably help you with your current issue of copper piping. There are, however, a few missing gaps. There's no reference to the Consumer Rights Directive, which is ongoing at the moment and which is a very, very tricky one. Unless you get that right, you have no proper framework.

**Lord Walpole:** Which directive?

**Karen Clements:** The Consumer Rights Directive. There's no reference to data protection; there's no reference to debt recovery. The E-commerce Directive was, in earlier drafts of the Single Market Act, up for review; now, we're just going to get a general Communication about e-commerce. That Directive was agreed in 2000; it's woefully out of date. As I mentioned earlier, e-procurement should have been in this package. It's in Innovation; I don't know how it's going to get delivered. That's essential to the ease of doing business and, with that, e-signatures.

We'd also like to see a revision of that Directive. I believe that the Single Market Act calls for mutual recognition of e-signatures; that's not enough. We have a problem in this country, the Government's not behind them, and we need legislation to force the Government to act. When it comes to the wider infrastructure issues of speeds and coverage, I think that the EU's target is pretty ambitious. It's a moot point whether the UK is going to meet it. Apparently, we will have the best broadband in Europe by 2015, but if no one's prepared to put a speed on it, how do we know?

**Lord Walpole:** Heaven help everyone else in Europe then. Thank you very much.

**Q100 Lord Haskel:** Your paper is strongly in favour of liberalisation in completing the single market. Do you think there is a role for public intervention here? Mario Monti, in his report, suggested that the enforcement powers concerning state aid and competition policy have to be strengthened, and you yourself said just now that you thought one of the four top priorities was enforcement. How do you think we can set about doing this?

**Karen Clements:** Well, we have no principled objection to public intervention, particularly if there's market failure and market distortion. I think the Government's strategy on broadband is a case in point: there needed to be a degree of public funding set aside before BT would agree to match it, in terms of the rural networks anyway, and that is certainly Lord Walpole's only chance of getting connected. In terms of state aid, again, our members are angry about this, but it's very difficult for them to be able to set a bottom line to it: how much it actually costs them. So, yes, we would like to see greater enforcement for the Commission; however, I must declare I am not an expert on competition policy and I would leave that to the experts, and I think Professor Monti is one of those, so we would endorse his recommendations.

**Q101 Lord Haskel:** You say your members are angry about state aid. Is it that they're angry that we can't do more or that other nations do too much?

**Karen Clements:** I think it's both. I think it's a question of some state aid rules being flouted, but also the UK Government not taking advantage of relaxed state aid rules. I think trade finance was a case in point.

**Q102 Lord Clinton-Davis:** I had the great good fortune to be a commissioner alongside the late Lord Arthur Cockfield, and he was the originator of the single market, but he didn't share the view that you could somehow divide the single market between state aid and private functions. He expressed the view that the single market should be seen as being acceptable by both, and that was the view of the Commission as a whole. I think the leadership of the Commission has not been quite the same since Jacques Delors departed. Would you agree that it's important to have a quid pro quo between both sides, rather than come down on one side or the other?

**Karen Clements:** As in between public intervention and market liberalisation? Yes, absolutely. Yes, as you rightly pointed out, we are in favour of market liberalisation, but we recognise that there is a need for some public intervention, but as long as it's within clearly defined rules, yes.

**Q103 Lord Bradshaw:** You made some reference in your first answer to the harmonisation of tax rates. It's quite obvious that there are distortions introduced in individual countries, and possibly against other countries. What would you do?

**Karen Clements:** Well, when it comes to the harmonisation of tax rates, as a business organisation in a non-eurozone country we have the luxury of being able to oppose them unilaterally, which we do. When it comes to the harmonisation or co-ordination of tax bases, I think our members are a little more agnostic there and, again, in the 2009 exporting survey that I referred to earlier, 54% said they didn't know whether these rules would help or not, 21% said they wouldn't help, and 25% said they would. So, I don't know whether that reflects the fact that there's not enough information about what these proposals would entail, or whether they don't believe them to be relevant to them. As I've said earlier, the majority of our members are SMEs.

There was a proposal a while ago on home-state taxation, which did raise some interest in our members, and it was specifically for smaller groups. We'd certainly want to revisit that, and we'd certainly want to be part of any negotiations or discussions on what a CCCTB would look like but, for the time being, we reserve judgment. Ultimately, the UK Government's going to veto it anyway, so it's just a question of whether it allows the other countries to go ahead or not.

**Q104 Lord Bradshaw:** But, in the case of Ireland, we've seen that distorted tax rates can lead to some pretty terrible consequences.

**Karen Clements:** You mean the 12% corporate tax rate, which ultimately doesn't necessarily have anything to do with their current financial crisis, but I can see how it riles their eurozone competitors.

**Q105 The Chairman:** Can I ask if you could explain to me the difference between harmonisation of tax rates and co-ordination of tax bases? Harmonisation and co-ordination seem to me to be the same thing, but this is euro-speak, is it?

**Karen Clements:** Yes, you're absolutely right: they have used the terms interchangeably. I think the proposals that are due out from the Commission are about harmonisation, not co-ordination. I think co-ordination is a more politically correct term or something that's easier for countries like Ireland and the UK to swallow than harmonisation. They probably end up doing up exactly the same. You would look at the base from which you take your tax, rather than the level at which you set it, and as I understand it, the proposals that didn't get anywhere a few years ago were about trying to simplify that base and have as few exceptions as possible. In theory, you would then be able to lower the rate, because you'd have a greater take. We have to see what's going to emerge from the Commission if this gets through, but I can't believe that it won't.

**Q106 The Chairman:** It's going to get through.

**Karen Clements:** Yes.

**Q107 The Chairman:** So, we shouldn't bother about it.

**Karen Clements:** No, I think it will get through.

**The Chairman:** I see.

**Karen Clements:** I think there's enough political impetus amongst the eurozone members and, arguably, you should have greater fiscal co-ordination or harmonisation or union, or whatever you want to call it, if the euro is going to survive, but that's another issue entirely.

**Q108 The Chairman:** So, it's not really EU-speak; it's PR-speak, is it, for us, just to get us to accept it?

**Karen Clements:** I think maybe it's to make us feel a bit better about it, yes.

**The Chairman:** Make us feel better. I see. That's really good. Thank you very much.

**Q109 Lord Plumb:** In your excellent paper, which I think reads well, you pose many questions on employment, and that has to be the basis, of course, of the development of the single market. So, the question is: whilst you advocate flexible employment rules as a means of achieving higher growth, we've received a lot of evidence that such flexibility could damage the single market's reputation among citizens, and so the question, of course, is how you address this dichotomy. The main concern, I think, many people express is related to the apparent large number of people who've come into the country—the hard-working people—who can replace a lot of labour at a time when unemployment is increasing. It doesn't just apply to this country, of course; it applies to the whole of Europe. So, your views, I think, would be most interesting on this and, of course, on the whole business of the Posting of Workers Directive.

**Karen Clements:** Well, I think we need to separate out a few things here. In our poster, we called for a freeze on all employment rules that won't deliver jobs. Now, that's obviously not been adopted. It can't be unpopular, one way or another. I can imagine it could be, but it's not been adopted. In terms of flexibility, yes, we certainly advocate employment rules that will make Europe's labour markets more, not less, flexible. Why? Because it has been proven to help create jobs, and jobs are a huge social benefit. So, yes, and we have no problem in advocating that.

I think, when you look at the employment rules on the statute books, businesses are as aggrieved as the unions about the state of affairs, which means that they've probably got the right balance, although maybe I didn't say that. If you look, for example, at the Pregnant Workers Directive, which was discussed in Council last week, it's going to cost the UK alone £3 billion per annum as it's currently framed, and that's the Parliament's own impact assessment, not ours—not the UK Government's. That's an awful lot of money at a difficult time, when everything shows that the maternity system in this country works pretty well, because there's a 90% take-up of it. So, yes, we have no apologies about that. When it comes to the reforms that were encouraged by the Lisbon Process that had to be undertaken nationally in France and Germany and were unpopular, there, I think, the unpopularity was around the market economy in general, not the single market specifically.

Then, the other strand to this is, as you rightly say, the problems associated with the freedom of movement of workers, and the legislation that enacts that basic freedom. Well, we don't think that freedom should be curtailed, funnily enough, but we do think that the

Governments have got to stop using the EU as a scapegoat, and they've got to stand up for the decisions they take, whether it's to sign up to the Lisbon Process and agree that a set of reforms of the labour markets is necessary in order to deliver jobs, or whether it's because they sign up to an EU rule, whether it's the Pregnant Workers Directive or the Posted Workers Directive itself. Just because it's politically unpalatable or unpleasant for them to say, I think they've got to start owning their decisions.

More importantly, perhaps, you have to ensure that every single proposal that goes through the European Union is properly assessed and, at the moment, you have to assess the economic impact of the proposal, the social impact of the proposal, the environmental impact of the proposal, and the impact on SMEs. Well, if you really get all those four things right, then you've surely got to have a proposal that is balanced and that will help promote the reputation of the single market. However, it's a new system, it's only been in place since 2003, it's only really beginning to start to deliver, and so, I think looking at that as a way forward will help, taken alongside Governments actually standing up for their decisions.

**Q110 Lord Plumb:** You gave us a very good answer, I think, and a very full answer. What about the skilled workers? This is one of the problems, is it not? Technology is still advancing and the skilled workers and the training of workers becomes much more important. Is there any segregation there, as you see it?

**Karen Clements:** Well, we need skilled workers. We don't have enough skilled workers in certain sectors in this country, so bring them on, within the rules. There are set rules, and with regard to the Posted Workers Directive, we don't believe that the rules are badly framed. They haven't been well implemented, however, and we would agree that that needs to be reviewed. You can't have companies pretending to be based in another country so they can use those rules to apply to their supposed posted workers. That is wrong, clearly. That should not be allowed to happen and I believe that's what the Commission intend to do: to look at those kinds of issues to ensure that people have the information about what these rules mean.

**Lord Plumb:** It needs a lot of courage to follow the route you're suggesting.

**Q111 Lord Ryder of Wensum:** I endorse what Lord Plumb has said to you about this excellent paper and, in particular, the robustness of your section on employment, which is, to me, the key section. I was dismayed but not surprised by the cost of the Pregnant Workers Directive. At a time when Europe is losing all the time its competitive edge, I find it astonishing that these ideas should still be mooted and, in some cases, over the last two or three years, have been going through, to the detriment of the European economy in its competitive position against the Far East, for example. I saw recently—I think I saw recently—that the BCC had calculated that the cost of directives and regulations to impede employment had been about £40 billion to British industry. Can you confirm that figure and, if it is £40 billion, it's £40 billion since when?

**Karen Clements:** Well, we have two separate pieces of work: one is the Burdens Barometer that calculates the total burden of legislation since 1997; and another, the employment timeline, which is what you may have been referring to. That was, I believe, a £40 billion figure, but that wasn't just EU rules; that was national rules as well, taken as a whole, and this was between 2010 and 2012.

**Lord Ryder of Wensum:** 20...?



**Karen Clements:** 2010 and 2012.

**Lord Ryder of Wensum:** That £40 billion?

**Karen Clements:** I believe so. I would have to check that for you.

**Q112 Lord Ryder of Wensum:** £40 billion in two years when we're trying to emerge from an economic crisis. So, that would be the combined figure.

**Karen Clements:** Yes.

**Q113 Lord Ryder of Wensum:** What would the other figure be since '97 in terms of the European impediments to employment alone?

**Karen Clements:** Well, I don't know, I'm afraid, what proportion of that total it was. I'm afraid I can't help you there, but it certainly includes the Agency Workers Directive, it includes the Parental Leave Directive, it includes the recurring costs of working time, and I think the Pregnant Workers Directive is included in it because it could be enforced by the end of 2012.

**Q114 Lord Ryder of Wensum:** Would it be possible for you to furnish us with the precise figure?

**Karen Clements:** Absolutely, yes.

**Lord Ryder of Wensum:** Thank you very much.

**The Chairman:** That's really kind of you, thank you.

**Q115 Lord Clinton-Davis:** I presume you're arguing that, since my days as a Commissioner—admittedly going back a long time, '85 to '89—there has been a deterioration in the implementation or enforcement of European law. I remember that this issue led to fierce controversy within the Commission, it was properly addressed, and the Commission would make representations to the Governments concerned, with some effect. You also say that there should be correlation tables. We used to have a report back at pretty well every Commission. Would you support that view? Have the Commission departed from it?

**Karen Clements:** Well, I think that, certainly, the Commission has, for a while, had transposition tables, which it has made public and has served, to a degree, to name and shame those laggard Member States. I think it's also well known that the formal procedure for pursuing Member States who have failed to implement on time is very lengthy, and it doesn't necessarily deliver immediate results.

I think, though, that the Commission has got a lot of good ideas, not least in terms of how it has brought officials from Member States together in a way that I don't think certainly happened ten years ago, and obviously email, etc, has made it easier for those officials to be in contact with one another and to resolve the issues informally, and networks like SOLVIT have been absolutely invaluable in this process, and we certainly do our best to try and publicise them as much as we can.

In addition, the publication of correlation tables will help us look at the degree of gold-plating, if any, that there is across the European Union, and to what extent it puts Member States at a competitive disadvantage, because it's all very well saying that it happens; of course, by definition, it happens. As soon as you transpose a directive, you are gold-plating. It's whether it actually puts businesses at a competitive disadvantage and to what extent, so let's pursue that work—great idea. Let's extend mutual evaluation to all pieces of legislation, by all means. Let's also look at the Internal Market Information System, which is the digital way of exchanging information between administrations; that kind of soft power has got to be the way forward.

A more general point may be: has the Commission's authority weakened over the past 20 years? I would certainly agree that, for the past 15 years, the national Governments certainly don't place the same amount of, perhaps, respect for the Commission that they did in the earlier days. It's slightly departing, but as those heads of state that lived through the war and had a real sense of solidarity as a result of it start to leave the political scene, you get a new generation who don't have the sense of solidarity, and they're not going to put an institution like the Commission first and foremost; it's going to be their Member State, their country.

**The Chairman:** That's a very, very interesting point, and one that I don't think we've heard of before, but of course it does make sense. Thank you very much.

**Q116 Lord Brooke of Alverthorpe:** Good afternoon. Has the Commission gone far enough in its Smart Regulation Communication with regard to ex post evaluations of legislation? Secondly, do you think there should be more use made of regulations rather than directives to help develop the single market, as suggested in the Monti Report?

**Karen Clements:** In answer to your first question, we absolutely support all the Commission's work on better regulation and its Smart Regulation Report. In terms of the so-called fitness test that's going to apply on all the different areas of legislation, yes, absolutely, we think that should be done as a matter of course. I would caution, however, that, in doing so, you don't add further burdens to businesses or to consumers than is already the case.

I think we've sometimes seen, with the simplification process, that when the Commission tries to simplify three directives into one it likes to add a few things here and there, the example being the Musculoskeletal Disorders Directive. That was supposed to condense three into one, and it's about preventing back injuries for workers, which is obviously incredibly important, but when it looked at simplifying it, the Commission also looked at extending the set of contributory factors, such as stress, which obviously puts us into a whole new ball game and a whole new area of legislation.

**Lord Brooke of Alverthorpe:** It's gold-plating.

**Karen Clements:** Gold-plating at source. So, let's look at the fitness test, but I don't know whether you could have a quota or a target that you couldn't go beyond of burdens. If you have the original impact assessment and then the next impact assessment, I suppose you would want to hope that the level of burden would be pretty much similar, if not less. I also think that they need to get the Member States on board for this one; they're going to be invaluable in this. That's going to be quite a tall order.

**Q117 Lord Brooke of Alverthorpe:** Isn't it true that we, proportionately, gold-plate more here than in many other countries?

**Karen Clements:** I'm not aware of that, no. I don't think there's any evidence to suggest that. We have done a lot of work on gold-plating. I have to say there is no real evidence to suggest that the UK Government gold-plates more than any other Government, but we shall see, because the Commission will publish correlation tables.

**The Chairman:** Well, I really shouldn't interject but, in my own experience, it does, it has done, certainly in areas that I was involved with, definitely—gold-plating as opposed to what was happening in places like France, in the same industry and the same sector. Maybe that's all changed; I hope it has.

**Q118 Lord Haskel:** Yes. On this matter, in your paper you say that SMEs are disproportionately affected by European legislation.

**Karen Clements:** By legislation full stop; that is an academic fact. I can't tell you by how much.

**Q119 Lord Haskel:** Can you just explain why?

**Karen Clements:** Because they don't have the resources to deal with the legislation; for example, they won't have a human resources person who can make sense of the regulations. The owner often will have to deal with all the regulatory side himself or herself, rather than concentrating on growing his or her business.

**Q120 Lord Haskel:** Yes, but there are regulations in the various European regulations that attention has to be paid to the problems of SMEs in these things. Is that not working?

**Karen Clements:** Not yet. I think our research shows that, since the Commission was required to quantify the impact on SMEs, 11% of impact assessments have had that degree of quantification that was required, but, to be fair, it is early days. The revamped SME test, for which there are now very detailed guidelines for Commission officials, was only brought in last year, so we're going to give the Commission the benefit of the doubt on this one and hope that we start to see a change in the impact assessments that are coming out from now on.

**Q121 Lord Brooke of Alverthorpe:** Can I take you back to the second question, on whether there should be more use made of regulations rather than directives, because it does link back in to the extent to which you place burdens, possibly, on enterprises?

**Karen Clements:** Absolutely, and, in theory, yes. In theory, we would advocate scrapping directives in favour of regulations, because you will have much less scope for Member State Governments to interpret rules in a different way. Having said that, politically, I find it very difficult to see how you would do that. You would be accused of increasing the democratic deficit; you would be accused of not being able to take into account the specific rules and customs etc, etc, of that country, and I think it would be incredibly unpopular.

**Q122 Lord Brooke of Alverthorpe:** Isn't there also the danger that you could get more regulations, as it would be, prima facie, easier to get them through than directives?

**Karen Clements:** No, I think it would be more difficult to get a regulation through, because it's directly applicable. So, I think it would probably take longer to arrive at a decision or to reach a compromise amongst the 27 Member States.

**Q123 Lord Rowe-Beddoe:** Good afternoon. Your paper highlights implementation as a key ingredient, and it links it to communication, in a way, which I think is very relevant. We've heard in the past a lot about impact assessments, and perhaps I'm asking you to talk about that right now, but do you think that perhaps an inclusion of a single market test—something that is similar to an SME test—would be helpful in furthering the objectives here?

**Karen Clements:** No, I don't think it would be. I think that it would be window-dressing, really. I can't imagine that a proposal would ever leave the Commission if it were in any way conflicting with the four essential freedoms that make up the single market. As it is, the Commission has the most extensive impact assessment system in the world, with, as I mentioned earlier, the impact on the economy, on the social, on the environment and on SMEs, and to then have a single market test on top, I think, would be window-dressing. Once you've got those four and you've looked at the impact, then I think you've pretty much covered your ground and you should be ready to go. The thing is, of course, that, once it leaves the Commission, the Parliament and the Council can do anything with it they like, and they rarely bother to assess the impacts of the amendments, and they can change the face of a piece of legislation. That's another issue; that's something that's happening.

**Q124 Lord Rowe-Beddoe:** So, you believe that that would be window-dressing and not helping, but what can—and I've read, obviously, your paper—aid in the implementation in your opinion? Here we are, British Chambers of Commerce, all your members: what's going to help them implement the directive?

**Karen Clements:** Well, they don't implement it; the Government does. Our members just follow the law.

**Q125 Lord Rowe-Beddoe:** Do they?

**Karen Clements:** Absolutely. Absolutely. What will help the implementation is if you are seeing, at the time of implementation, what everyone else is doing. If we look at the Services Directive, this is the first time they've used mutual evaluation, and we know now that the French—surprise, surprise—aren't implementing one of the principles of the Directive, that of tacit consent, and that goes against the spirit of the Directive. Well, we know that because it's all been exposed and it's there for those who are interested to see, and that means that we are going to, hopefully, solve the problem before it gets locked in to law and before businesses have to comply or don't, as the case may be.

**Q126 Baroness Valentine:** Can I ask you a series of related questions to do with enabling intra-EU trade? According to an annex in the EU Budget Review, the UK is the Member State with the lowest intra-EU trade. Can you comment at all on why that is and whether it's in the UK interest to increase that level of intra-EU trade? Some associated points: is there something one can do to encourage SMEs to trade, and what are the barriers to trading, and does public procurement or e-procurement help in that mix?

**Karen Clements:** Blimey. Do we want SMEs to trade more with the EU? Yes, of course, absolutely—that goes without saying. What are the barriers? Well, I'll identify, I think, probably four. There are plenty others, but these are perhaps the majority of ones that are

non-tariff barriers. This is where, again, at the risk of repeating myself, Member States may have implemented a rule differently or they may not be abiding by those rules because they're not being properly enforced because they are using EU rules as an excuse to keep non-national businesses out of that market. As I said earlier, 43% of our exporting members had encountered non-tariff barriers in our 2009 survey. Since then, we've had a beefed-up mutual recognition principle, and I hope that we will start to see some benefits start to derive from that.

We've got the SOLVIT networks that help deal with those infringements, and they do a fantastic job and I hope that they get as much resource as they possibly can from the Commission for this. We've talked earlier about mutual evaluation, IMI Systems, correlation tables: all those things are going to help bring down these barriers. I think that 42% is obviously 42% too many, but it could have been worse.

Then we've got lack of integration, and that's the sectors that have yet to be fully liberalised, whether it's the services sector, whether it's the energy sector, and obviously businesses are going to come across barriers because there isn't yet harmonised legislation in those areas.

Then there's the lack of information, which we raised earlier, which is where a lot of businesses simply aren't aware of those agencies that are there to help them. The amount of ignorance amongst our members about the Enterprise Europe Network, for example, that does a fantastic, free service for businesses in terms of providing information on markets; it provides very basic information on markets—not at the level of UKTI—and legislation that applies in other EU countries that they're interested in trading with, those kinds of things, and it does a fantastic job. Our members just don't seem to know about it enough. That's something we've got to put right; that's also something that the Commission has got to put right, and the Government has to take ownership of the EEN as well, since it actually puts money into it. We find that our members aren't always aware of the legislative changes that have come across; again, EEN can do that and we need to do a better job on that, the Government needs to do a better job on that.

And we need much more joined-up trade promotion support. If you look at the way it happens in France, it's absolutely seamless. They have an *Équipe de France de l'export* and there are something like ten different agencies that help businesses to export, and they all work together in a complementary way to deliver, in some cases, a very innovative service to French businesses, and we, I think, are disadvantaged on that score. The same goes for businesses in Germany, where it is much more joined-up. We need to get Business Link, UKTI, Europe Enterprise Network—I'm sorry this is very technical—all in the same place, whether it's physically or online, and we've got these one-stop shops, we've got the UK Point of Single Contact for the Services Directive—let's look at that. Let's look at how we can use that and build on that platform and have something, a one-stop shop, where business knows: "That's where I can go to get the information I need about trading in the single market."

And finally, we've got an issue—it's a very obscure issue—with trade finance. France and Germany have a state-backed trade-finance system; we don't. We suffer as a result of it. Now, I agree those aren't the only issues, and we will actually be doing an in-depth piece of research next week looking at the route to market for a French business, a German business and a British business, and we'll, of course, send you all the details of that research and the conclusions that we reach as a result of it. But I think those are key areas that need to be looked at.

In terms of intra-EU trade, yes, that's the trend, isn't it? That's the way we're going. We do intra-EU trade and, from there, we have the rest of the world at our feet, supposedly. But I

don't think that statistic is particularly helpful. It's about importing only, for a start, and I wouldn't want the Government to say, "Well, we're going to boost intra-EU trade," for the sake of it. I want the Government to look at boosting trade full stop. We need to sell more to the EU and to outside the EU. I'm not sure whether that is the way to pursue it. There was another question, wasn't there?

**Q127 Baroness Valentine:** E-procurement or public procurement.

**Karen Clements:** Yes, e-procurement, absolutely essential. The public procurement market is 16% of EU GDP—huge. SMEs have quite a good share compared with the US. They have 42%, I think it is, compared with 23% in the US, and the US even has artificial targets for achieving that. But obviously there is huge scope for growth, and e-procurement is going to be the way forward and there's a lot going on at the Commission on e-procurement. I know it's a consultation at the moment, but it's taking into account all the pilot programmes that they've got running at the moment. As I mentioned earlier, and it will have to be based on a proper system of electronic signatures; unfortunately, all countries are developing different kinds of signature at the moment, and we'll need to try and find a way of moving forward on that.

**The Chairman:** Well, thank you very much, and thank you also for your offer of sending us the results of the research that you're doing, which I'm sure we'll find absolutely fascinating.

**Q128 Lord James of Blackheath:** This question asks you to compare the progress of market liberalisation with the impact it is going to have on the European social model. I will have a particular question I'd like you to consider with that, and you touched on it and got very close to it in one of the first things you said. In the post-banking crisis market, when we all settle down and we start to get back to normal borrowing again, we hope that the British banks will get back to a disciplined affair in which it is no longer possible for somebody to take a second mortgage without the knowledge of his wife in order either to pay for his mistress or a lot of white powder and, by doing so, we can arrange that in this country by insisting upon the signature of the wife to the consent of every loan against the security of the family asset. That does not apply in Germany and it does not apply in France, where you can do what you like, and so, if you happen to be a guy with a big mistress problem and you can't get the money out of the Lloyds Bank or the NatWest here, you've just to get into a German bank or a French bank and you can get it.

**Karen Clements:** Right.

**Q129 Lord James of Blackheath:** I would say that's a sociological problem arising out of liberalisation.

**Karen Clements:** Well, there is a Mortgage Directive in the Single Market Act.

**Q130 Lord James of Blackheath:** I should have added, in putting the question, "so I'm told", rather than from personal experience.

**Karen Clements:** Right. Okay. Yes, of course. I would say that proposal would be the logical place to start, wouldn't it? I'm not sure what bearing that has on the European social model or the market.

**Q131 Lord James of Blackheath:** We need a simple standardisation of the principles of lending, and it ought to be bought into by all the banks. But could you also look beyond that because, with the comments you've made on e-procurement and everything else, the great danger that we go into here is the easier access to porn and to gambling across the whole of the European markets as well, and I'm quite certain at the moment that nothing like enough is being done to keep those under control.

**Karen Clements:** Well, I absolutely agree that should be kept under control, and I'm afraid I don't know enough about that to help you. Sorry.

**Q132 Lord James of Blackheath:** Well, the point is it's not happening at the moment, so where can it happen?

**The Chairman:** It's not an SME.

**Lord James of Blackheath:** All porn operations are SMEs.

**The Chairman:** I think we should pass, don't you?

**Q133 Lord James of Blackheath:** No, it's a big problem. I'd like to know where the thrust will come to address this, because it'll spread like a disease through Europe.

**Karen Clements:** Well, as far as I'm aware... I don't know. I haven't looked through the Single Market Act to look at the rules that it's proposing in order to deal with those issues, but I absolutely agree it will have to be done.

**Q134 The Chairman:** Thank you, Lord James. Can I just ask: what balance do you think should be struck between the greater market liberalisation and protecting the European social model?

**Karen Clements:** Well, I think I answered that partially earlier by saying that, if you take a proposal and look at it, as you must now, in terms of its impact on the economy, on the social Europe and in terms of its impact on the environment and on SMEs, then you should get a balanced proposal that deals with the interests—all those interests—and comes out in favour of where the most benefits will arise. I don't see the need for every piece of market-opening legislation having to have a counterbalancing set of employment rules that sometimes are entirely unrelated to the market-opening in question. I think, if you look at the proposal and at the impact that it's likely to have, and you get the European Parliament and you get the Council to do that as well, you should have a proposal at the end that is fit for purpose and that's not been politically driven. If anything, I would argue that the more you take the politics out of it, the better.

**The Chairman:** Thank you very much indeed.

**Q135 Lord Ryder of Wensum:** Thank you, and thank you very much indeed for the way in which you've answered our questions. Have you noticed whether or not the Services Directive has made any tangible difference, and what sort of problems, if any, have you identified with it?

**Karen Clements:** In so far as the UK's Point of Single Contact has had nearly 19,000 transactions completed since the beginning of the service, which was 1 January of this year, yes, that clearly has made a difference, because businesses couldn't do that before. How widespread this is, I don't know. At the European Parliament in October, we took over the hemicycle for a so-called European Parliament of Enterprises, and there were 800-odd businesses there from across the European Union, and Malcolm Harbour asked the businesses how many had taken advantage of their point of single contact, and I think ten out of the 800 raised their hands.

So, we've got a long, long way to go, not least because only three-fifths of the PSCs are fully up and running across the European Union. Romania and Slovenia don't even have one yet at all, quite apart from it being fully functioning. Only three-fifths of the Points of Single Contact offer their general information, let alone the specific information, in another language. I think that there's a long way to go, but it is still early days and I think it's too soon to write it off.

I think we've got to put a lot more effort into it. If we're looking at communication, the Commission video to publicise the PSC is absolutely diabolical and it doesn't have a single business in it, which, for a business, is going to put it off. It doesn't want to listen to Jonathan Faull, however erudite is he—and he is very erudite—talk about the legal problems that we had getting the Services Directive past. On the other hand, North Brabant, a province in the Netherlands, has produced a fantastic little video, which uses a business that has actually used the PSC and completed its formalities and is now trading with the UK in a way that it couldn't have done before. That's what we need: we need more of those and we need it to go viral. I think we probably need to find different ways of communicating with our businesses other than the normal "put out a video, put out a leaflet and hope that it gets to them somehow", and we have a role to play in that as well—the British Chambers have a big role to play.

**The Chairman:** On that wonderfully dramatic note, are you finished, Lord Ryder?

**Lord Ryder of Wensum:** Fine, thank you very much.

**The Chairman:** Can I say thank you very much; you've given us a fantastic explanation. You're a wonderful witness and we will, of course, be sending you the transcript. But if there's anything that you think we've missed out that we should have asked and that will help us in producing our Report, we'd be most grateful if you could get in touch, and thank you again, Ms Clements.

**Karen Clements:** Thank you.



## The European Commission

### Written evidence, The European Commission Internal Market and Services Directorate (EUSM I0)

*1. The need to re-launch the single market: Does the current economic environment require a re-thinking of the single market? How should confidence in the single market be restored?*

Over the past two decades, establishing the single market and opening up borders has been one of the main growth engines of the European Union. Internal market integration (including liberalisation of network industries) and enlargement have led to the creation of some 2.75 million additional jobs.

With a GDP approximately 3.5% below its pre-crisis level and unemployment 3.3% higher<sup>30</sup> the EU now is experiencing the deepest crisis in more than a generation. This could lead to a long-term loss in structural economic growth and competitiveness with significant impact for European welfare states, ageing societies and the EU's standing in the global economy. The single market is a major asset of the EU. It still has the potential to deliver still more growth and jobs.

The European Union has taken urgent measures since the beginning of the crisis two years ago to improve the functioning and restore the stability of financial markets, and further action is being taken to ensure that the financial system serves the real economy and supports sustainable economic growth. In June 2010, the European Commission adopted a Communication setting out its planned initiatives in financial services reform<sup>31</sup>.

The need for action on the single market, however, is not limited to financial services. The wider single market is also in need of an overhaul, as the report of Mario Monti in May 2010 amply illustrated.

Firstly, we need to address the remaining single market barriers which stand in the way of single market integration and deprive the economy of further sources of growth. Barriers can be due to regulatory gaps (e.g. EU patent), gaps resulting from new market developments (e.g. digital economy), diverging regulatory approaches in different Member States (e.g. in the areas of taxation and social policies), or a failure by Member States to correctly apply EU legislation (e.g. public procurement). We need to address these barriers and act as a matter of urgency further develop the single market in key areas and free up growth potential. The fact that intra-EU trade remains significantly below intra-US trade illustrates well this growth-potential.

Secondly, we must seek to restore the confidence of citizens in the single market, through a holistic approach, bringing together different policy areas, working in partnership and investing at European national and local levels. Barriers in the single

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<sup>30</sup> Source: Eurostat: [http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database); GDP: quarterly national accounts for EU 27: comparison of second quarter 2010 data with second quarter 2008 data; unemployment: LFS series quarterly survey for EU 27: comparison of first quarter 2010 data with second quarter 2008 data.

<sup>31</sup> European Commission: "Financial Services Reform: Delivering the Next Crucial Steps in 2010-2011"; COM (2010) 301; 2 June 2010

market prevent the single market from delivering concrete results for citizens, who cannot therefore fully enjoy in practice their rights to live, work and study abroad or to access various goods and services from across the EU. A number of measures must be envisaged to strengthen the human and social dimension of the single market so as to put the market at the service of citizens.

Many obstacles need to be overcome, yet the overall message is simple. There can be no further growth in the single market without renewed confidence in the single market's value and merit. This confidence has been eroded among the different actors both before and during the crisis, and the single market legitimacy must now be restored. Businesses, workers, investors and consumers must all be confident that they will benefit from the highly competitive social market economy which the EU Treaty promotes.

These ideas are expounded in greater length in the Communication entitled "Towards a Single Market Act", which the Commission adopted on 27 October 2010<sup>32</sup>. Debates on the Single Market Act have been launched throughout the EU and will last until 28 February 2010. Contributions from all interested parties on the Act, notably from the national Parliaments, are most welcome. This also would be in line with the more active role for national Parliaments provided for in the Lisbon Treaty.

*2. How should the objective of a "highly competitive social market economy", enshrined in the Lisbon Treaty, be achieved? Will the completion of the single market be achieved at the expense of the EU welfare and social dimension?*

The Single Market Act is subtitled "For a highly competitive social market economy". This new Treaty objective very much guides the philosophy which underlies the Single Market Act. The Single Market Act proposals seek to improve the way Europeans work, do business and generally exchange and trade with one another. The Single Market Act seeks to develop the single market for people and business and achieve the balance which lies at the heart of the social market economy.

Europe's 500 million citizens together make up the single market. Article 3 of the Treaty on the European Union makes it clear that economic integration and market efficiency are not goals in themselves. Rather, they serve citizens, open new opportunities and generate prosperity. Europeans participate in the single market as citizens, consumers, students, workers, patients or pensioners. The single market must serve them in these multiple roles. Completion of the single market will not be achieved at the expense of EU welfare and social dimension. The single market must empower all participants in society to be single market beneficiaries and protect them where necessary.

'Reconciling the market and the social dimension' was how Mario Monti phrased it in his report. The Single Market Act proposes to put the people of Europe at the heart of the single market as an essential driver in returning to 'a highly competitive

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<sup>32</sup> COM(2010)608 final of 27.10.2010. Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. "Towards a Single Market Act: For a highly competitive social market economy. 50 proposals for improving our work, business and exchanges with one another". Available at [http://ec.europa.eu/internal\\_market/smact/](http://ec.europa.eu/internal_market/smact/)

social market economy'. For example, well functioning social and educational systems, efficient vocational training, quality employment and strong health and safety requirements in the workplace contribute to efficient markets and help create wealth and growth. They increase a country's attractiveness, create social ties and, like other structural factors like the quality and density of infrastructure, are key factors in global competitiveness.

*3. What role should the single market play within the context of Europe 2020 strategy? What is the significance of Europe 2020 in ensuring the completion of the single market project? To what extent can Europe 2020 address "the main bottlenecks[...] related to the working of the internal market and infrastructure"?*

The Europe 2020 Strategy makes of the single market the central platform for the creation of smart, sustainable and inclusive growth. The single market is one of Europe's main competitive advantages in a global economy. Further deepening and developing it will be Europe's trump card when competing externally.

President Barroso in his Political Guidelines for the 2010-14 Commission highlighted the central importance of a strengthened internal market for the European economy, and put it at the centre of the Europe 2020 process. This approach was subsequently endorsed by the Europe Council in June 2010, when Heads of State or Government agreed that "Europe's Single Market needs be taken to a new stage, through a comprehensive set of initiatives".

Europe 2020's various "flagship" initiatives endeavour to address bottlenecks that prevent citizens and companies from fully benefitting from the single market. These bottlenecks also prevent the single market from functioning properly and companies and consumers from fully benefitting from economies of scale. For companies, more efficient networks would bring easier and cheaper access to factors of production, business partners and markets, increasing EU competitiveness. For consumers, it would bring greater quality services at lower prices. The most important barriers are underinvestment and lack of cross-border infrastructure, lack of interoperability, and a number of market entry, regulatory, administrative and technical barriers which prevent the creation of a level playing field between actual and potential competitors regardless of their nationality and location. In addition, national, regional and local authorities in particular often lack a "European reflex" when confronted with cross-border issues: in many cases, citizens and businesses encounter unnecessary obstacles because authorities ignore or fail to apply EU rules.

*4. Institutional elements - In order to deliver the re-launch of the single market is there a need to refocus the way that the relevant measures are dealt with by the EU institutions?*

The Single Market Act proposes a strengthened delivery mechanism to ensure that key single market proposals are adopted rapidly, by 2012 at the latest. It is also a collective approach, involving not only the Commission but also the Parliament and the Council. The Economic and Social Council and the Committee of the Regions will open up the discussions to local and regional representatives, the social partners or economic players, associations and other actors in civil society. The Single Market Act has also been sent to the members of each national parliament, regional authorities –

including those of the outermost regions, the economic and social players, and actors in civil society. Specific information tools will be made available to interested parties.

The conditions for a genuine European public debate have thus been put in place, and on the basis of the replies received, the Commission will propose that the other Institutions agree a final version of the Act. After this public debate, and based on the conclusions drawn from it, the Commission hopes that all of the European institutions will undertake, at the start of 2011, to make this Act and its 50 measures into the definitive policy action plan for 2011-2012. This will serve as a dynamic commemoration of the 20th anniversary of the single market at the end of 2012.

#### *5. How should the Commission exercise its enforcement role?*

Considerable efforts have been and are still being made to strengthen the partnership between the Commission and the Member States in the management of the internal market, specifically through the implementation of the 2009 'Recommendation on Partnerships'<sup>33</sup>. The constant efforts made to improve the implementation of the rules of the single market have borne fruit, as demonstrated for instance by the low average transposition deficit on the most recent Internal Market Scoreboard<sup>34</sup>. There are, however, still shortcomings, particularly the fact that national legislation does not always conform to the directives it transposes. The length of the official infringement procedures initiated by the Commission and the considerable delays in implementation of Court judgments by the national authorities are additional challenges that have yet to be addressed. There is also a need for closer attention to the matter of application when rules are being drawn up, evaluated and/or amended. Renewed efforts must be made to implement and respect the rules – all the more so because this is a prerequisite for the correct functioning of the single market, since the rules must be the same for all parties. This will require solid partnership and cooperation with the Member States in order to further reduce the transposition deficit. The Commission considers that 0.9% deficit is still too high. The Single Market Act has therefore suggested to bring it down to 0.5%.

Mutual commitment will be needed to check the conformity of national legislation with the main regulations of the single market by making systematic use of correlation tables. Joint efforts must also be made to speed up Commission infringement procedures and compliance with Court judgments by setting ambitious common objectives, and to increase the systematic use of alternative dispute resolution mechanisms such as SOLVIT and EU-PILOT.

#### *6. The use of tax coordination as a mechanism for driving the completion of the single market.*

Despite the various initiatives launched by the Commission in the past decade, cross-border tax obstacles remain and, as European business organisations frequently remind us, continue to make it difficult for companies to operate efficiently in the single market. The co-existence of 27 disparate tax systems can significantly impede cross-border commercial activity, as it creates market distortions and is administratively very

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<sup>33</sup> European Commission Recommendation on measures to improve the functioning of the single market (2009/524/EC), 29 June 2009.

<sup>34</sup> See Internal Market Scoreboard, No 21.

complex to manage. This creates a market environment which, in the field of direct taxes, consists of as many pieces, often impossible to match, as the number of Member States. This is in contrast to the situation in other areas of the economy (i.e. production, inventories, sales, etc) where companies tend to deal with one single market. Such fragmentation may significantly impede cross-border commercial activity, as it creates bottlenecks and distortion in the market and also increases compliance costs for corporate taxpayers, and involves high costs of complying with transfer pricing formalities.

According to estimates, compliance costs related to company taxation are in the range of 3% of corporate income tax revenues in the EU, i.e. approximately €12.8bn. This creates negative consequences especially for SMEs, which are particularly impacted by these costs. Where insufficient coordination of national sovereign tax systems create significant internal market barriers, the Single Market Act proposes that these should be addressed through better coordination of national tax policies.

There are also a number of tax related barriers preventing private individuals from enjoying their single market rights such as being able to move, set up home or acquire goods and services freely throughout the EU. These problems may consist of difficulties in obtaining relief for double taxation because of the limited scope or complete absence of agreements on double taxation, discriminatory taxation rules and overlapping of different tax systems, as well as difficulties dealing with the tax legislation of two or more Member States and claiming tax reductions or reimbursements from another Member State. Cross-border workers in particular can face difficulties in relation to car tax, pension tax and inheritance tax. The Single Market Act there announced that the Commission would come forward before the end of 2010 with a Communication aimed at identifying and eliminating the tax obstacles still facing European citizens.

*7. The role the Services Directive has played in completing the single market. Whether the perception of the Directive has dampened enthusiasm for further single market reforms.*

The free movement of goods and services are among the fundamental freedoms enshrined in the EU Treaty on which the single market is based. The free movement of goods is one of the early success stories of the single market. Boosted by the abolition of single market borders in 1993, it has made possible an enormous product choice for consumers across the EU. To maintain this choice, EU policies seek to ensure that no barriers inhibit the free movement of goods. At the same time, they seek to guarantee that goods circulating in the single market are safe to consume. The latter requires the close cooperation by Member States in surveying product markets.

The services economy is a crucial sector for Europe's economic recovery. It accounts for over 70% of all jobs and for all net job creation in the single market. A well-functioning single market for services will help citizens and businesses, in particular SMEs, to benefit from the single market by providing them with better services at prices and on markets that are more competitive. The free movement of services was significantly enhanced with the entry into force of the Services Directive in 2006, which had to be implemented in all Member States by end 2009. The Services Directive is expected to deliver substantial benefits both for companies providing services cross-border or

seeking to establish themselves in a different Member State than their own, and for consumers looking to benefit from a greater choice of services. A recent study concluded that EU-wide economic gains of the Services Directive could range between €60-140 billion, representing a growth in EU GDP of 0.6-1.5%.

A precondition for such benefits to materialise, however, is the ambitious implementation of the Services Directive, which is currently subject to a mutual evaluation by Member States, supported by the Commission, and the further development of the 'Points of Single Contact' essential for administrative simplification. The results of this mutual evaluation process have for the first time provided an X-ray showing the way in which a substantial part of the internal market for services operates (since the Directive concerns activities accounting for 40% of European GDP and jobs) and pointed towards areas where further work seems to be necessary to improve the functioning of the internal market. The Commission, therefore, wishes to continue cooperating with Member States to develop the internal market in services on the basis of 'mutual evaluation'.

In view of the above, I would strongly disagree with the suggestion that the perception of the Directive has dampened enthusiasm for further single market reforms in the area of services. Quite to the contrary, our assessment is that Member States have generally been extremely committed to the implementation of the Directive and have in many cases embarked on ambitious reforms of their regulatory framework in order to cut red tape, modernise public administration and boost the service economy. Early in 2011, the Commission will present the finding of the mutual evaluation process of the Services Directive and, on this basis, consider what future initiatives may be needed.

*7 December 2010*

## **Written evidence, The European Commission Information Society and Media Directorate (EUSM II)**

### **The digital agenda and its plans for creating a digital single market**

#### **Digital Single Market focus**

The achievement of the Digital Single Market is a crucial component of the EU2020 Strategy and one of the main objectives of the Digital Agenda for Europe.

#### *The policy context*

Europe 2020 sets out a vision to achieve high levels of employment, a low carbon economy, productivity and social cohesion, to be implemented through concrete actions at EU and national levels. This battle for growth and jobs requires ownership at top political level and mobilisation from all actors across Europe.

The Digital Agenda for Europe (DAE) is the first of seven flagship initiatives to be adopted under the Europe 2020 strategy that was set out to define the key enabling role that the use of Information and Communication Technologies (ICT) will have to play if Europe wants to succeed in its ambitions for 2020. The delivery of actions belonging to Europe 2020 flagship initiatives will be ensured through a delivery mechanism described in the relevant flagship initiative.

The objective of the DAE is to chart a course to maximise the social and economic potential of ICT, most notably the internet, a vital medium of economic and societal activity: for doing business, working, playing, communicating and expressing ourselves freely.

The Single Market Act is another ambitious cross-cutting initiative adopted by the European Commission that is fully consistent with Europe 2020. However, it is worth remembering that each Europe 2020 flagship initiative has its own governance structure which contributes to the overall governance architecture of the Europe 2020 strategy. The DAE governance structure comprises consistent working with Member States and European and national Parliaments, sustained dialogue with stakeholders with a Digital Assembly in June starting 2011, and a Scoreboard in order to achieve the ambitious targets defined therein.

There are several strong arguments that determined the renewed interest of the EU policy leaders into the internet economy, based on its relevance for the success of the Single Market as a whole.

#### *Economic considerations*

- In 1993, the European Union established a Single Market to improve economic efficiency. From 1992 until 2006, the Single Market has increased the EU's prosperity by 2.15% of GDP and has created about 2.75 million extra jobs. Moreover, EU exports to third countries have increased from 6.9% of EU GDP in 1992 to 11.2% in 2001, foreign direct investment has increased and intensified competition has reduced the prices for European consumers.

- But despite such achievements, the overall economic assessment of the EU economies since the early 1990s is not entirely positive. Most importantly, labour productivity growth in Europe still lags significantly behind the respective levels in other economic areas, notably the USA. The resulting productivity gap between the EU and the USA has even increased since the late 1990s. Hence, the Single European Market has failed to generate sufficient levels of economic growth comparable with those in other regions such as the USA.
- The failure of EU countries to catch up with labour productivity growth in other regions has been identified as “a symptom of its failure to transform into an innovation-based economy”. Research outlines that the transformation into an information society is expected to raise the economies long-term growth potential. In fact, although European countries gradually transform into information societies as well, the speed of this process and in particular the diffusion of ICT is rather low.
- The causes for this observation have been frequently discussed (EU-ICT Task Force Report, 2006, DIW econ, 2008). Among the main factors is a significant regulatory incoherence between different Member States, the persistent existence of parallel standards and limited interoperability<sup>35</sup> in many technologies, a lack of relevant ICT skills<sup>36</sup> of European employees, as well as structural factors such as the large share of SMEs in Europe’s economies which are particularly hesitant in adopting ICT. As a result, the EU economies lack not only the use of ICT itself, but also the new organisational forms, greater factor mobility, and increased innovations and R&D activities that would result from using ICT in an information society and that has proven to increase productivity and long-term growth potentials.

#### *Legal Considerations*

- The EU regulatory framework for the information society was created in a piecemeal fashion over a period of several years (mainly 2000-2005), resulting in a set of European Directives that each cover one or more different areas of the information society. Many of these directives have proven to be beneficial in fostering the information society. For example, the eCommerce Directive has allowed internet access and hosting providers to develop their business through protective liability regimes, and has facilitated the uptake of all online services through the freedom of establishment, the freedom of online service delivery and so-called "home country control". The eSignature Directive introduced the principle of legal recognition of electronic signatures. Meanwhile, the Data Protection Directive has made service providers aware of the necessity to handle citizens' personal data with due care.

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<sup>35</sup> The Commission, as part of the review of EU standardisation policy, will propose legal measures on ICT interoperability by 2010 to reform the rules on implementation of ICT standards in Europe to allow use of certain ICT fora and consortia standards and will adopt in 2010 a European Interoperability Strategy and European Interoperability Framework. The European Commission calls on the Member States to apply the European Interoperability Framework at national level and implement commitments on interoperability and standards in the Malmö and Granada Declarations by 2013.

<sup>36</sup> The pillar 6 of the Digital Agenda for Europe is aimed at enhancing digital literacy, skills and inclusion. In particular, the European Commission calls on the Member States to implement by 2011 long-term e-skills and digital literacy policies and promote relevant incentives for SMEs and disadvantaged groups.



- However, since its adoption, the EU regulatory framework has been confronted with a myriad of new technological developments. The rapid spread of broadband and wireless access has resulted in an almost permanent connectivity, resulting in the omnipresence of the internet, as well as an increasing dependency on it. The internet has created new – and more complex – types of interaction that overhauled the traditional webshop-to-consumer relations. The advent of Web 2.0 services, which are characterised by massive user participation, has led to the development of enormous online communities, and has boosted the power of the individual by allowing individuals to reach the entire online community - resulting in influential individual blogs as well as the broadcasting of real-time messages.
- The internet is borderless, but online markets, both globally and in the EU, are still separated by multiple barriers affecting not only access to pan-European telecom services but also to what should be global internet services and content. This is untenable. Despite the huge potential of the online world, only a small part of it is currently exploited in Europe and market fragmentation is even more visible in the digital environment than offline. The costs of the current situation in the online world appear to be huge for Europe: lack of opportunities for businesses to achieve a pan-European dimension, limited possibilities for European consumers to access affordable and quality services and content of their choice.
- In this new context, although the eCommerce Directive has introduced the freedom of establishment and the freedom of online service delivery, many online businesses still face significant compliance costs due to a lack of harmonised rules, as well as diverging interpretations of harmonised rules. For example, it is not clear to which extent online service providers have to comply with local rules of other Member States, due to the ambiguities in the scope of the "coordinated field" (country-of-origin principle) of the eCommerce Directive. When sending email advertisements, it is not clear whether reliance on national anti-spam rules is sufficient, or whether compliance with the national rules of each recipient is required. In this respect, under the Digital Agenda for Europe, the European Commission will 1) evaluate by the end of 2010 the impact of the eCommerce Directive on online markets and make concrete proposals in order to make online and cross border transactions straightforward. 2) ensure the completion of the Single Euro Payment Area (SEPA) 3) propose a revision of the eSignature Directive to provide a legal framework for cross-border recognition and interoperability of secure eAuthentication systems with the aim to adapt existing legislation to the new technological and legal challenges of the digital world.. In the Digital Agenda for Europe, the European Commission also calls upon the Member States to implement swiftly and coherently the key Directives supporting the digital single market, including the Services Directive, Unfair Commercial Practices Directive and the Telecoms Framework.
- Furthermore, the lack of trust and confidence in the online environment is seriously hampering Europe's digital economy. To this end, the Digital Agenda for Europe announced the review of the EU data protection regulatory framework to enhance individuals' confidence and strengthening of their rights. The same aim of boosting consumer confidence in technology by addressing online threats is pursued by the set of actions falling under the Pillar 3 of the Digital Agenda for

Europe "Trust and Security"<sup>37</sup> and the initiative to issue a Code of EU Online Rights by 2012 that summarises existing digital user rights in the EU in a clear and accessible way.

- Due to the diverging national implementations of the Copyright Directive and the exclusive rights of authors, the online distribution of copyrighted materials is still stagnating and focused at national level. The current legal framework hardly gives authors and collecting societies any incentive to conclude licensing agreements on a pan-European level, resulting in costly licensing procedures and limited availability of online material. This limited availability of lawful online content is, in turn, also cited as one of the reasons for the massive infringement of copyright by consumers (although there are also many other contributing factors). In order to open up access to content, maintain the trust of right-holders and users and facilitate cross-border licensing, the Digital Agenda for Europe aims at enhancing governance and transparency of collective rights management and simplifying copyright clearance, management and cross-border licensing by proposing a framework Directive on collective rights management and a Directive on orphan works by 2011. In addition, the Digital Agenda for Europe calls on public authorities to contribute to the promotion of markets for online content by making public sector information available on transparent, effective and non-discriminatory terms as it could potentially stimulate growth of innovative online services. In this respect, by 2012 the European Commission will review the Directive on Re-Use of Public Sector Information, notably its scope and principles on charging for access and use.
  
- Meanwhile, EU policy on electronic communications, which was reviewed in 2009, has successfully opened up markets to competition since full liberalisation was introduced in 1998. However, it has not yet effectively completed its objective of creating a seamless consumer experience not limited by national boundaries. Today, Europe's telecom markets are partitioned on a Member State basis, with purely national, rather than Europe-wide, numbering, licensing and spectrum assignment schemes. These national structures are increasingly challenged by global competition and the internet. In order to address these issues and enable a truly internal market for electronic communications, the EU will, as part of the Digital Agenda:
  - assess, on the basis of practical input from stakeholders, the socio-economic cost of non-Europe in telecoms markets, outline the benefits of a better- integrated market, and propose appropriate steps to reduce this cost;
  
  - on the basis of the Radio Spectrum Policy Programme, coordinate the technical and regulatory conditions applying to spectrum use and, where necessary, harmonise spectrum bands to create economies of scale in equipment markets and allow consumers to use the same equipment and avail themselves of the same services across the EU;

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<sup>37</sup> The European Commission will present in 2010 measures aiming at a reinforced and high level Network and Information Security Policy and measures, including legislative initiatives, to combat cyber attacks against information systems by 2010. The European Commission calls on the Member States to establish by 2012 a well-functioning network of CERTs at national level covering all of Europe; in cooperation with the Commission carry out large scale attack simulation and test mitigation strategies as of 2010; fully implement hotlines for reporting offensive or harmful online content, organise awareness raising campaigns on online safety for children, and offer teaching online safety in schools, and encourage providers of online services to implement self-regulatory measures regarding online safety for children by 2013; Set up or adapt national alert platforms to the Europol cybercrime platform, by 2012, starting in 2010

- propose measures for an increased harmonisation of numbering resources for provision of business services across Europe; and
- look for durable solutions for voice and data roaming by 2012 and create conditions for the difference between roaming and national tariffs to approach zero by 2015.
- One of the latest developments in the internet world, cloud computing, poses a series of legal as well as technical challenges. Cloud computing generally refers to the move from software, processing, and storage running/taking place almost entirely within the local office network, dedicated data centre, or desktop pc in the home, to increasing proportions of one or more of these elements taking place at large, diversely located, service provider facilities located around the world and accessed through the internet (this is often referred to as the 'cloud'). Many of the public policy issues, such as privacy, access and copyright protection are similar to internet policy issues at large, but given the fact that the cloud is inherently global, policy solutions must be cross- jurisdictional. Since cloud systems are still at an experimental stage, it is very important to mitigate the risks and seize the benefits of cloud computing within the EU policy framework and therefore more research in the area is required, in order to better assess the implications of future regulations.

*16 December 2010*

**Oral evidence, 20 December 2010, Q 136–169**

*Evidence session no 5 : heard in public & by videolink*

Members present:

Baroness O’Cathain (Chairman)  
Lord Brooke of Alverthorpe  
Lord Fearn  
Lord James of Blackheath  
Lord Ryder of Wensum  
Baroness Valentine

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**Examination of Witness**

**Jonathan Faull** [Director General for Internal Market and Services, European Commission]

**Q136 The Chairman:** Good afternoon Mr Faull and thank you very much for agreeing to give us evidence today. I’m Detta O’Cathain and I’m the Chairman of this Sub-Committee. On my left is Lord Ryder; John Turner, our Committee Clerk; Michael Torrance, our Policy Assistant; Lord Brooke of Alverthorpe; Baroness Valentine; and Lord James of Blackheath.

**Jonathan Faull:** Good afternoon to you all.

**The Chairman:** Thank you. Before we start, are there any questions or any statements you’d like to make before we go into the questions?

**Jonathan Faull:** Just to thank you for allowing us to do this by videoconference. In current circumstances, it was a wise decision because we wouldn’t have been able to reach you and you wouldn’t have been able to reach us.

**The Chairman:** Absolutely, quite.

**Jonathan Faull:** This is a triumph of modern technology. Perhaps, I should introduce my colleagues briefly. On my right is Emer Daly, Director, in my department responsible for the Single Market; on my left is Nathalie Berger; and, on her left, Florence Francois-Poncet.

**Q137 The Chairman:** Thank you very much. We will start off with the questions and I want to ask you the first question. There are 50 proposals contained in the Single Market Act. Which are the areas in which you think action by the Commission can create the most added value in strengthening the Single Market? Of course, people talk about the 50 proposals, but they are grouped in about 12 or 13 groups. I suggest that it’s really the groupings that we’re looking at to see that we can get the best and quickest return, if you like.

**Jonathan Faull:** Yes, there are 50. We certainly intend as a result of the consultation period in which we are currently engaged, and of which this is a part, to whittle them down to a more manageable number. We took the view that it was best to enter into this consultation with a wide range of proposals, albeit, as you say quite rightly, categorised in a number of specific ways.

We have a number, I think already at this stage, of fairly clear views as to the areas in which a rapid result can be obtained from further work on the Single Market. One, I suppose rather obvious, example is the adoption of an EU-wide patent and a unified patent litigation system; it is a top priority. We are finding it very difficult to make progress with all 27 Member States, but we're looking now very carefully at a slightly more restricted proposal that would cover a smaller number of Member States, at least, in an initial phase. This is an example of a general category of issues involving intellectual property, where we find that the ways in which intellectual property rules exist and are applied and enforced across Europe can inhibit the development of EU-wide production and services, in particular on the internet, but also in respect of physical goods and services as well.

This brings me to services, as a category as a whole. The service sector of the European economy is estimated to represent about 70% of GDP. Most services, some for good reasons, are still provided locally, regionally, and nationally. We believe, however, that there is considerable scope for cross-border activity in the provision of services, and we will want to focus on that as well. Those are examples of categories of policy where the Single Market Act, when whittled down into its final form, can make a real contribution to the return of growth and employment to the European economy.

**Q138 The Chairman:** Thank you very much, Mr Faull. Are these the ones that will make the biggest impact if you get them right and therefore encourage the rest of the categories to behave, so to speak, or to perform?

**Jonathan Faull:** Well, they would make a considerable difference if we get them right. The potential there is really very considerable. Of course, they are not the only issues we have to grapple with. Perhaps it's a related concern, but an important one: it's still very difficult, despite all the efforts that have been made over the last decades, for professionals to move from one Member State in the European Union to another to exercise their profession because of the different ways in which qualifications are awarded, interpreted and understood from one place to another.

**Q139 The Chairman:** As a supplementary, can you give us some indication of what role you think Member States should take in aiding the development of the market? Member States as Member States individually, not as a collective.

**Jonathan Faull:** Yes, indeed. Member States are really where these rules are applied properly or are not. The enforcement of the rules concerns a myriad of national authorities in the public sector and other bodies as well, and of course the courts of the Member States are very much in the front line of making sure that people's rights are properly applied and that obligations are complied with. We rely very much on Member States to put EU rules into their national legal systems and then to use their national, administrative, regulatory and legal systems to make sure they are applied on a daily basis. Most people, most of the time, do not realise that there is an EU origin in some of the things that they're doing and are able or entitled to do. We do not mind so much about that, as long as the rules are properly applied and complied with at the hard end, if you like—the sharp end—of the daily lives of citizens of all of our countries.

**Q140 The Chairman:** Thank you very much. Of course, there is a body of opinion that says if you left the market to its own devices, then these things might work out anyway. But you believe there should be a lot more push from Europe as a whole to try and get uniformity?

**Jonathan Faull:** No, not always. There are many things that can be left to the market; there are other things for which either current or past experience shows that a certain push is needed in order to provide some security or common environment across EU Member States. Without this, people will not step out of their local, regional or national setting to begin to do business across borders. That is a judgment that has to be made; it's a complex one, but I don't think the EU Single Market will flourish if we show a policy of benign neglect to it. On the contrary, we need a pragmatic set of rules under which the market can work properly.

**The Chairman:** Thank you very much.

**Q141 Lord Ryder of Wensum:** May I follow that up please? You've said that there are some things that cannot be left to the market. Could you give us some concrete examples?

**Jonathan Faull:** Quite simply, if you take the development of e-commerce—the provision of goods and services on the internet—which is, after all, the way in which the young generation of Europeans is going to go shopping, we find a wider variety of obstacles in the way of such trade: lack of consumer confidence, because of different contract law rules, different consumer protection rules from one place to another, which make people hesitate before pressing the buy button or the send button on the computer, and of course intellectual property rights, which vary so much from country to country that, for example, there is no such thing as a pan-European service selling music on the internet to young European consumers. They are confined to their individual country—once their computer works out where they are, which takes a nanosecond—in a way that for physical goods and services hasn't been the case for half a century.

**Q142 Lord Ryder of Wensum:** Thank you all very much indeed for being with us this afternoon. Have you been concerned about protectionism following the financial crisis? If so, what is the Commission doing about it?

**Jonathan Faull:** There was concern that protection might spread, but, without being complacent in anyway, we've been pleasantly surprised that there hasn't been very much of it. The Single Market seems to be so deeply rooted now in the way in which the Member States, their politicians, their administrations, and the business world think about the way in which business is done that any wholesale reining back of the EU's achievements in creating a Single Market has not been substantiated.

On the other hand, in the Financial Services sector to which you refer to in particular, we have, of course, seen a set of national bailouts; we have seen a series of whole or partial nationalisations of banks, as Governments stepped in to take over failing financial institutions. Now, none of that is irreversible, and indeed, most of it is clearly expected to be reversible, but we have seen in the absence of a Europe-wide crisis management resolution policy for failing financial institutions that we had to fall back on the individual interventions of individual countries with sometimes very, very serious consequences, as, for example, in Ireland in recent weeks, where national intervention has ultimately led to another form of European and international support.

We are trying to design now, under the aegis of the G20 international framework a crisis management system for the European Union with a set of resolution mechanisms for financial institutions, banks in particular, in order to ensure that if a crisis anything like the one in which we're still living were to occur again we would have mechanisms in place. This would mean that national supervisory authorities, in a framework set by European legislation and with the new European supervisory authorities involved as well, would be able to resolve a cross-border financial institution heading for the rocks, before the ultimate crisis occurs, usually during a weekend, and the only solutions available turn out, again, to be purely national ones, with subsequent difficulties for national debt and expenditure.

**Q143 Lord Ryder of Wensum:** Thank you very much. I have no interests to declare at all, but if I were a banker in the City of London, I wouldn't have anything to fear on behalf of the financial services industry in this country about protectionism or any other form of intervention from the Commission? Can you say that?

**Jonathan Faull:** Certainly, I can. Regarding protectionism generally from other European countries, or from foreign countries, I think the record throughout the financial crisis so far shows that steps have not been taken to prevent financial institutions from one country operating in another. Have they anything to fear from the European Commission? No, on the contrary, I suppose that, if I were a banker in the City of London, I would welcome the steps being taken both at a European level and internationally to restore stability to international financial markets and institutions.

**Q144 Lord Ryder of Wensum:** So there are no impediments, no regulatory problems that the City of London needs to worry about in the next few months arising from ideas that have been floated in other European countries?

**Jonathan Faull:** Well, I'm not saying that all institutions will agree immediately with everything that is proposed and I'm not sure that all Governments will either. This is a democratic process in which arguments are brought to bear, proposals are made, and ultimately the European Parliament and the Council of Ministers legislate. There is also the international context of the G20 and the Basel Agreements to be borne in mind as well. While I'm sure there will be lively debate about details, I certainly take the view that the City of London and its financial institutions have nothing to fear in general from the regulatory programme for which we are responsible here at the Commission.

**Q145 Lord Ryder of Wensum:** This morning we heard for the first time from the former boss of HSBC that, under his command, HSBC was considering the possibility of moving. Why were they considering the possibility of moving unless they felt there were problems arising from regulatory problems that arose within the European Union?

**Jonathan Faull:** I have no idea what he said to you. I haven't seen a transcript of that yet. Bankers make commercial decisions in the interests of their bank. I know of no evidence at all to suggest that financial institutions fear regulatory developments in the European Union. As I said, detail will always be debated, but the creation of a sound, stable framework for the conduct of financial service business in the European Union is in everyone's interest.

**Q146 Baroness Valentine:** I wanted to ask a related question; a practical question really. With the European supervisory agencies that are being set up at the moment—there are three of them—presumably there is a two-pronged concern: one is that highly effective supervisors do go into those agencies, but the more particular concern that I have is that

London as a financial centre is obviously ahead of some of the rival centres in Europe in certain aspects and whether there is sufficient practitioner knowledge going into those European supervisory agencies. I believe there would be resistance to putting secondees in. The general question is: are we going to get high-quality supervisors? Are they going really to relate to the very global London marketplace?

**Jonathan Faull:** There are two points to make on that. First, I believe that, yes, they will attract high-quality staff; we're in the process now of conducting the first phase of interviews for the senior positions in the three new authorities. The authorities, I should recall, are built upon existing committees with existing staff, so they don't start from scratch. Finally, the day-to-day supervision work is not for them. The day-to-day supervision work will continue to be carried out by the national supervisory authorities in each country; the European supervisory authorities essentially having a coordination role and step in only in the event of an emergency or a disagreement between agencies. Of course it is true that there are different levels of knowledge and experience from one country to another, just as there is different recent experience of success and failure in regulating financial institutions.

**Q147 The Chairman:** Thank you very much. My question this time is: has the implementation of the Services Directive been a success? I refer to your very useful paper, which we received from the Commission. In paragraph 7, page 5, you say, "The Services Directive is expected to deliver substantial benefits both for companies providing services cross-border or seeking to establish themselves in a different Member State than their own, and for consumers looking to benefit from a greater choice of services. A recent study concluded that the EU-wide economic gains of the Services Directive could range between €60 billion and €140 billion." That is a huge range. What do you think it's likely to be? Is that very pessimistic or very optimistic? Bearing in mind that you say here also that the Services Directive, which was introduced in 2006, had to be implemented in all Member States by the end of 2009 and obviously it was not, when do you think it is going to be or will it happen?

**Jonathan Faull:** It's a mixed picture. It has not yet been fully implemented in all countries. We regret that very much. Some of those that have implemented it on paper in their statutes have not yet taken the necessary steps to simplify some of the administration of the Directive in their national and local administrative systems, so there is still a lot of work to be done. On the other hand, some have done it properly and the signs are that we are gradually moving towards a leaner, more modern regulatory framework for the provision of services across borders. Many requirements that were not justified or were discriminatory or disproportionate in key sectors—retail, construction, regulated professions like the law, accountancy, tax advice and so on—are being eliminated.

Now, it is of course not easy to provide one scientific number for gains, particularly as we are looking ahead to estimated gains, if all of this is done properly. This explains the rather wide range. It also depends, of course, on general economic growth, which is, at the moment, sluggish at best in most Member States, and where predictions of even the short-term future are a little hazardous. We base our estimates of €60 billion to €140 billion on estimates of GDP growth of between 0.6% and 1.5%; rather modest, but a difficult exercise to engage in. What we do know is that, generally speaking, the service economy represents 70% of employment, and cross-border services represent only 5% of GDP across the European Union, as compared with 17% for physical goods traded across the Single Market. There is no doubt considerable potential, not to put too fine a point upon it.

**The Chairman:** Yes, quite. Thank you very much indeed.



**Q148 Lord Brooke of Alverthorpe:** Good afternoon Mr Faull. How effectively do you think the Commission is enforcing its rules on state aid and competition? If you feel that it's enforcing it effectively and perhaps could do more, do you think the powers that you have are sufficient or would you like to see further changes there?

**Jonathan Faull:** Thank you. First of all let me say that this is the responsibility of another Department in the Commission, the Competition Department, so I speak for them and on the basis of information that they've provided to me. How well is the Commission enforcing its rules? I think as effectively as it can. In the current crisis—and I think back again to the example of the banks—we have seen the emergence of state aid rules as a very important plank in public policy in this area.

More generally, the Commission has been very active in recent years in pursuing the goals of competition as a driver of innovation and economic growth in dealing with cartels, the most harmful type of competition law infringement, at least by companies. There have been substantial fines in such varied areas as: bathroom fittings, €622 million, airfreight carriers, €799 million, and liquid crystal display panel producers, €648 million, aggregate fines. Those are just three examples, but I don't think anybody in the business world should be in any doubt that the combined operations of the national competition authorities and the Commission, as the European competition authority, are extremely rigorous.

In respect of other sectors that are important structural or infrastructural matters for the economy at large—I think of transport, energy, payment systems, credit cards—the Commission has been extremely active as well in recent years in breaking down barriers to competition and trade and encouraging the emergence of genuine EU-wide infrastructure.

In respect of state aid, the Commission has been extremely busy since 2008 in the banking sector, both in issuing a number of general communications and dealing with the fall-out, if you like, of the provisions of huge sums of public money to banks, in the UK and elsewhere, by insisting on accompanying measures that restore some competition to the market, knowing as we do that banks in Europe more than in some other places in the world are the essential providers of credit to households and to the corporate sector of the economy and in particular to small and medium-sized companies.

**Q149 Lord Brooke of Alverthorpe:** Coming back to the second part of the question, do you think the Commission's powers at the moment are sufficient? I think particularly of energy, where the UK was well to the fore in liberalising but has complained over the years that many other countries did not move as speedily as we did, and indeed still have not moved in many areas, and we've complained frequently to the Commission that there ought to be tougher stances taken with them.

**Jonathan Faull:** I would distinguish between tougher stances to be taken under the existing rules and wondering whether the rules themselves are strong enough. The basic competition rules have essentially remained unchanged since the 1950s and have shown themselves, I think, broad enough to cope with all the changes that have occurred in our economy since. While it is certainly true that certain Member States have moved more quickly than others in liberating certain sectors of their own volition, I don't think one can infer from that that there is a general need for stronger European rules to bring about quicker EU-wide liberalisation. I think the rules themselves are what we need, essentially; perhaps my colleagues in the Competition or Energy Departments would like stronger rules but that has not happened in the recent changes to the European Treaty. I expect that

what's needed more than anything else is strong political will and commitment to enforce these rules properly across the whole EU.

**Q150 Lord Brooke of Alverthorpe:** Would the Commission prefer to use more regulations rather than Directives when legislating in these areas? What do you think?

**Jonathan Faull:** Well, sometimes we have no choice because the Treaty provides simply for one or the other; where there is a choice, there is indeed a case to be made for the more widespread use of regulations because they are immediately enforceable and there is one agreed text at European level, albeit translated into all the various languages, which then becomes the law of the land in every European country.

A Directive, which is usually a looser, more flexible instrument, obliges Member States to write the Directive into national law through internal legislation, thereby raising of course the danger of gold-plating, about which much has been said, particularly in London, in recent days, but allows the insertion of the European rules in the national system to take place in a more familiar way and gives a role to the national parliaments in enacting the legislation that finally gives effect to the European rule. It can be more time-consuming and some of the message can be lost in transmission. There is both a legal and a political judgment; there is a legal question to be answered and a political judgment to be made where there is a genuine choice about which is the best way to provide effective results quickly across all 27 Member States of the European Union.

In the specific area of financial services regulation and bank capital requirements emerging from what is called the Basel III agreement, where there are often calls heard for a single rule book to be applied in the same way by national supervisors across the whole of the EU. I believe there is a case for that single rule book to be in a regulation, but no final decisions have been taken in that respect.

**Lord Brooke of Alverthorpe:** Thank you very much.

**The Chairman:** Lord Ryder, I believe you wanted to ask the next question. Since the last question, Lord Fearn has made an appearance. He has, like most of the other Members of our Committee—and I should have apologised that half of us are not here because of snowdrifts and all the rest of it—made huge efforts to get here; one was stuck on the M1 and the other completely holed up in Norfolk, but Lord Fearn has just arrived, so he's the other Member of our Committee.

**Lord Fearn:** I've been sat on a train at Preston.

**The Chairman:** Sat on a train at Preston? Oh joy.

**Lord Fearn:** Frozen points.

**Jonathan Faull:** It's not much better over here.

**The Chairman:** Well, we share a lot of things, I think, Mr Faull.

**Q151 Lord Ryder of Wensum:** We've received evidence from the pro-European British Chamber of Commerce that this country, and, indeed, most other European countries, have been made less competitive over the past few years by a raft of regulatory measures that

have put us at a disadvantage against emerging economies like China, India, Brazil and so forth. There is no doubt at all that this is the case. Now, we hear about the prospect of the Pregnant Workers Directive, which would make us even less competitive at a time when Europe is fighting for its commercial life. To many of us, this seems quite ridiculous. That is the first part of my question. The second part of my question is this: if Europe has been made more competitive by the actions of the European Commission over the past few years, I wonder whether you could give us a few examples of where we have been made more competitive by the work that you've carried out?

**Jonathan Faull:** Thank you. Let me say again, by way of preliminary comment, that my Department is not responsible for social legislation such as the Pregnant Workers Directive. I'm speaking on the advice of my colleagues in that Department. The first thing to be said is that we do believe across the whole Commission very strongly that the European Union Single Market should be a highly competitive one, both within its borders and enabling European companies to engage in international competition as well. On the other hand, without in any way suggesting that there's a contradiction, we have what our Treaty calls a "social market economy" and are in no way ashamed of the fact that, for example, pregnant women have certain social rights, which represent, I think, a true, common European value.

The rest of the debate is a matter of detail and balances have to be struck, but nobody is suggesting, at least I hope not, that we should focus solely on one side of the balance or on the other. There is no great master plan; each issue is considered on its particular merits. I have to say in this respect that my Commissioner, Michel Barnier, is very firmly of the view, and his colleagues in the Commission share this, that it is important that the European Union Single Market has the full support of the European public and that it be understood as an enormous opportunity for the citizens of the Member States of the European Union, rather than as a threat. Now, it's a fact that in some quarters in some countries the view has tended to be taken that it is more one than the other; that it is too focused on competition and not enough on social aspects, and in other countries a different view is taken.

You've asked me what the European Union has done for competitiveness in recent years. Well, quite simply, it has opened up to the businesses of the European Union a continent-wide market of half a billion people, with free movement of nearly all factors of production. The gains to the European economy are really very considerable if one considers what would have been the case if each Member State had been cut off one from the other. In the recent crisis in Ireland, I think a lot of people were struck by the British Prime Minister's comment that Britain does more trade with Ireland than with Brazil, Russia, India and China combined. That is just a relationship between two neighbouring Member States; the continent is the home market for the companies and the businesses of the European Union.

**Q152 Lord Ryder of Wensum:** Thank you very much. Can I take you up on two points? The first was the last one that you mentioned about, as it were, the Single Market encouraging trade between countries within the European Union. To some extent, I share your view that, over the years, this has been the case. Indeed, it's quite difficult to mount a case against it. It wasn't really the purpose of my original question. My original question related to how Europe could be more competitive vis-à-vis the emerging economies, like China, India and Brazil, if all the time we were being subjected to more regulation from the European Union. It's surely counterproductive for that to be the case. The Pregnant Workers Directive is a specific case in point. The notion that there should be a Pregnant Workers Directive simply, to use your words, to protect the rights of pregnant women runs to counter to the fact that we already have our own legislation in this country to preserve

the rights of pregnant women. To go back to what you said initially in your response to me about the social market Directive and so forth, I had the great good fortunate and privilege during the last years of his life during the early 1970s of having talks with the person who invented the social market economy, Ludwig Erhard. The notion that he would sign up to the Pregnant Workers Directive, and many other Directives that we've had from Europe in recent years, is for the fairies. He was the man who invented the social market in the late 1940s and the early 1950s. I wonder whether you have any observations to make on the two points I've come back to you on.

**Jonathan Faull:** Well, it's more for my colleagues in the Employment, Social Affairs and Equal Opportunities Department to debate the merits of the particular Pregnant Workers Directive, but it has been the business of the European Union for many, many years—there is nothing new in this—to develop, side by side, the employment and the social policy side of public policy, as well as competition, trade and other Single Market policies. I don't think that Dr Erhard would find that proposition at all surprising.

What he might have thought of a particular item of legislation, I can't really speculate on, but we don't operate in a vacuum. It's absolutely right that we have to bear in mind the competitiveness of European companies, both within its borders and with the rest of the world, but to stay, perhaps, with the example of Dr Erhard's country, the German economy, which is considered within Europe to be a successful example of an exports-based economy, is not one that has deregulated and abandoned its social policies.

**Q153 Lord Ryder of Wensum:** That's fine. Could you please finally offer me some concrete examples of how the European Union, in recent years, has made us, as the Union, more competitive vis-à-vis the emerging countries such as India, China, and Brazil? How have the regulations that you have imposed upon or have been imposed upon member countries made us more competitive? Perhaps, to put it the other way, are there any deregulatory measures that have been taken, or may be taken, to take account of the fact that Europe has to be made more competitive in the future, if it's to survive against those emerging countries?

**Jonathan Faull:** First of all, with great respect, I must take issue with the idea that regulation or legislation is imposed upon anybody. Regulation and legislation are enacted in accordance with the European Union's democratic legislative processes, involving the European Parliament and the Governments of the Member States. Nobody is imposing anything upon anybody, except, I suppose, in the very rare instances where there is a qualified majority vote is taken and all Member States are ultimately bound by legislation. That is very much the exception, not the rule.

I suppose I shouldn't say this to your Lordships' House in particular, but of course we very much take the view that for those Member States sharing the single currency, the euro, the European Union as a whole has brought to bear a sustained period of low interest rates and internal monetary stability from which those Member States that had the good sense to take advantage of those conditions have benefited quite considerably.

**Q154 Lord Ryder of Wensum:** I'm very sorry, I'm very sorry—I won't pursue the point any further because we have other questions to ask—but I would merely say, in response to that, that here you have countries like Greece and Spain that cannot depreciate their currencies because they are bound by the single currency. Yet, the currency of Britain has depreciated, very much to our advantage, against the euro and against the dollar. If I may say so, that is not a particularly strong answer.

**Jonathan Faull:** With respect, I must beg to disagree. We have reasonably recent memory of bouts of competitive devaluation and their consequences. We have no desire to go back to that world at all. It is not for me to comment on whether the United Kingdom has benefited or not from its position in that regard.

**Lord Ryder of Wensum:** Thank you.

**The Chairman:** Mr Faull you handled that masterfully. I'm just sorry that you're not here, so we could take you out for a cup of tea after this witness session, but we've got to get on.

**Q155 Lord James of Blackheath:** Mr Faull, how does Europe see the priorities for tax harmonisation and tax coordination, which is anticipated? How does it see that those would aid a single market? What would we, in this country, expect to see as the principal differences with our own present fiscal accounting practices?

**Jonathan Faull:** Well, tax harmonisation is highly unlikely to take place; it requires unanimity and, as I'm sure you're well aware, there are several Member States resolutely set against it. Tax coordination is a slightly different matter and what we said in the Single Market Act is that there is a case for coordination involving the development of a common consolidated corporate tax base. Now, again, I have to say that this is the responsibility of another Department within the Commission—my colleagues who are responsible for customs and tax matters—but the Single Market Act is, of course, a comprehensive document that explains why that is in there. We are told by many business organisations that the difficulty of planning business across borders in 27 countries is exacerbated by the very different tax systems; it's not only a matter of different tax rates of course, but the very basis on which tax is levied in the first place. The business community tells us it would make life considerably easier, and, therefore, it would enhance competitiveness of European companies, if at least they were able to know in advance on what basis they would be paying tax across borders without having to take 27 different sets of expensive legal advice.

**Q156 Lord James of Blackheath:** Mr Faull, does that answer anticipate any significant change in the application of depreciation rates across Europe and the impact that might have on tax payable and therefore the competitiveness of the companies concerned?

**Jonathan Faull:** The already very daunting task of dealing with the corporate tax base is likely to be the focus of our attention in the coming period.

**Q157 Lord James of Blackheath:** Mr Faull, can I take that answer as meaning that there would be no likely impact on the cross-frontier competitiveness of major leasing companies offering facilities across frontiers to different corporations in different states in Europe?

**Jonathan Faull:** Before offering a definitive yes or no answer to that, I should check the details with my colleagues in the Taxation and Customs Union Department. If I may, I will give you an answer in writing.

**Q158 Lord James of Blackheath:** You will accept, Mr Faull, that the answer to that question would go to the very core of competitiveness of the financial services involved.

**Jonathan Faull:** Yes.

**Q159 The Chairman:** Can I just come in on the back of Lord James' question. I was fascinated by your written submission—I had never thought about this before, and then I thought, “Well, perhaps it doesn't really matter too much”—which, in the second paragraph of page 5, refers to, “The difficulties in obtaining relief for double taxation because of the limited scope or the complete absence of agreement on double taxation.” Then it goes down a few lines and says, “Cross-border workers, in particular, can face difficulties in relation to car tax, pension tax and inheritance tax.” Well, many, many years ago, before there was an EU, I remember friends of mine who lived in France used to go to Geneva to get their cars taxed. It has been ever thus. Similarly, in the United States, are there not differences between States? Is it not something that people can live with? It doesn't have a huge implication for workers—or does it?

**Jonathan Faull:** Well, you're quite right that it's obviously not a new problem. I tend to think you're right that between States of the United States of America something similar happens; it doesn't stop the USA functioning as a country, of course. On the other hand, we have an active policy of encouraging people to move across borders. It's one of the main features of the European Union, if only because we have all the natural obstacles in the way of moving around, which of course the Americans don't have, i.e. we speak different languages and have very different cultures and so on. Where we can find tangible regulatory impediments to people moving around and using their EU rights—and we estimate that somewhere between 8 million and 10 million Europeans now live in a country other than the one in which they were born—we tend to think about how we could solve that problem. It's not easy and, of course, once the dreaded three-letter word tax comes into it, it becomes politically very fraught. As I said, the rules are often subject to a unanimity requirement, which means that progress is very slow, if not altogether non-existent. This explains why there is concern about these issues here; it doesn't mean that they will be easy to resolve.

**Q160 The Chairman:** Surely, just to press the point a little, if you tell us the astonishing figure, I have to say, that between 8 million and 10 million out of 500 million now live in a country from which they did not originate, I find that a very low figure. We're talking about hardly anything. Would we want to, if you like, homogenise the whole lot of car tax, pension tax, inheritance tax, with all the regulations and all that work would involve, just to help 2% or 3%?

**Jonathan Faull:** Of course, we wouldn't. There has to be in every case a proper cost-benefit analysis and there must be a real demonstration that the putative obstacle is stopping people doing things that they would otherwise freely do. It's not a matter of dogma or ideology; it is very much a case-by-case pragmatic approach.

**Q161 Lord Fearn:** We've heard that procurement and particularly e-procurement could help revitalise the Single Market. What benefits does the Commission consider would flow from potential reforms to the EU procurement rules?

**Jonathan Faull:** Even in these straitened times, public authorities are very large purchasers of goods and services; we calculate that public authorities account for about 17% of GDP across Europe in the goods and services that they procure. Where procurement markets are genuinely competitive, there is a substantial gain for the taxpayer in getting value for money for the goods and services that he or she is buying. This is why over the years we have been active in urging Member States to open up their procurement to the best value for money offer across the whole European Union, eliminating discrimination and favouritism. The advent of the internet, of course, makes this problem in a way more acute

but easier to solve, because it's much easier, of course, to reach a continental-wide audience through the internet than it is on paper. Of course, there are still language obstacles to be overcome, but e-procurement reduces administrative transaction costs of procurement procedures by anything between 15% and 18%. We are very keen that this new technique be widely used and be used in a way that encourages the purchasing of goods and services from wherever the best value can be found across the European Union. That is to the advantage of European industry and to the advantage of the Governments and taxpayers at all levels of the economy, and all levels of politics for that matter, across the European Union.

Analysis shows that there is a strong positive relationship between the number of bids received and the amount of savings made. This is particularly important for smaller companies, which are unlikely to have access to procurement procedures hundreds of kilometres away from their local base. Big companies will always find ways of coping through local subsidiaries, advisers, translators and what have you. We want EU-wide procurement to be available to the dynamic small- and medium-sized companies on which our future depends so much.

**Q162 Lord Fearn:** Can I just follow on with the second part of the question: what are the main barriers to cross-border procurement at the moment?

**Jonathan Faull:** There are two main sets of barriers. One is the rules simply not being applied properly; we have all sorts of legal cases that the courts are dealing with or we have to deal with because Member States, often at a very local level, do not comply with the rules. Secondly, the rules themselves contain rather wide-ranging exceptions that simply do not open up procurement as much as they should. Thirdly, perhaps, I should say in a more humble way, the rules we've developed are often excessively complicated and difficult to apply, particularly by local administrations not used to dealing with them on a regular basis. One of the things we want to do is to simplify the rules so that they can be applied better across the whole of the Union.

**Lord Fearn:** Thank you very much.

**The Chairman:** Thank you Mr Faull. That's something to which we all say Amen.

**Q163 Baroness Valentine:** I think you've probably, at least partly, answered the second part of my question with that last answer, but how can SMEs be encouraged to engage in more cross-border trade? What are the barriers to them achieving that?

**Jonathan Faull:** Yes, well, everything we've talked about so far, I suppose in that respect. We are looking carefully at a whole range of regulatory instruments that we have enacted at EU level and Member States have enacted at their level in recent years to make sure that they are not unnecessarily unfriendly to small- and medium-sized companies, which no doubt need some encouragement before they step out of their familiar local or national environment into the complicated area of cross-border trade. The Single Market Act says that the successful small- and medium-sized companies are the large businesses of the future; that is right. We have to give them, for example, proper intellectual property protection across the whole of Europe, so that some European Bill Gates in a garage somewhere can invent something, try it out, and, if successful, sell it profitably to half a billion happy consumers. We're not there yet. We don't have that integrated market to offer our inventors, to offer our producers.

I come back to the complexity of, and occasional frictions between, our different national taxation systems. In matters of accounting and prospectuses for raising funds on stock exchanges, we have, perhaps, to look again as well in order to make sure that requirements are not an unnecessary burden on small- and medium-sized enterprises, which are finding it very hard to raise much-needed credit at the moment. There is a wide variety of things to be done. Not all small companies will ever want to engage in cross-border trade, but some will; we want to make sure that for those it is a genuine Single Market that is being offered to them.

**Q164 Baroness Valentine:** What are the barriers to creating a single digital market? Are the barriers mainly cultural or are they regulatory? Finally, should the solution be found by increasing supply or demand, i.e. by making it easier for businesses or by increasing consumer confidence? Do you think that vertical restrictions on online trading might be holding back the development of the digital Single Market?

**Jonathan Faull:** Am I allowed to say a combination of all those things?

**Baroness Valentine:** Yes.

**Jonathan Faull:** It sounds like a bit of a cop-out, but clearly they all have a role to play. There is, on the part of both the supplier and the consumer, a moment of hesitation before you press the button about buying something on a website coming from foreign country. We all know that where electronic commerce has taken off it has been under well-known, secure brand names that were able to develop a reputation for secure, good service and good, secure handling of funds as well.

It's a combination of all these things. It requires a properly integrated payment system. It requires confidence on the part of the consumer in consumer rights across Europe, so that wherever you buy something or wherever you order something, you are treated as well as you would be at home. We also have to encourage the suppliers to put their feet in the water in the first place and to make their goods and services available across the whole of the Union.

It is not all altogether surprising, but rather worrying that, at this stage, the e-commerce world across the European Union, at least in respect of the large, well-known brands, is dominated by American companies, rather as, I like to remind my colleagues, back in the 1960s the only car companies operating multinationally across Europe were Ford and General Motors. It was only after we had taken down, through long years of concerted effort, barriers to trade in cars between Member States that we ended up with a Single Market for the supply of cars and all that goes with them, and, by the way, good competitive European car companies capable of competing across the world as well.

I sometimes think that in the digital sphere, we are back in 1960; the real danger we face is that the young generation of Europeans, my children's generation, finds that the Single Market we have been creating for them for the last 20 to 30 years simply doesn't exist. If I log on here in Belgium to a well-known music site, it discovers that I'm in Belgium and offers me only a Belgian library—in the local currency—of songs that I can download and listen to. I am not entitled, for example, to have access to the British database of a different library of music and in a different currency, of course. This is not what should be happening in the Single Market. There are many reasons for it: it is to a certain extent a question of cultural differences and, perhaps, apprehension; it is a question of a lack of proper EU-wide intellectual property protection; it is, perhaps—you referred to this in your last question—the way in which distribution systems have grown up and are regulated; it's the absence of



reliable EU-wide signature identification systems electronically, and so on. We're at the beginning, I think, of a very daunting set of challenging policy issues, and we're in a hurry because if we don't get moving fast we risk losing the support of a whole generation of Europeans, who shop online and find, frankly, that a Single Market doesn't exist.

**Q165 Baroness Valentine:** Could I just test one point you made there about lack of consumer confidence? I would have thought that the consumer generation you're talking about would be moderately blind to the country of origin of the thing they were buying. So, if it happens to an Italian, French, or British provider, is there really this level of distrust if it's a different country that it's coming from?

**Jonathan Faull:** I think it's a very real concern not about the quality of the goods in abstract but about what you do if something goes wrong. You receive the CD in the post and it's broken, or you book the hotel and when you get there it's a building site. All of these issues, raising complex questions of contract law and consumer protection law, have to be resolved. Can you use the rights of the courts in the country where you sat at your computer or do you have to go through the courts and the legal system of the foreign country in which the service was provided or even perhaps where the website was located? All of these issues are still to be resolved.

**Q166 Lord James of Blackheath:** Mr Faull, could you just go back to your point on the digital marketing rights of music and could you indicate if there is a particular policy that might deal with the issue that arises if a German orchestra, like the Berlin Philharmonic, is recording with Claudio Abbado for Sony, which is a Japanese company? Whereas the Berlin Philharmonic automatically makes nearly all its product available digitally across Europe, because it is owned by a Japanese company it has effectively lost that right and that recording will not be available anywhere digitally in Europe.

**Jonathan Faull:** Gosh, well, I wasn't aware of that; rather than hazard an answer now, I think I will promise you that we will look into that.

**Q167 Lord James of Blackheath:** If you want a starter, try to get the recording of Bruckner's Fourth Symphony first and then you'll find the difficulty.

**Jonathan Faull:** Bruckner's Fourth? Right, I will look for Bruckner's Fourth. Do you know—it's a bit unfair to the others, but in order to help me in my research—if this is simply a commercial decision by Sony over in Japan or is it the way in which the intellectual property rights are allocated worldwide?

**Lord James of Blackheath:** I suspect that it's because of the contractual arrangements with Abbado, rather than with the orchestra; but there an individual artist is dominating the greater interest of the music business of Berlin.

**Jonathan Faull:** Right, we will look at that and get back to you.

**The Chairman:** Lord Ryder also wants a final comment and then I want to just say a couple of words.

**Q168 Lord Ryder of Wensum:** Thank you very much indeed to all of you, and in particular to you, Mr Faull. May I make one observation and then make one request, please? The observation is that you gave the example of the car industry in the 1960s; it was an excellent example you gave us. It was of course a paradox that at the same time, and subsequently, the European Commission did nothing at all to deregulate the European airline industry. Indeed, the drive to deregulate the European airline industry, internally and externally, came from outside. It didn't come from the Commission that had been resisting it in the first place. That's my observation.

My request is, please, I would wonder whether it would be possible for you to provide us with specific examples of EU measures that have made the European Union more competitive vis-à-vis non-European competitors. I wonder whether it is possible for you to provide examples of any new non-regulatory EU measures over the last four years that have also helped us to try to get to a point where we are more competitive externally.

**Jonathan Faull:** With pleasure. On the first question, I'm afraid my recollection is extremely different from yours; in fact, it's the absolute opposite. I had the great honour of working in the late 1980s and early 1990s for Peter Sutherland and Sir Leon Brittan, as he then was, and the late Karel Van Miert. They were Competition Commissioners. We devoted hours, months and years to the deregulation and liberalisation of air transport within the European Union. Every time a Ryanair flight takes off from Brussels to Italy—they probably can't today, but they can in more clement weather—that is an airline taking advantage of the freedom to fly within the European Union, which the Commission, in the face of enormous resistance from other institutions and some Governments, piloted through in successive packages of airline liberalisations—I can send you all the documents—in the late 1980s and the early 1990s. The suggestion that the Commission has resisted the liberalisation of air transport, frankly, is not in accordance with the historical record.

On your second point, I would be delighted to send you examples of the ways in which the European Union has gradually dismantled customs, non-tariff barriers, and all sorts of other fiscal and discriminatory measures across what is now a whole continent, giving rise to, just to take examples of things that we've been talking about, internationally competitive airlines, car manufacturers, but I would add things like drinks manufacturers; I remember well the days when it was impossible to export various brands of whisky from the United Kingdom to various places on the continent or where vast and discriminatory tax regimes were in place to protect local booze. There are all sorts of examples where the British economy and all the others have benefitted to a quite an extraordinary degree.

**Q169 Lord Ryder of Wensum:** This is externally, please; externally, as well.

**Jonathan Faull:** Those companies with a competitive home market in which to trade, if you like, were then able to take advantage of the successive trade liberalisation measures in which the Commission led for the whole of the EU in the GATT and its successor, the WTO. That is why today we have so many world-beating companies.

**The Chairman:** Mr Faull, thank you very much indeed. You do know that, of course, this has been webcast and you will receive a transcript of the session to check and correct. This will be put on the public record in printed form and on the parliamentary website. I am most grateful to you. You had to stand at the wicket and take five different types of bowling.

**Jonathan Faull:** I may have to explain that to my colleagues.

**The Chairman:** Well, I'm afraid we're sort of slightly less chipper than we were a few days ago about cricket.

**Jonathan Faull:** I know.

**The Chairman:** The only thing I can say is that the five Members of the Committee who were thwarted from being here today because of the weather have missed a stunning performance and thank you very much for it. Can I wish all of you a joyful and peaceful Christmas and a very successful New Year? Thank you again.

**Jonathan Faull:** Thank you all very much. Happy Christmas.

## **Supplementary written evidence, The European Commission Internal Market and Services Directorate (EUSM 12)**

### **Common consolidated corporate tax base ("CCCTB") for leasing companies and depreciation** (Question 157 of the transcript):

The CCCTB would level the playing field for leasing companies operating in the EU only to the extent that they opt into the system. If a company remains outside the CCCTB, depreciation rates or the 'periods of useful lives of assets' in the Union would not be harmonised.

Any company opting into the CCCTB would have to apply the same depreciation rates and the same approach for the valuation of assets for tax purposes in all Member States.

The technical rules currently under consideration for the CCCTB would differentiate between individually depreciated assets and assets included in an asset pool. As is already the case in the corporate income tax systems of most EU Member States, the entitlement to depreciate leased assets would be reserved for the economic owner of the assets.

### **Digital marketing rights** (Questions 166/167)

Lord James of Blackheath gave the following example: Sony Masterworks ("Sony", the record label) owns the copyright in the sound recording of Bruckner's Fourth Symphony, conducted by Claudio Abbado. Prior to recording, Sony concluded:

- an agreement with the Orchestra and its members to make a recording of their performance and assignment of their copyright;
- an agreement with Claudio Abbado to make a recording of his performance and assignment of his copyright.

Bruckner died in 1896, so a licence from the collecting society representing him as a composer is no longer necessary. Making the recording available in digital format would be governed by the terms of the contracts Sony concluded with the orchestra and the conductor. We are not privy to those contracts. It may be the case that Sony has not obtained the right to make the recording available in a digital format. A Sony recording does not seem to be available on Amazon. There may be a dispute relating to the Sony recording. Disputes of this kind often arise when a famous conductor, who has a recording contract with one record company, works with an orchestra contractually linked to another label. The issue may therefore relate to contractual arrangements between the recording artist and the producer of the sound recording, rather than the scope of copyright law.

### **EU measures that have made the European Union more competitive vis-à-vis non-European competitors** (Questions 168/169, pages 28-30)

While growing domestically to encompass virtually the whole European continent, the EU's single market has been a major driving force for improving European competitiveness vis-à-vis non European competitors for many years. It gives EU companies a large home market of roughly 500 million consumers. The EU has also contributed to the liberalisation of world trade through the negotiation, led by the Commission, of successive and successful

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multilateral trade rounds in the GATT and its successor, the WTO, and bilateral free trade agreements. That is why today we have so many dynamic international companies and why the EU is the world's biggest exporter of services. Trade agreements have been concluded or are being negotiated with such countries as Korea, India, Canada and Singapore. The EU also works intensively in the G20 and other international fora with key partners to bring about consistent regulation of financial markets and services.

*21 January 2011*

## Department for Business, Innovation and Skills

### Written evidence (EUSM 7)

#### I The need to re-launch the single market

##### ***Does the current economic environment require a re-thinking of the single market? How should confidence in the single market be restored?***

The UK is at the centre of the European single market, and the single market is of central economic importance for the UK. Eight out of the UK's ten main export markets are in the EU. Exports to EU Member States account for 51% of the UK's overall exports of goods and services, worth more than £200bn. As a comparison, the US, the UK's biggest trading partner outside the EU, accounts for 13% of UK exports; and the UK exports more to Ireland alone than to Brazil, India, China and Russia together.<sup>38</sup> Other European States are also the main source of foreign direct investment, with 49% of the total coming from these countries.<sup>39</sup>

Economic evidence shows that the single market has delivered substantial economic benefits. EU countries trade twice as much with each other as they would do in the absence of the single market programme. Given that, according to the OECD, a 10 percentage point increase in trade exposure is associated with a 4 per cent rise in income per capita, increased trade in Europe since the early 1980s may be responsible for around 6% higher income per capita in the UK.

Yet there is still substantial scope to deliver further gains from a better functioning single market. For example, whilst increased EU integration has increased levels of cross-EU trade, there is still a significant bias in economic consumption toward domestic producers in the EU. On average EU countries tend to buy four times as many goods from domestic producers than goods produced in other EU countries in Europe (this bias is even more marked for services). In comparison with the early 1980s, the single market programme has reduced this "domestic bias" by a third across Europe.

Given the importance of the European market for British exporters and investors, the proper functioning of the single market remains a crucial aspect of the UK's policies to recover from the effects of the financial and economic crisis. The main principles of the single market, which have shaped policy decisions since the mid-80s – i.e. bringing down barriers and simplifying existing rules to give individuals, consumers and businesses better access to European goods, services, jobs and markets – are still valid today. The challenge for policy makers now is to maintain the focus on the economic benefits that flow from open and competitive markets, while resisting protectionist policies that will inhibit growth and stifle innovation.

Confidence in the single market stems from its capacity to deliver real, tangible results for citizens and businesses, most notably small and medium-sized enterprises (SMEs). There are substantial benefits of the single market today. For instance, over

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<sup>38</sup> Office of National Statistics (ONS) Pink Book 2010.

<sup>39</sup> ONS Business Monitor MA4 Foreign Direct Investment 2008.

300,000 UK companies currently operate elsewhere in the EU and 78% of business leaders consider that the single market has been helpful for UK business.<sup>40</sup> Benefits include access for British businesses to potential customers, reduced costs for businesses wishing to export to Europe or to set up European operations without having to re-register in each country, and an increased ability to sell products across Europe without having to get them approved separately in 27 different countries. Standards have been harmonised for hundreds of products and services – moving from national towards regional and international standards where practicable, ensuring that consumers all over Europe enjoy high levels of quality and safety and thus increasing consumer confidence in purchases. Common standards also provide a level playing field for manufacturers across the EU, regardless of where they are based.

However, to retain this confidence, much more has to be done. Verifying that the regulatory framework is up-to-date and business-friendly is an ongoing process. E-commerce, new business processes, changing customer preferences and new technology constantly challenge the regulatory status quo. This work should focus on those who are most likely affected by shortcomings, especially SMEs. They are the backbone of the UK economy and a driver for innovation, but face the greatest barriers when trying to access foreign markets. Operating in other Member States needs to become easier, with less burdensome regulation and far greater emphasis from national authorities on facilitating market access. This does not necessarily mean that every Member State must have the same rules, but it does mean that Member States should apply their rules in a non-discriminatory way, avoiding protectionism, and that their rules should be clear and transparent.

***How should the objective of a “highly competitive social market economy”, enshrined in the Lisbon Treaty, be achieved? Will the completion of the single market be achieved at the expense of the EU welfare and social dimension? Is there a need for a “package deal” between countries with a “social market” approach and those with an “Anglo-Saxon” tradition? The Committee will concentrate on the broad impact of the social dimensions on the single market, rather than the specific merits of particular policies.***

The Government considers that the regulatory system of each EU Member State is unique and cannot be attached to a general model shared by several Member States. This plurality of national systems reflects different political and social traditions and is an expression of national sovereignty. In accordance with the principle of conferral, i.e. the legal principle that the EU should not act unless a specific competence has explicitly been given to it, it is not the role of the European Union to define Member States’ social policy and welfare systems, but to recognise this diversity.

This diversity is fully compatible with the principles of the single market. Instead of imposing regulatory costs and burdens, the right way of strengthening the social dimension of the single market is to allow Member States to regulate their labour market and their social systems according to their needs and political priorities.

It is in the common interest of all Member States to strengthen the single market. It opens borders for goods and services, delivers greater choice and lower prices to

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<sup>40</sup> MORI Captains of Industry survey, December 2006. See [http://www.bnegroup.org/news/pr\\_21\\_12\\_06.htm](http://www.bnegroup.org/news/pr_21_12_06.htm)

consumers, opens up new business opportunities for companies, and ultimately creates jobs. It also plays a key role in retaining and developing the global competitiveness of European businesses. Given that social market economies are only sustainable when they are competitive, the single market is not only a driver for growth and prosperity, but also enables Member States to generate the resources to protect the most vulnerable members of society.

It follows that there should be no need for a “package deal”. It is in the genuine self-interest of every Member State to promote the principles of the single market. Furthermore, the idea of a package deal is potentially harmful, as the strengthening and widening of the single market is urgent. There is a pressing need to kick-start the economies of all European countries.

The Government therefore advocates a targeted approach, ambitious to realise the greatest possible benefits, but realistic in terms of the limitations of the European decision-making process and consistent with the principle of subsidiarity.

***What role should the single market play within the context of Europe 2020 strategy? What is the significance of Europe 2020 in ensuring the completion of the single market project? To what extent can Europe 2020 address “the main bottlenecks [...] related to the working of the internal market and infrastructure”? The Committee will not seek to look in detail at specific policy areas within the Strategy, other than the Digital Agenda.***

Europe 2020 and the single market should not be seen as isolated, but as interlinked and mutually reinforcing strategies. Some of the Europe 2020 initiatives target the bottlenecks encountered by citizens and companies, for example by creating a single EU Patent and thereby improving the framework conditions for business to innovate, by modernising the framework of copyright and trademarks and by speeding up the setting of interoperable standards. On the other side, a well-functioning single market is the necessary platform for all flagship initiatives proposed under Europe 2020.

We agree with the Commission that bottlenecks have to be addressed in a comprehensive and coherent way, and urge it to prioritise those measures that have the most impact on growth, deliver tangible improvements for businesses and can be implemented quickly.

However, the two initiatives cover a broad range of individual proposals, and we will look at each proposal on its own merits. Such a detailed case-by-case assessment goes beyond the scope of this inquiry, and we therefore refer to the Government’s Explanatory Memoranda covering the Commission Communication on Europe 2020 and, when published, the Single Market Act as well as to any additional information covering the negotiating process of the individual legislative proposals.

## **II The role of the UK**

### ***Is the UK affected by market or integration fatigue?***

There is little evidence that British business is suffering from market or integration fatigue. In fact UK business has been a strong and consistent advocate for more open



and free markets in Europe and globally. However, the enthusiasm for open markets has to be placed against the background of widespread scepticism about the EU as such. Putting aside questions about wider political integration, too many UK firms do not believe that operating in other EU Member States is either as easy as it should be or is as easy as operating in a range of non-EU markets.

However, an absence of fatigue in the UK is not equivalent to an unconditional enthusiasm for an ever deeper integration and uncontrolled markets. What is necessary is a realistic and pragmatic approach, focussing on the areas where European action adds value. A strong single market is such an area, and the Government is committed to maintaining, improving and deepening it by playing a strong and positive role in the discussions on the Single Market Act. Whenever open markets and further integration offer better market access for UK businesses, work opportunities for UK citizens, or growth and job creation in the UK, the Government will be a strong supporter of these principles.

***Should the UK drive the completion of the single market? If so, what sort of approach should the UK adopt to generate a new political momentum?***

As set out in our answer to the first question, the economic benefits of the single market to the EU, and to the UK in particular, are substantial. As the biggest market in the world with half a billion people (more than the combined population of Japan and the USA) and generating a total GDP of around £11 trillion, the EU is not only the major market for UK products, but also a real economic power in the global marketplace. Given these potential benefits, it is essential that the UK continues to support efforts to improve the functioning of the single market. We have to make sure European policy plays its part in supporting the work we do on the national level to support growth.

The Coalition Agreement sets out that the Government is a positive participant in the European Union, playing a strong and positive role with our partners. In line with this principle, the Government is committed to removing barriers to market access both at the national and the European level. At the European level, it does so in partnership with other Member States, the European Parliament and the Commission.

The single market should be regarded a framework that needs to be constantly modernised. Where there is new potential for growth, for example in the area of the digital economy or green technology, the potential barriers to this growth should be removed. Where there are new challenges arising in sectors where the single market has worked in the past, for example due to external influences or an economic crisis, these challenges have to be tackled so that the gains which have already been achieved are not lost in the future. And it is important that the single market is constructed and maintained as an open platform for trade liberalisation with our global partners outside the European Union.

The UK should lead by example – by cutting red tape, opening up new market opportunities and facilitating innovation. An important part of today's shortcomings is the failure of many Member States to adequately implement the free movement principles already in place. Helpful approaches have been developed under the

Services Directive<sup>41</sup> to support the implementation process, most notably the mutual evaluation mechanism, which will be discussed in more detailed below.

However, it should not be for the Government alone to try to generate the necessary momentum. The single market needs to work for UK business and therefore we need a bottom-up process where trade associations, consumer organisations and individuals play a more important part than they do today. An element of this approach is to empower businesses and consumers to press for their single market rights. The Government therefore supports, for example, the strengthening of alternative dispute resolution mechanisms and of mechanisms fostering greater transparency. Strengthening redress mechanisms, for example by extending access to trade associations as well as citizens and businesses, should also be part of the agenda. Ultimately, the aim should be a coherent platform of information and rights enforcement in Europe.

### III Institutional elements

***In order to deliver the re-launch of the single market is there a need to refocus the way that the relevant measures are dealt with by the EU institutions?***

The Government is watchful of internal inconsistencies within the European regulatory framework and strongly supports the plan to bundle the European Commission's efforts in a structured way by preparing a uniform Communication – the Single Market Act – instead of bringing forward a multitude of sectoral and uncoordinated proposals.

We are, however, concerned that the work at the European level needs to be focussed more on the most pressing concerns that our businesses, in particular SMEs, and citizens face today. The process should also not be tied up with numerous new regulations and directives. In many cases, strengthening the single market does not require new legislative measures. Alternatives such as guidance or voluntary arrangements as well as a better implementation of existing regulations should be the method of choice whenever this is possible. We therefore expect the Commission to accompany every regulatory proposal by a robust examination of whether or not a regulation is necessary and by a proper consideration of alternatives.

The single market must also not be undermined by new EU proposals in other policy areas. There has to be a change of perception among all political actors, leading to a realisation that every Directive, Regulation or Decision can have an effect on the free movement of goods, services, workers, companies or capital. The government therefore urges the EU to explore possibilities to integrate considerations of the impact on the single market into the process of European law making. This work must be based on strong economic evidence and could be supported by systematically screening and benchmarking European countries' regulations and administrative processes for their impact on companies' lives. We believe that a method building on the principles of the mutual evaluation process used under the Services Directive could do a great deal to highlight areas for progress and spread best practice.

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<sup>41</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on Services in the Internal Market.

***What role should be played by national parliaments?***

The Government is convinced that national parliaments should play a crucial role in this process. We welcome the current inquiry of the House of Lords as well as the Committee's wider work and will continue the close working relationship throughout the coming discussions. In addition to the coordination concerning the Single Market Act, we will also work in partnership with Parliament to ensure EU proposals do not undermine the core principles of the single market. We think that meaningful impact assessments for Commission proposals form an important part of the work both of the Government and of Parliament, in particular in preventing any disproportionate impacts on SMEs.

***Should the President of the Council take more of a lead?***

We appreciate the creation of the post of a President of the European Council under the Lisbon Treaty, and welcome the valuable work done by Herman Van Rompuy so far. We believe the ability of the President to develop long-term strategies is particularly important for the strengthening of the single market.

However, a strong single market is in the interest of every Member State's government and parliament, as well as of the European Parliament and the Commission. We therefore think that the current decision-making process, which is based on a close cooperation of all these institutions, is appropriate.

***How should the Commission exercise its enforcement role?***

The Commission's enforcement activities should always be focussed on the barriers which have the most harmful effect on businesses and consumers.

With numerous Directives and Regulations governing the single market already in place, we think that more effective enforcement is the single most promising element for delivering tangible results quickly. In the area of goods and services, especially business-to-business services, many of the remaining barriers result not from a lack of European regulation per se, but from a lack of implementation and enforcement of existing regulation on the ground. The Commission should use its existing competences in this area to address any shortcomings.

The Commission has done excellent work, especially in the area of competition policy to ensure that Europe's markets remain open and that national authorities do not discriminate against certain operators. However, formal Commission action, although effective, can take a very long time to conclude and involves considerable expense. These two factors could deter many firms from seeking redress through this route; indeed, some firms have deliberately chosen not even to attempt to establish operations in certain Member States because of the considerable time and effort required for formal action to achieve effective results. Faster and cheaper dispute resolution mechanisms are required to supplement the formal procedures undertaken by the Commission.

For example, the European Commission should log more systematically and effectively the evidence of trade barriers reported by businesses, especially SMEs,

through services like SOLVIT, teams like BIS's EU Market Access Unit and business organisations. This evidence could be fed into the Commission's enforcement work and taken into account in future policy formation. Mechanisms such as the mutual evaluation process carried out under the Services Directive can also support the Commission's enforcement role. As mentioned above, empowering citizens, businesses and trade associations to use redress mechanisms is also crucial to input into the European rules.

#### **IV Sectoral aspects**

***The Committee would be interested in receiving more specific evidence on the following:***

- ***The use of tax coordination as a mechanism for driving the completion of the single market.***

Stimulating growth and investment across countries with different economic circumstances and levels of infrastructure requires flexible, targeted national tax policies. This is particularly important as EU Member States emerge from recession. The Government is committed to ensuring that any action on tax at EU level has a clear single market justification, and is consistent with Member States' tax sovereignty and the principle of subsidiarity. However, the Government does not see tax as a primary barrier to the completion of the single market.

Within this context, the Government recognises that there are some areas where informal tax co-ordination can both strengthen the single market and improve the tax systems of individual Member States. It can be an important tool in protecting Member States' revenue; for example through co-ordinated Member State efforts to tackle VAT fraud. The Government considers any opportunities for co-ordination on tax on a case-by-case basis, provided they do not undermine the right of national entities to determine their own tax policy. The Government also welcomes opportunities to share expertise and best practice on tax with other EU Member States.

- ***The role the Services Directive has played in completing the single market. Whether the perception of the Directive has dampened enthusiasm for further single market reforms.***

Services account for more than 70% of EU output and almost 70% of EU employment. However, the level of cross-border service provision has remained relatively low, accounting for just over 20% of intra-EU trade. Even taking into account the local character of some services, these numbers reflect the huge potential for further growth and efficiency gains the services sector could provide.

The majority of small service companies still operate only in their national or local markets. For some, this is a business choice but evidence shows that, for many, it is the multiple legal and administrative barriers that have discouraged them from expanding across borders. Barriers are often burdensome even for large companies. For SMEs, they can appear insurmountable. Common

difficulties include: obtaining the relevant information, identifying the appropriate authorities, ambiguous and discriminatory requirements and long, complex and costly procedures.

The Services Directive aims to address these problems by, inter alia, establishing an online Point of Single Contact in each Member State, removing unnecessary regulatory requirements, simplifying existing procedures, and strengthening administrative co-operation between national authorities.

Properly implemented, the Services Directive will reduce uncertainty and administrative costs that service exporters have faced. And there is evidence gathered from the mutual evaluation process which is linked to the implementation of the Directive that progress has been made.

For example, several Member States (including Germany, Belgium, Austria) have removed residence requirements for business sectors like construction services, auditors or translators. In France and Germany, though many barriers still remain, the retail sector has been greatly liberalised by the removal of registering requirements or the abolition of burdensome application criteria like an “economic necessity” test. In Spain, 250 restrictions have been eliminated in the tourism sector alone.

In addition, what makes the Services Directive vital to helping the single market flourish is the transparency and accountability that has been introduced through the mutual evaluation exercise, the Internal Market Information system and, in particular, the establishment of electronic Points of Single Contact, which allows providers of services to find information and complete all requirements necessary for doing business in another member state. New restrictions have to be notified to all other Member States, generating a level of transparency that allows focussed and evidence-based discussions on market access in the future, but at the same time underlining the point that a single market is not necessarily a homogenous one.

However, a lot still has to be done to use the untapped potential of the services sector. There are a number of economically significant sectors that are not covered by the Directive. There are also numerous elements in national regulatory systems which might not be necessary and proportionate to reach a specific policy aim. For instance, Member States have retained nearly 3,000 regulatory requirements specifically for professional and business services, including requirements for shareholding, specific legal forms, tariffs and restrictions on multidisciplinary activities. We will work closely with the Commission and other Member States to ensure that the Directive works on the ground, that businesses are aware of their rights and of the new opportunities offered, and that competent authorities are aware of their obligations in dealing with service providers.

Given the hugely complex subject-matter of the Services Directive, the changes we have seen so far are promising. Elements from the Directive, most notably the mutual evaluation process and the idea of a single contact point where businesses can receive all necessary information, can be used in other policy areas. Even the experiences with the shortcomings of the

Directive will provide a valuable base for any further work on the single market. The Government's desire to improve the business environment does not necessarily imply support for more European legislation, but will rather mean a focus on making the existing legislative framework, e.g. the Services Directive, work better.

- ***The Digital Agenda, and its plans for creating a digital single market.***

The Government fully supports the Commission's efforts to tackle barriers for citizens and businesses in the digital sphere. As outlined in the Explanatory Memorandum on the Commission's Communication on the EU Digital Agenda, we welcome this comprehensive Communication and the forward looking strategy it outlines. Particularly, we support the Commission's focus on initiatives that derive maximum leverage from Information and Communications Technology (ICT) for economic growth and productivity, for example through a more market orientated approach to spectrum management and enhanced broadband penetration and take-up.

The ability of businesses and citizens to access quick, affordable digital networks is crucial for the development of the single market. Online sales in both the business and retail space are an important driver for cross-border trade by making it easier and less costly for business to sell their products and services in other EU Member States, while at the same time providing customers with access to a greater choice.

However, we are not yet in a position to comment on all proposals set out in the Commission Communication, especially as many of them are still to be fleshed out by the Commission. We are also concerned in the lack of prioritisation of the numerous measures and the hitherto inadequate scrutiny of them in Council. We are thus urging the Commission to prioritise their approach, focussing on those which have the most significant economic impact and to work with the current and future Presidency to have further Council discussions on this important dossier.

The Government also believes that the Single Market Act could be an appropriate platform for a commitment to review the regulatory framework governing online transactions for both consumers and business.

*14 October 2010*

**Oral evidence, 24 January 2011, Q 170–196**

*Evidence Session No. 6 : heard in public*

Witnesses: Ed Davey MP and David Frost CMG

Members present

Baroness O’Cathain (Chairman)  
Lord Bradshaw  
Lord Clinton-Davis  
Lord Fearn  
Lord James of Blackheath  
Lord Plumb  
Lord Rowe-Beddoe  
Baroness Valentine  
Lord Walpole

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**Examination of Witnesses**

*Witnesses:* **Ed Davey MP**, Minister for Employment Relations, Consumer and Postal Affairs, Department for Business, Innovation and Skills, and **David Frost CMG**, Director for Europe, Trade and International Affairs, Department for Business, Innovation and Skills.

**Q170 The Chairman:** Good afternoon, Mr Davey and Mr Frost, and thank you very much indeed for coming. I believe, Mr Davey, that you are going to be in front of three House of Lords Committees this week.

**Ed Davey:** That is right.

**The Chairman:** I cannot believe that a man can have that much stamina.

**Ed Davey:** Well, talk to me on Thursday afternoon. Your Lordships are showing great stamina yourselves, though I would suggest that you should not try too hard.

**The Chairman:** We have a lot occupying us at the moment, I have to say. You are going to Economic Affairs and G, but I think we are very fortunate that you have come to us first, hot off the press, so to speak. Thank you very much for giving up your time, and similarly, Mr Frost. Members of the Committee with relevant interests will declare these. This session is on the record and is being webcast live. It will be subsequently accessible via the parliamentary website. You will receive a transcript of this session to check and correct,

and this will be put on the public record in printed form and on the parliamentary website. I would like to ask you both if you could state for the record your names and official titles.

**Ed Davey:** It is Edward Davey. I am Minister for Employment, Consumer Affairs and Postal Affairs, but for the purposes of this evidence session, I am the minister coordinating European matters for the Department for Business, Innovation and Skills.

**David Frost:** I am David Frost. I am the Director for Europe, Trade and International Affairs for the Department for Business.

**Q171 The Chairman:** Thank you very much. Is there any statement you would like to make or any questions you would like to ask before we start?

**Ed Davey:** Briefly, could I first of all thank you very much for allowing me to come and give evidence to you? The Lords Select Committee on the European Union has a very prestigious history, and I know your reports are considered very seriously in Brussels. I think it is one of the many things that we contribute to the European debate. I am looking forward to reading your report as well; I am glad I can make a small contribution to it.

The importance of the Single Market, when we look at our current trading relations, is clearly immense. The trade that we do now, give or take, is 50% with other EU states and about 50% of our FDI comes from other EU Member States. It is incredibly important now; I am sure your Committee has heard that, notes it and agrees with it. The question for the Single Market Act debate and as we look forward is: what is the potential? I also wear a hat as Trade Minister, working now with Lord Green in the Department, having worked with Lord Brittan. When one looks at that and the potential for our companies across the world, sometimes the debate suggests that it is all emerging markets; it is all the BRICs and Europe is history. I am afraid nothing could be further from the truth for a number of reasons. Some of the studies that have been done show the potential of the original Single Market plan has not been realised in full. There's some very much unrealised potential. When you look at both Commission Reports and a report the Government has yet to publish that it has been working on with the French, they show a massive potential if we can break down all the different barriers to trade across the European Union. Given the necessity for growth, given the urgency for growth, it really is something that we should be giving much more attention to at all levels, certainly political attention.

One of the most striking findings, when I was reading over the summer for the Trade White Paper, was the significant impact that trade has on a company's productivity performance. Just by the very nature of a firm trading, its impact on its productivity is great and, therefore, if we can encourage particularly our SME sector to trade more, that will impact our growth and productivity performance. When one thinks of emerging markets, clearly an SME trading for the first time is not first of all going to go to Beijing. It is much more likely to trade on its doorstep. By really focusing on the SME potential for the Single Market, we realise much greater longer-term potential.

The Single Market Act is very welcome. If I am going on too long, do stop me, but I wanted to have this chance to paint a little bit of the bigger picture. It is a bit vague at the moment; there's no doubt about that. I am sure you are finding that. There may be 50 proposals, but they are not exactly hard-wired detailed proposals. We are having to give our opinion, which we will be doing formally, on those proposals, when they are in that state. I guess you could argue that gives us a chance to influence it even more, and we are actively trying to do that. I would point to three priority areas, which we will be focusing on and have been focusing in on.



The first is services. Clearly there's an awful lot of potential there. Much of our national output, the vast majority, is in services, and yet a lot of that is not traded. Within the wide definition of services, I think business-to-business services are something we will want to stress a great deal, making sure the existing Single Market agreements in this area, the Services Directive, are implemented more effectively. The Point of Single Contact has been a very good innovation, but it needs an awful lot more work to realise its potential. One particular area I wanted to flag up was the recognition of professional qualifications, which within the services headline is something we need to develop further.

The second priority area is in what you might loosely call new areas for the Single Market, particularly digital and low carbon. These are clearly technologies and markets with a very, very big future. They are already quite big, but the potential for them to be much larger is huge. Whether it is in digital with broadband rollout, improving e-commerce rules, making sure that content is properly protected, all those sorts of things fit into a very big digital agenda. On low carbon, you will know the issues. It is making sure the standards are right so that the trades can happen, making sure we do get proper energy market liberalisation, which the British have been talking about for some time. Both with the Lisbon Treaty and with the Single Market Act, we have a chance to push that further. There are things like the framework around innovation, EU patents and so on.

The final priority—and I do apologise for taking so much time—is frankly ensuring that we get over in this process the relevance to everyone of the Single Market. I want to focus on SMEs. That will be a theme I will keep returning to. We see this as the big opportunity to make sure that the Single Market speaks to the needs of SMEs. In so doing, it will reach out to many more people and organisations across the country and across the European Union. At that I will finish, but I am looking forward to your report to this session so that we can continue to push very much a British agenda, as we go into the stream of work that will happen once the Commissioner publishes the report.

**Q172 The Chairman:** Thank you very much indeed, Minister. Just two things before we get into the questions: first of all, I was very interested in your comment about trading and productivity link. Could you get one of your officials to let us know where that is?

**Ed Davey:** It is in a UKTI document, but we'll get it for you.

**The Chairman:** That would be very useful, because it is yet another piece of ammunition. Secondly, Lord Fearn was going to ask our first question, and I think you have answered the first half of it. I wondered whether we could just skip that, because you have given us an amazing overview; just the points that are important, the big important points in the Single Market, the priority measures of the Commission's document. Perhaps you would like to ask him about what's not important.

**Q173 Lord Fearn:** You have come out with some of the priority measures, two of which I dotted down: business services, and digital, low carbon. Well, three: SMEs was the last one. Those are the important ones that you see. If you can elaborate on those, we would be grateful, but what are the least important measures?

**Ed Davey:** In order to add to my contribution, I can also row back a little bit and talk about how we are approaching the Single Market Act debate, both in terms of what we want and what we do not want. We have talked about five principles that we are applying; five overall factors that we are going to weigh in how we enter the mini-debates. The first one is growth. This is a real opportunity to kick-start not just the UK economy but the EU

economy and, in all our discussions with Commissioners, in the Parliament and with the Council, that is the thing we are trying to emphasise. In my first meeting as Minister in the summer, when I was speaking to colleagues in Brussels, even before the Single Market Act was first published in its first draft, I was talking about the urgency of growth. I find it difficult for people to think we should string this process out. We need to have a sense that the European economy has some serious economic problems. We do know the potential for the Single Market—deepening it and strengthening it—to assist us in that process. Yes, you can argue it is a long-term effect—liberalising markets doesn't give you growth overnight—but people invest ahead. If investors see the European Union is getting its act together in things like the Single Market, people will invest both FDI into the European Union and of course EU investors themselves. Growth should be our first test when we think about this whole package.

Then, repeating myself, there is the importance for SMEs but also for citizens as well. This is one of the reasons why I am so keen on the digital agenda. If we can get the digital Single Market really strengthened, citizens will be real beneficiaries of that and they will begin to see the Single Market as something that talks to them and how they live their lives. It is not just something that big business does, but something that SMEs do and that citizens do.

A third principle about how we are approaching this is to make sure that things are evidenced. Sometimes in these debates, people make assertions about, "This is going to be good; this will take out a market barrier and obstacle to trade," and, actually, when you start asking some searching questions, it doesn't really and they are missing the point. On all the proposals that have been put forward, we want an evidence base before we take action.

That links into our fourth point: that we want to make sure, before we set off on another round of legislation and action at the European level, that what we have got is properly implemented. This again is a traditional British theme. I think British Ministers have probably voiced it, whatever political flavour they represent, but it does seem to me that countries in the EU have got to deliver on the promises they make in the Treaty and in the Acts to deliver on the Single Market. The existing programme has to be implemented.

The fifth factor that is in our mind when we think about that is to make sure that, if we act at EU level, that really does add value and this is not something that is actually better done at the nation state level. I mentioned the impact of digital in those five principles, but I think it also speaks to the business-to-business agenda that I talked of and the service part. That is where the earliest options for growth can be. If business can feel that its services will be more widely traded, that can give an early boost to growth.

You quite rightly challenged me: what are the things that we are less keen on? If you apply those principles, having a big debate about harmonised tax regimes seems to me, frankly, to be territory that we have been over. No one is convinced. That is not something we will be arguing for, I can assure you; quite the reverse. There are some other proposals that are sometimes thought of in the social sector. The Posting of Workers Directive I think we would be worried about; increasing EU involvement in labour markets, I think. What we need for growth is more flexible labour markets, and we do not want this particular agenda to go in the wrong direction in that area. As a third example, there are some proposals around potential new legislation for services of general economic interest. It is a bit vague at the moment. I would not say we would rule anything out in that area, but we would be suspicious of that and cautious of taking forward that particular element of the proposals.

**The Chairman:** Thank you very much, Minister. I am going to try to bring in two more questions, which directly link into the importance you put into implementation. I wonder,

Lord Walpole, would you like to ask your question about implementation, followed by Lord Fearn again on question 5. Then, Lord Plumb, we'll come back to you. Is that all right?

**Q174 Lord Walpole:** Minister, I am not going to declare any interests, apart from the fact I do not live that far from Bacton, which this Committee thinks is very important. Has the implementation of the Services Directive made a tangible difference to the market so far? Do you see any problems with the Directive's implementation and what needs to be done more? Thirdly, these single points of contact: I live in Norfolk and I have never come across a single point of contact. I did, however, when I was in northern France about 10 days ago. I was fascinated; I wish we had more of them in this country and they informed people more about what was going on, because it was super. Well done, the French. What about that?

**The Chairman:** Thank you, Lord Walpole.

**Ed Davey:** I am grateful for that question. The thing about the implementation of the Services Directive is that these are quite early days, to be absolutely fair. The signs are promising, but these are early days to make a real complete judgment. I think, though, that means we should continue to keep pressure on. I do not think that is an excuse for not keeping the pressure on, because I do not think anyone was absolutely satisfied that the implementation programme was as rigorous as it could be. We want to make sure that we can continue to make progress. It is worth putting on the record—because the way these debates are sometimes reported suggests that little progress has been made—a lot of progress has been made. Residency requirements in some areas that were getting in the way of people trading services have gone in some of the big Member States. That is a very strong and very clear example of how it is making a difference. As you will be aware, there are studies ongoing by the Commission and others to look at how well it is being implemented, to monitor different Member States. I believe there's a benchmarking exercise on the Points of Single Contact promised later on this year, so I think we will then begin to get more of a flavour of the process. One of the bigger problems has been the interface with the Services Directive and the Directive on mutual recognition of professional qualifications. That wasn't expected and I think that has caused some problems, so we probably need to look at that area. I am sorry you have not found a single point of contact in Norfolk. I will have to ask my colleagues to know if there is one in Norfolk.

**Lord Walpole:** I am sure there is, but I haven't found it.

**Ed Davey:** The way I had understood these working is it is very much more web-based primarily, because one of the ideas is that you can go to one particular site for each Member State, find all the information you need, fill all the forms that you need to fill in online and so on and so forth, so you do not actually have to go around northern France to find a single point of contact. You are right to congratulate the French. The French are indeed one of the countries that have done well on this. We are too, and there are others. To my recollection, I think about 22 Member States have actually made some real progress in this, at different levels; they are not all there yet, shall we say, but 22 have put resources behind this. That means there are some laggards but, nevertheless, 22 are making efforts. Of those 22, 17 have given you the ability to fill in the forms that are required online. That is a clear sign of progress. To the Government's way of thinking, this is one of the really promising parts of the Services Directive and this is an area we need to build on.

**Q175 Lord Walpole:** Do you think the use of a high street shop is a good idea or an unnecessary idea? Do you think it is better on the net, because everyone has a computer anyway?

**The Chairman:** They do not have broadband.

**Lord Walpole:** What's that?

**The Chairman:** You are always going on about broadband in Norfolk. I thought that was the question you were going to ask, saying you cannot do it in Norfolk because you haven't got broadband.

**Lord Walpole:** We have, sort of.

**Ed Davey:** With the Government's fantastic policies on rural broadband, I am sure that, if you haven't got it, you soon will.

**The Chairman:** Good.

**Ed Davey:** However, I think there are costs involved here. We have got to be conscious of costs, and I do not think we can require Member States to have physical single points of contact through every part of their region. To be honest, most businesses that want to trade are going to be online. It is probably unrealistic to imagine many businesses wanting to trade in services abroad that would not be online nowadays.

**Q176 Lord Fearn:** Do the Commission's current enforcement powers concerning state aid and competition policy have to be reinforced, as suggested in the Monti Report, and if so how?

**The Chairman:** This is linked to the implementation question.

**Ed Davey:** I would not mind coming back to the implementation in a broader sense, but to take your detailed point about state aid and competition, it is the case that the EU has quite strong powers now, and I would not wish the Committee to think otherwise. These have got quite a track record and they are used. It is not true to say they aren't used; they are used against all Member States. The Procedural Regulation for State Aid is the legal heading, which is frequently enforced. I wasn't absolutely convinced by Professor Monti's proposals in this area. He had a proposal for example in competition, where he was suggesting we abolish the "two-thirds rule"—applicable in cases when each of the large corporations concerned has more than two-thirds of its aggregate Community-wide turnover within one and the same Member State—and whether that should now be dealt with at the EU level rather than the Member State level. I wasn't really convinced by his argument in that area, for example. What I do think is that the existing powers need to be used more rigorously. They are used; I am not trying to criticise the Commission. They do use them. Inevitably, and it might be a resource issue, I am not absolutely sure, there's still room for using them when breaches are apparent. I am always keen to encourage the Commission to enforce their powers. I am obviously less keen if it is against the United Kingdom, but of course we abide by all our laws very well.

I wanted to reflect this question beyond competition and State Aid, if I may. I think there is a general issue about governance of the Single Market. Imagine you are a company trading whatever and you are finding a barrier to trade in the Single Market, which goes against the

principles in the Directives. We need to make sure you can get redress and that problem can be dealt with more quickly than now. You do have organisations like SOLVIT, which I think are very, very important. That has been a very welcome development. The Department for Business, Innovation and Skills has the EU Market Access Unit. I should pay tribute to the last Government for setting it up; it is working well and has had some notable successes. If the Committee is interested, we could send you some details about the record of the EU Market Access Unit, because I think it is something we should be proud of.

**The Chairman:** Please.

**Ed Davey:** What it does show, and I think it exemplifies well, is what needs to be done and that things are not easy. The fact that we have had to set up our own Market Access Unit and try to publicise it to SMEs so that, if they have problems, they know the British Government will help them, suggests there is not some other way of dealing with these problems that is as effective as it needs to be. It is not so much competition and state aid, which often deal with the bigger issues; the big mergers and a big attempt for a Government to pump money in to a particular company. It is much more on what you might call the day-to-day issues of making sure, when an individual company or, for that matter, an individual, is coming up against some protectionist barrier to trade that is against the Single Market, that they can have redress and not redress that means they have to go through the courts and have a long process that could be expensive and dragged out, but something that is rather more rapid than that. That is an area where we need to press on.

**Q177 The Chairman:** Can I just ask one simple quick question? Do you think there should be more regulations rather than directives? Do you want notice of that and you could write to us?

**Ed Davey:** David may want to come in on this. I guess my overall view is I think the British Government wants to make sure that what comes out of Brussels is properly considered, thought through and really required.

**The Chairman:** Do we have to have this?

**Ed Davey:** Being cautious and believing that the Commission probably needs to be arguably less active in some areas; maybe not the area of enforcing in the Single Market, and of developing and strengthening that, but less active in some other areas. I would not necessarily want to push them in that way.

**David Frost:** Clearly regulations and directives have different pros and cons. A lot hinges on how a directive is actually implemented in different Member States. We would probably say that more important than that, were the points the Minister has just been talking about, about enforceability. Whatever the legal form, is it properly implemented? Does the Commission follow it up? It can do that neutrally, whether it is a regulation or directive.

**Q178 Lord Plumb:** Minister, I was very impressed with your opening statement, the reference to the Single Market and particularly the freeing-up of trade and the greater movement, therefore, of trade, and the points you made that there is a sense of urgency about this. We have to remember, however, that the Single Market Act came in 20 years ago. It came in when I was President of the European Parliament, so I was very well aware of the timing of it then, and we had great hopes that this really was going to speed up trade; it was going to increase the economy of the whole of Europe and the individual countries in particular. Having said that, if you go around Europe now or, indeed, around the world, the

word “protectionism” seems to be very much to the fore. The reasons given for protectionism are not to boost our economy, but we are saving food miles. We are being good people and we are feeding our own. We are doing all these things that are in the interests of the people of this country, the economy and so on. I make the point because one wonders, and I’d like your views on the question now, about protectionism and to what extent you see that creeping into Europe and into the discussions that are taking place, of course using the financial crisis as probably the reason why we have to build more and protect our own, as well as produce the goods for our own or feed our own people.

**Ed Davey:** Thank you very much. One of the nice things about being Minister and coming to the House of Lords is you meet people who’ve done a lot of hard work in the past. I was a student studying economics in the run-up to the 1992 beginning of the market, when people were studying its effects, the Cecchini Report and so on. I think you probably are right to say that some of the more optimistic sides of that report and the debate haven’t been realised. I have to say that that is not to say that that potential is not there, and that is why I do think this is really important. In a way, it is human nature when you have so many different Member States coming together that you have got to keep working at this thing. I do not think the Single Market is an event; I think it is a process. We are going to have to keep coming back to it. I imagine there ought to be another Single Market Act, hopefully not in another 20 years’ time after this one, but in 10 years’ time. We should keep going at this. Open markets are something that, in this country, we understand the importance of to our social and economic lives in a very profound way. You are right to say that there are voices that do not see it that way. I share your concern about the signs or warnings of protectionism.

I think we should put this in context, particularly within the European Union. One of the ways of arguing how good the European Union has been in this area is the fact that, despite the economic crisis, despite the tensions, the Single Market has remained in good shape. There hasn’t been a massive step back. People have accepted that and understood that, actually, the Single Market wasn’t the cause of our problems. I think people really understand in quite a deep way; they know it is part of the solution, not part of the problem. We should chalk that up as a little bit of a success. Actually, you could argue that even across more globally. What happened at G20 was that world leaders made it very clear we ain’t going to repeat the mistakes of the past.

Of course there have been some temporary measures, they are sometimes called, which have gone in the wrong direction, both in Europe but more widely across the world. We need to keep warning about those, highlighting them and dealing with them. We will be publishing a Trade White Paper in the next two months. Can I say that? The next two months. Not only will the Single Market be a big part of that, but a warning against complacency in this area and a warning against protectionism are very much contained within the text of that Trade White Paper, but equally, not in an alarmist way; not in a way that we should go around all petrified. Despite people making those protectionist noises, I think the majority of Governments across the world realise that open markets are the way forward if they want to be more prosperous societies. We should always be on our guard, but I am more of an optimist.

If there has been something that has been negative in this area—it happened before the crisis—there have been some concerns about the effect of enlargement. I think the effect of enlargement and movement of people have created some tensions within some Member States, and that is rather a more serious political and social question than the Single Market.

**Q179 Lord Plumb:** Have too many rules and regulations helped or hampered trade across borders? I do have a strong view on this.

**Ed Davey:** I have a very strong view as well, Lord Plumb. I wish we could get over the fact that, when you regulate for the Single Market, you are engendering a bonfire of regulations. This may be an extreme example, and I certainly haven't been briefed for this so they'll get very worried. When you have a directive or a regulation on, say, what size should a strawberry be, everyone goes: "This is nonsense." They forget that, prior to having an EU regulation or directive in this area, every Member State had one. The strawberry growers of Kent would have a regulation when they exported their strawberries to Belgium, Holland or Denmark, because those countries traditionally had had rules on what was a strawberry. In having an EU regulation on a strawberry, rather than it being always extra regulations, often a regulation at EU level was a deregulatory measure for the European Union economy as a whole. I would not say that has always been the case. There are EU regulations that have not replaced national regulations, which I would not welcome. I particularly think of the Working Time Directive, and I am the Minister responsible for that. Do not get me wrong; I am not saying every regulation at the EU is a deregulatory measure; far from it. Within lots of the Single Market, regulations have been deregulatory, and I think we just need to remember that, just to make sure we see the broader picture.

**Lord Clinton-Davis:** Should we not be talking about Blackberries, rather than strawberries?

**Ed Davey:** I might have to come back to you on that one.

**Q180 The Chairman:** I am sure, Minister, that we'll all remember the story about the strawberries when we talk about regulations in future, and the bonfire of regulations. Lord Plumb, you were going to ask the Minister about the result of the crisis; what effect it has had on the Anglo-Saxon model of capitalism as well. Are we in the dock over this?

**Ed Davey:** I do not think so. The Secretary of State in the Department, as you know often misquoted, is arguing that we should think very hard about how we ensure that capitalism is fit for the 21st century and British capitalism is fit. We have got consultations out. I had a consultation out, which is complete and we'll be giving our response to shortly, on narrative reporting of large companies. We have also got a consultation out on corporate governance more broadly, talking about issues around long-termism, whether that is applied to the financial markets, to merger regimes and so on. Clearly there's a live debate about how we can ensure capitalism is robust and strong in the 21st century, learning lessons not just from this recent episode but from episodes in the past. In no way do I think, and I am sure that I can speak for the Secretary of State to this regard, that this is some fatal flaw of the Anglo-Saxon model; far from it. As we learn from history, hopefully we can make improvements. I think that is what it is about. I do not think there is any really serious evidence that going back to some protectionist, statist, regulatory-crazed era is what we need. Maybe you want to come in, David.

**David Frost:** Could I just come in with two points on that? One is that, whatever your model, protectionism is always a bad thing. That is what we would say anyway. If you look at Germany, for example, which is not obviously thought of as an Anglo-Saxon economy, it is a highly export-focused economy and not at all protectionist. The same goes for the Nordics. In a way, they are separate questions. The second point I just wanted to make is on the earlier discussion about protectionism. If you look at how the EU acts globally as well as in the internal market, it is often criticised as a protectionist actor but, actually over the last couple of years, one of the things that has been striking is the EU acting as a force for liberalisation in global markets, in the negotiations around a world trade deal. The EU

has been a pretty strong—indeed, perhaps some would say the strongest—voice for open markets and not retreating to protectionism. That deserves to be part of this picture as well.

**Q181 Lord Rowe-Beddoe:** Can I have a follow-up, Minister, thank you? Going back to protectionism and the Single Market, I am going to have to misquote our good friend *vox populi*. You know as well as I that the majority of people, if asked in this country, will say that we agree to every directive and we implement them. They then look across the Channel and they look at countries, which I will not mention by name, and they say that they basically say yes to everything but never implement them or very rarely. Let's come to right now. We have a situation reported today in the media that there is a tender for Eurostar engines. It has been awarded to a German company. The French Government appears to have taken it upon itself to instruct SNCF, which is the major shareholder of Eurostar, to fight the decision of the company and to revise the bid of Alstom. That seems to me to be an extraordinary piece of outrageous protectionism. Perhaps you have a comment to make on that. Come back to the general rather than that. Is this perception right? We seem to be very good members of this community, this Union. We do not get enough good press about that from our fellow European Members, because we do implement to the best of our ability.

**Lord Clinton-Davis:** We are sometimes too self-righteous about that.

**Lord Rowe-Beddoe:** Maybe we are.

**Ed Davey:** David may know some of the figures but, when I have looked at them over the years—and I am sure they change at the different times I have looked at them—the figures do not quite bear out *vox populi*. Sometimes we aren't quite as assiduous and ahead of the pack as people would have you believe, and also others aren't always in the bottom tier. As a representative of Her Majesty's Government, I want to make sure we do our very best to abide by the rules and I have been stressing throughout my evidence the importance of enforcement to make sure others do as well. Lord Clinton-Davis is right; we should not necessarily always think we are the top of the league.

I think it is probably wrong for me to comment on the French/German railway contract. We would not want a diplomatic incident. What I would say is this: the fact that we have the EU there and there is a body of law, and there is an ability for the Commission to intervene, shows the significance and importance of the Single Market and the European Union. If we didn't have it there, who would settle that dispute? It doesn't mean it always works well. It can be improved. You won't be surprised to know that, as a Liberal Democrat, I am pro-European. When I am discussing the broader matters, shall we say—and I do not want to get too broad—I do say that, when one thinks about local authorities, Westminster and Whitehall, they may be British but they are not absolutely perfect in every dot and comma. There is room for improvement. In an organisation that brings 27 Member States together and is a relatively recent creation of humankind, yes, there is a lot of room for improvement. That doesn't mean it is not important and valid.

**The Chairman:** Thank you very much indeed. We can now see you are a passionate pro-European, which is absolutely right. There is nothing wrong with that.



**Q182 Lord Bradshaw:** Picking up slightly on the last question, the Single Market Act set out to produce a highly competitive social market economy. You referred to the Working Time Directive, which I presume was implemented in order to look at social interests as well as market interests. Do you think the social aspect of legislation is likely to be advanced best through Europe, or will the Single Market Act be more directed at trading?

**Ed Davey:** I take the view as a pro-European that sometimes the European Union gets into areas that, if you look at the treaties, it probably ought not to. There is always a discussion about competence creep, subsidiarity and so on. As Minister for employment legislation, I go to the Councils and ring up Ministers across the EU. It is a constant theme, representing the British Government, that, particularly on something like the Pregnant Workers Directive, it is not appropriate for the European Union to be legislating to such a maximum level, as proposed by the Parliament's amendment to the Commission's proposal in this area. One of the arguments I make—and I make a number—to why we should not support the Pregnant Workers Directive as amended in the European Parliament is because frankly that is not a role for the European Union. The European Union has gone too far. I do share some concerns. It is worth putting on record that the Coalition may have two parties that generally take slightly different views on European matters but, in this regard, we are at one. We have been at one before the Coalition. MEPs of both parties in the European Parliament have constantly worked together to make sure that there is not creep in this area. I would particularly refer to my colleague Liz Lynne, who has done fantastic work for the British interest.

**Lord Clinton-Davis:** Who was that?

**Ed Davey:** Liz Lynne; she is a Liberal Democrat MEP for the West Midlands. She has really done a huge amount of work to make sure that within the Parliament we have what I might call a commonsense approach to ensuring that we do not overstep the mark and different Member States are allowed to pursue these fundamentally social goals with a degree of flexibility.

The question is how we get out of this fix. Part of the way is to try to argue that some of the things we are arguing for in the context of the Single Market Act and beyond are actually elements of a social market in a broader definition. I think sometimes people think of a Single Market and think of the European Union as something for big business. Some of the anti-Europeans who hate all this, who say this is all terrible stuff, want to make out that it is limited to employment legislation. I personally think that freeing up the European Union for trade for small and medium enterprises, the small businessperson, is really important. That is part of social Europe, arguably; it is extending the economic benefits to a much, much wider audience. That is the digital aspect I talked about earlier. Extending the benefits of the European Single Market to citizens more clearly has actually got a social dimension, if you like. To the extent that one is happy to continue to see a social dimension, we should be focusing on how we make the Single Market more relevant to small business and to individual citizens. That is almost a political agenda, as well as a social agenda.

**Q183 The Chairman:** Is it a case of striking the right balance, do you think, and where do you see the balance being struck in these directives?

**Ed Davey:** In the Single Market Act?

**The Chairman:** Yes.

**Ed Davey:** Sometimes it is put forward as a deal, some sort of package. I think Malcolm Harbour, when he was giving evidence, said that there's no real strong argument for this being a package. This is a set of proposals, which the European Union needs to consider, which are sensible for taking forward. I do not think it should be considered as a package, that if you pull out one, the whole thing tumbles down. I do not really think that is a proper way of doing our business. I think Malcolm is right. Actually, having mentioned Malcolm, can I first of all pay tribute to the work he does? He really gets on top of the detail, and I should report to you—because I do not think it has been in the public domain before—that he and I meet on a monthly basis and other MEPs are able to come to that, as we think necessary, to make sure that there is good communication. Representing European coordination for BIS, I need to know what the MEP, who happens to be a Conservative, Chair of the Internal Market Committee is thinking and saying. Our work together is important.

**The Chairman:** You mentioned professional qualifications earlier. He has done quite a lot of work on that. I went over it and was very impressed. We had very good evidence from him here to our Committee, so that is good to know.

**Q184 Lord James of Blackheath:** I have an interest to declare on this question, which is related to the harmonisation of tax, in that I am currently a member of numerous group legal actions suing the British Government for vast sums of money on actions for which judgment has been given, but for which we are reconvening to fix the damages. I am okay to talk about them, because the point of law is established.

It seems to me that the question, as it has been put here, which is about the consolidated corporation tax base, misses the point precisely. We have here a situation in which Europe has ruled for Europe, but Britain has never been a party to these judgments until very recently. For example, in the European courts, it has been ruled that, wherever over-payments of tax are due to be repaid, they should now carry tax rebates at compound interest back to date of payment. The British courts rejected this completely until recently, and have now reversed that judgment and are now seeking ratification from the ECJ that what they have ruled upon is in accord with the European judgment, which I am sure will happen. Having got to that point, would it not be a great deal simpler if we just bought in to a tax harmonisation on this point, and stopped this vastly expensive process? It has taken nine years in court to get to this particular point. Could we have a harmonisation principle on that point alone? It is only an example of many. Look at the VAT correction rules, on which you have 38 years of correction to encompass. Imagine doing that at compound interest, which is now literally what the courts would have to dictate. You would have to bust the Treasury to do it.

**Ed Davey:** I am going to try to give you as good an answer as I can, Lord James. I would say of course, and I think you would expect me to say this, matters of tax are a matter for the Chancellor and Her Majesty's Treasury. They are, and I share their view, extremely conscious of the need to keep fiscal sovereignty. You are right to say that sometimes ECJ rulings can impinge on that. The judgment of the Government is we would not want to extend the areas in which they can impinge on that. I think the proposals in the Single Market Act in this area are at the moment relatively vague, and we approach them with a very cautious manner, particularly I think the proposals on corporation tax and on carbon tax. Clearly VAT is already a tax that has a European dimension to it, with the various VAT directives. You referred to those. We would hope that, if there is something to be looked

at in this area, we can obviously maintain the powers that we have but engage in a debate that enables us to make the rules simpler and less onerous overall.

**Q185 Lord James of Blackheath:** May I suggest one area that you might look at that might be rewarding? You should look at the cross-frontier indications arising from the different accounting standards rulings in each sovereign territory, because these do not have unanimity across Europe. Accordingly, these are then fed frequently into the calculation of leasing rentals quoted by the national or indigenous banks of those territories, and cannot necessarily command equal competition advantages with those, say, from between France and Germany. Have a look at the difference in the leasing rentals quoted for an Airbus 320, a Fokker 100 and a Dash 40, and see what the difference is.

**The Chairman:** I do think—I do not want to interrupt—that this is probably a question for European Union Sub-Committee A, and feel a bit bad that we haven't actually briefed you that this was likely to come up. It is probably a Treasury issue, isn't it?

**Ed Davey:** Unfortunately, it is a Treasury issue. I spent many happy hours in Opposition doing nine Finance Bills and it does remind me of some of the debates we had in that area. As the Chairman suggests, you need a Treasury Minister to give you the full detailed brief.

**Lord James of Blackheath:** I am content just that you have heard me on the subject and might take it away with you.

**Q186 Baroness Valentine:** We have heard that procurement and particularly e-procurement could help revitalise the Single Market. What benefits does the Government consider would flow from potential reforms to the EU procurement rules?

**Ed Davey:** This is an area of great interest and great importance. If you look at public procurement in terms of value, it is about 17% of EU GDP. That shows you the size of the money that is at stake. Again, I do want to give you as good an answer as possible. I would point out that fundamentally this is an area of responsibility we sort of share with the Cabinet Office, which we are working with in procurement issues. It is hugely significant for the taxpayer of course, because obviously if things could be procured more cheaply that has a really beneficial effect. In terms of going abroad and winning contracts, it is really important particularly for SMEs. Again I am coming back to the importance of SMEs. Getting procurement right is really important and critical for revitalising the Single Market.

What are the issues? When we talk to business, they complain about the complexity of some of the procedures, some of the delays that are in there. Therefore, there's room for improvement. I am not yet convinced that a full-blooded set of new regulations or a new directive is the way forward. It may be in the long term, but we think there are things we can do within the existing directive to get some improvements. We want early improvements, because of the sense of urgency I was talking about with respect to growth. Certainly we'll be arguing to the Commission, not just with respect to the Single Market Act debate but to the e-Procurement Green Paper, which they issued in October last year, and the Procurement Green Paper, which looks broadly, in addition to the Single Market Act initiative—next month we are expecting it—in our communications that they should be looking at some of the non-legislative options first. Ideas that are kicking around are: threshold levels about when something actually has to go through procurement, which might help in some cases; how the rules are enforced—whether all public entities across the EU

are abiding by the rules—and how the rules are applied. I think these are all critical matters. Procurement is very much in our thinking, and there are some real potential big wins.

**Q187 Lord Walpole:** I think the Minister has almost answered most of the questions. I see on the other side of the paper I have written down the word “digital” four times, so you must have answered most of it. Are the Commission’s proposals for the completion of the digital Single Market ambitious enough, and what do you think are the most important things that should be done? Just a list; two or three things.

**Ed Davey:** I would not want to criticise the Commission for lack of ambition because, next to the Single Market Act proposals, they’ve got the European Digital agenda, which you are probably aware of, which has over 30 legislative ideas and 100 priority action areas. It would be quite difficult to say they’ve not got a long list. From a British perspective, we do think it is really, really important; I want to emphasise that again. There are four areas that I would point to. The first is infrastructure. We do need broadband, and ideally fast-speed broadband, across the whole European Union. That really will have a big impact on trade. That is a priority for us within the UK particularly, you will be pleased to know, in rural areas and particularly remote rural areas. I could talk a little bit about that if you like. Back to the Single Market, what can be done to focus on infrastructure?

Then there’s the issue about inclusion, which sort of links to infrastructure but is also about whether different groups can access this technology. This has been a long debate. The last Government took lots of initiatives in the area. Ensuring that people of all ages can access it—obviously younger people through school, university and college have the skills—has got to be an important part. That is the second area that we would, as a Government, focus on.

Then there’s a legal area around copyright to make sure that the rules around the content on the web are secure. That is again critical; that is the intellectual property that needs the relevant protections.

Finally, I would focus in on the confidence of consumers in using and accessing the digital market. That has clearly grown. It has grown in this country. Our internet shopping has gone through the roof. My wife did Christmas on the internet, as far as I can see. I wear another hat as Postal Services Minister, so I am particularly interested in how the digital world is affecting the world of post. While it is hitting letters very severely, and we are seeing a huge decline in letters, which is why we have the very severe problems we have in the Royal Mail, the one good light, which doesn’t compensate but at least is a growth area, is in parcels from the internet. I hope you do not mind this little anecdote, but I was going around, like any good constituency MP, to our local delivery offices before Christmas, as I’ve done over many years. When I was going around the delivery office at Villiers Road in Kingston, Surbiton, one thing that absolutely struck me, which I’d never seen before in all my visits there, is the increase in parcels. Previously we would witness over the last five years or so an increase in small packets—people buying books and CDs on the internet—but this year, partly driven by a new product that Royal Mail had rolled out, but also because people’s attitude to buying on the internet has changed, at least in this country, they are now buying things of all shapes and sizes on the internet. Royal Mail is at least having some benefit from that. Its relevance to this area and to the British Government’s agenda is in making sure that the e-commerce legislation to ensure consumers can be confident is there. It is not just about people buying within the UK; it is about people being prepared to buy across borders and being able to trade across borders. For British companies that want to sell goods across the European Union, clearly going digital is a really strong area. I meet lots of small businesses that are doing some fantastic work selling their goods and services on the internet. Making sure the internet is a good place, a secure place to do business, is

therefore vital. This has been recognised. Of course there's legislation in this area, but it is something that needs to be looked at again and again.

**Q188 Lord Walpole:** Can I just say: yes, but you do want to meet people occasionally? Can I just ask: six months ago in the London postcode area of W14, do you know how many post offices there were?

**Ed Davey:** You are going to tell me, I think.

**Lord Walpole:** The answer is none. In W14 there was not a single post office. There is now; one. People had to go down Kensington High Street to queue for their pensions. It was disgraceful. I cannot not tell you this.

**Ed Davey:** Let me, in the good spirit of our discussion, confirm that, as Postal Affairs Minister, we have made it very clear that our policy is to have no further closure programmes of post offices. The deal we have signed with Post Office Ltd ensures that there'll be 11,500 post offices for the duration of this Spending Review. I am sometimes known as obsessive on post offices, to make sure that we can improve performance, because, as you quite rightly say, meeting people is a good thing.

**The Chairman:** Absolutely right and thank you very much. Now, Lord Clinton-Davis, your big moment has come.

**Q189 Lord Clinton-Davis:** It was always a mistake to live in W14. When I was a member of the European Commission, I served with the late Arthur Cockfield, who did more than anybody else at that time to make the Single Market known, particularly among our citizens and our businesses. They approved of what the Commission was then doing. Since then, there has been a decline in the approval rate. What do you think the Commission ought to be doing? What ought the Government to be doing to rectify that position?

The other question I would ask is you hinted in your remarks that some Coalition partners, particularly in the House of Commons, appeared to be rather less enthusiastic about anything coming out of the EU, particularly out of the Commission. Is it not a source of frustration as far as you are concerned, having regard to the principles that I assume you hold dear?

**Ed Davey:** I do hold my principles dear, Lord Clinton-Davis. If I hinted, I obviously want to check the record about how veiled or otherwise my hint was. The message I was trying to get over actually, which I hope you will welcome, is that the Government, made up of two parties from different traditions in the European debate, is actually engaging very positively in Europe, putting the British interest first. In all my discussions with colleagues from across the Coalition, I have not disagreed once, I think, on a European issue. That might strike you as strange and odd, given our different political families, but it happens to be true. Whether it is on employment legislation—I've talked about the Working Time Directive—or on the Single Market, there is extreme agreement, if you can agree extremely, on these matters. I hope that should reassure you. I am not saying that there might be other matters from the European genesis that we might have some greater problems with but, in these areas, we are absolutely at one. I hope that that then talks to your first question that, by seeing a Coalition Government of different traditions in this matter pushing very, very hard for agreement on the Single Market to get the growth, to get SMEs interested, to get the digital and low-carbon Single Markets, I hope that that will be noticed at the Commission level,

noticed across the European Union with our partners and within this country. I do hope it can begin to turn the debate on Europe, which I think has got so negative at times. I hope that people can see that it is in the interests of every individual, family and business, and the Government, that we can work with our European partners and begin to see them as the friends, allies and colleagues that they are, and help them when they need help—as I think we have done so correctly with Ireland; I am extremely proud that we came to one of our closest allies in the way we did, helping the Irish; that was an exceedingly important statement, and I think the Chancellor led brilliantly on that—as well as gaining support when we need it. Surely that is the world we want. The more we are seen in this debate in a grown-up way cooperating, making progress on practical matters, the more people will see the benefit. Whether it is with SMEs or individuals in the digital market, which I keep coming back to, we can get over the point that Lord Cockfield did so brilliantly 20 years ago.

**Q190 Lord Clinton-Davis:** When you said we should concentrate more on British interests, I think from a tactical point of view that is misconceived. I think that we ought to be prepared to concentrate more on being partners in Europe. That is the important thing. People will be suspicious if we concentrate unduly on British interests. That is how I found it. The important thing from the point of view of the Government, when it comes to Europe, is that they should demonstrate effectively that the Government is in favour of the European enterprise. That doesn't mean to say you have to agree with everything but, as a matter of tactics, you should demonstrate very clearly that the Government wants to make the EU work.

**Ed Davey:** I believe we are doing that. I know the point you are trying to make about maybe using the words “British interests”, and maybe that was undiplomatic of me. However, when I talk to other Ministers from other EU Member States, they talk about their interests all the time, explicitly and in those terms. I do not think one should feel that you are not being communautaire by saying what is in the British interests. That is how everyone expects you to behave. I feel strongly about this. We are making these arguments, yes because it is in the British interests, but actually our analysis, if I was a politician in Spain, Hungary or Lithuania, I'd still be of the same view. When I see rigid inflexible labour markets in some EU countries and I see 40% youth unemployment, I do not think that is in the interest of that particular country. If I was a politician in one of those countries—and I am not particularly naming a country, you will notice—I'd be saying, “Hold on a minute. Do we need to revisit our approach in this area?” I do not think Britain has everything right. We can learn from others. I am looking at employment legislation on parental leave, for example, and while I do not think this should be for the European Parliament or the Commission to decide, I have looked at best practice across the European Union and I have looked at some fantastic policies that have clearly worked in places like Sweden, for example. We can learn from each other. We do not need to be arrogant in our approach. If we do think we have got it right and we have got evidence to show that, there's nothing wrong in being robust and making clear that the British interest actually is also the European interest.

**Q191 Lord Clinton-Davis:** When it comes to 27 nations, do you think you should be looking at the possibility, in the background, of compromise? There is no other way of proceeding.

**Ed Davey:** Compromise is necessary on a town council, in a government, in parliament and in the EU at different times, but I do not think you start out your negotiation position in compromise. You make it clear what you think is the right thing and then you work out

how you can get as near to that as possible. I've had to sign off negotiation positions that our excellent officials at UKRep and the different Committees have been pursuing for us on a range of different matters. We have had to accept that sometimes to make progress we do not get our ideal position. You should still be clear about what your position is.

**Q192 The Chairman:** I think that is a very good point, and I know that Lord Clinton-Davis is probably the greatest supporter of the European Union around this table, for long-term reasons. The point that I think you could easily reiterate is the one you started off with saying: growth. We have all got to have to growth, when we are looking against the BRICs and people like that. While you were saying that, I suddenly thought of that old adage, which is a rising tide raises all ships. This is the thing. We can do it for British interests which, in turn, would help everybody else as well, particularly ongoing. On the point of anti-EU, I know we have no question on this; it is just a niggle that I've got about this whole internal market, and that is to come out with 50 different proposals which, if you eventually put a towel around your head and look at them, there are not 50 of them at all. They are in groups of them. The ordinary man or woman in the street, of which I am one, seeing something like that would say, "Oh, for heaven's sake; more bureaucracy, more European Union stuff." What can you actually do to try to get away from reinventing bureaucrats, bureaucrats, bureaucrats? That is something; there's a growth there that we would like to see in SMEs.

**Ed Davey:** I think you are right. 50 proposals are probably too many. It might turn out to have been a wise strategy to put 50 forward to create the debate, so let's be fair. It is good to have a lively debate. If there had just been 10 proposals that the Brits could sign up to immediately, people might have smelt a rat. There has to be a bit of give and take. I do agree with you we will need to prioritise. We will need to focus on why we are prioritising those things, which is one of the reasons why I gave you those five principles to begin with: growth, SMEs and citizens, evidence-based, added value at the EU level, and implementation and delivering on promises. If one understands how you are going to pick and choose, how you are going to prioritise, then we might get some action. The only thing I would say on how we get the man on the street on the Clapham omnibus—mixing metaphors—to be excited about this, that is a challenge, Chairman. I do think this new set of ideas, particularly on things like low carbon and digital, are things that people can relate to and understand. People may even get excited about them.

**The Chairman:** Thank you very much. We are all going to be very excited.

**Q193 Lord Rowe-Beddoe:** In a way this question has a slight connection to my intervention. It has been very interesting listening to all your responses and your statements. Do you think today that Member States need to give greater support and impetus to the Single Market to get it moving?

**Ed Davey:** Yes. I think it is important that political leaders of all the Member States recognise that Europe has an economic challenge, both in the short term and in the long term. That is why I talked initially about us having a sense of urgency about this. People should not just think this is another bureaucratic exercise and we can sort of debate this and have a directive here and we'll wait for implementation in 2015 and 2020. There's a problem now. There's a need to commit ourselves to open markets, a need to commit ourselves to being ambitious and taking action now. That will pay huge, huge dividends. The Prime Minister has been right in putting a lot of emphasis on this. Certainly Dr Cable in my Department is absolutely clear that this is a fundamental part of our strategy. When he

went to the European Parliament and argued for it, he was very clear that we should not see it as a package deal, as I was talking about earlier; that we needed to be serious about growth. We have been making those messages at the highest level of the British Government, and I get an impression, talking to other European Ministers, counterparts, that quite a lot of them get it as well. Whether or not we can collectively seize the day remains to be seen. You are right: we'll only do it if we get some pretty strong commitment.

**David Frost:** I was just going to add on that point that it is worth taking a look at the Commission's Annual Growth Survey, which it published last week as part of the new economic governance arrangements for the EU, which makes exactly this point. It emphasises rather starkly the challenge the EU faces. It emphasises the word "growth" in getting things moving again and, actually, although it doesn't quite say it, provides a bit of a prioritisation among the 50 proposals in the Single Market Act, emphasising three or four particular areas that need to be moved forward on. That is the prism to look at some of these things through. It is very helpful.

**Q194 Lord Rowe-Beddoe:** Thank you. Just a quick last part of the question. To achieve what you clearly believe in and want to see happen, are there in your opinion any particular structures within the organisation at the moment that are hindering our progress or the progress that we would all like to make?

**Ed Davey:** Within the EU?

**Lord Rowe-Beddoe:** Within the EU.

**Ed Davey:** It may be a funny way of answering the question but, if there are, I do not want another treaty to change the institutions.

**The Chairman:** A wonderful answer.

**Q195 Lord Rowe-Beddoe:** I just wondered if there was anything that might have given you great frustration.

**Ed Davey:** I think governments at all levels too often think you do things by regulation and legislation. That goes for British Governments as well as the European Union. It is a culture; it is a mindset; it is a mindset of politicians and civil servants. We need to get away from that. We should not just judge our political virility and our success because we have got a piece of legislation through. That is what I'd like to see change, but I do not see it as a criticism just of the European Union. I think it is a criticism of this place as well, our joint Houses.

**Q196 Lord Bradshaw:** I am not going to ask you question 12, because I think you have already answered it very adequately. To finish off with, tell us two or three things you would like to happen within the United Kingdom to help us go along the path that you have so eloquently described.

**Ed Davey:** There will be a number of things when the Trade White Paper is published that you will be able to look at to answer that in more detail. My first interest is within SMEs. I keep coming back to that, but I make no apology for it, because it seems to me fundamental to the long-term health of our economy. We need to ensure that SMEs that are able to and have something to sell, to export, are given that advice, that information and support at all levels. I am not saying UKTI doesn't do a good job already in that. I am not saying there aren't parts of Government that do not do a good job, but we have to make sure we



continue to do that, not least as we have reformed Regional Development Agencies. We need to make sure that people know where to go to get that help, and particularly that it is geared and tailored to SMEs. Our overall support, advice, guidance and information for SMEs is where we need to be absolutely at the top of our game. That is the first thing I'd point to.

The Trade White Paper is a pretty comprehensive what I call "framework document", when it is revealed. I assume its final draft is similar to the most recent few drafts, and I think David will hope that it is, along with me. There are some really crunchy bits in there. To give you an example, it is not often talked about in this area but trade facilitation is really important; making it easier for people to actually do the trade at the borders. To make sure, and you might think this is very odd saying this in 2011, the information and forms that are required are as easily done as possible. Without going into the absolute detail, one of the things that the Trade White Paper is focusing on is actually that area. In a way, you might call that a "techie point". We forget the process of doing trade at our peril. The infrastructure of the ports, the railways and the forms, we need to make sure we have got that right as well; that there aren't unnecessary costs and delays in that. That goes for the online world as well as the real physical world too.

**The Chairman:** Thank you very much indeed. You have been very, very accommodating and really good at answering our questions, and giving us a huge amount of information, which we will have to mark, read and learn, and inwardly digest. It is very kind of you to do this and I am very appreciative of your time, particularly with the sort of portfolio you have and preparation for two more House of Lords Committees this week. It is just to say thank you for coming and we will let you have the transcript. Thank you very much, Mr Frost, too. I am sorry he had more share of voice, but you were very useful in the comments that you made. It has been an extremely useful session for us, so thank you.