

# Compliance and practical functioning of the EU Single Market

The Single Market is one of the EU's greatest achievements. It enables people, services, goods and capital to move freely. It has fuelled economic growth and made the everyday life of European businesses and consumers easier. A functioning Single Market stimulates competition and trade, improves efficiency, raises quality, and helps consumers benefit from more varied and better priced products and services.

Despite the overall success of the Single Market, its benefits do not always materialise because rules are not known or implemented, or they are undermined by other barriers. Today the European Commission continues to deliver on its [Single Market Strategy](#) – the Commission's roadmap to unlock the full potential of the Single Market.

The Commission has already put forward [proposals on e-commerce](#), [guidance on the collaborative economy](#), steps to [modernise the EU's standardisation policy](#), a [Start-up and Scale-up Initiative](#), and [measures to give a fresh boost to the services sector](#).

Today's package of measures will make it easier for people and companies to manage their paperwork online in their home country or when working, living or doing business in another EU country and it will help ensure that commonly agreed EU rules are respected.

## **1. Single Digital Gateway**

### **Why do we need the Single Digital Gateway?**

The Commission wants to make it easier for citizens and companies who need to navigate regulatory and administrative requirements to access the necessary information and assistance online. Indeed, Europeans – whether at home or living in another EU country – are often confronted with online public service information that is of varying quality or incomplete. Moreover, procedures that are online in some EU countries are not always accessible to users from another EU country. As a result, people and businesses waste precious time and money both at home and abroad and public administrations face an unnecessary burden. This makes it harder for everyone to seize all the opportunities offered by the Single Market.

### **What is the Single Digital Gateway and how will it help?**

The Single Digital Gateway will be a central, online and easily accessible entry point for people and companies looking for complete, accurate and up-to-date information, administrative procedures and assistance services linked to their Single Market rights. The gateway will not only provide citizens and businesses with information about applicable rules available on EU and national websites, but also direct them towards assistance services when

further help is needed and allow them to follow national administrative procedures online. It will also support Member States in their efforts to adopt e-government strategies to offer a modern and efficient public service.

The Single Digital Gateway builds on the following main elements:

- Any procedure currently available online for domestic users will be accessible to users from other Member States.
- Member States will have to offer at least 13 key administrative procedures online in a safe, central and user-centric national platform. These include requests for a birth certificate, car registration, starting a business or registration for social security benefits:

<b>Life events</b>	<b>Procedures</b>
Birth	Requesting a <b>birth certificate</b>
Studying	Applying for a <b>study grant</b> from a public institution
Working	Registering for social security <b>benefits</b> Requesting <b>recognition of diploma</b> Registering a <b>change of address</b>
Moving	Requesting/ <b>renewing ID card</b> or passport Registering a motor vehicle
Retiring	Claiming <b>pension</b> and pre-retirement benefits from public or semi-public schemes General <b>registration of business activity</b> , excluding procedures concerning the constitution of companies or firms within the meaning of the second paragraph of Article 54 TFEU
Starting a business	<b>Registration of an employer</b> (a natural person) with public or semi-public pension and insurance schemes Registration of employees with public or semi-public <b>pension</b> and <b>insurance</b> employee Notification to the social security schemes of the <b>end of contract</b> with an employee
Doing business	Payment of <b>social contributions</b> for employees

- All information and procedures must be available in at least one further EU language in addition to the country's official languages.
- According to the "once-only" principle, important documents will only need to be submitted once and then available to be reused in other national procedures at the request of the user.

**Does the Commission want to harmonise the way Member States handle their administrative procedures?**

No. The Single Digital Gateway deals with the "front office" of public administrations (i.e. the link between the administration and the user) by ensuring easier access to them, but it does not harmonise the actual

procedures which remain a national competence.

### **Who will benefit from the Single Digital Gateway?**

All citizens will benefit from a modern, digital public service covering all main aspects of their life, and all companies will benefit from accessing concrete information on starting a business, employment rules, taxation rules, selling goods, providing services, product requirements, accessing finance and environmental rules. Additionally, the initiative will benefit those who want to travel, study, work, start a business, provide goods and services or retire in another EU country but who face additional hurdles when information and procedures are not available online.

### **What are the expected costs and benefits of such an initiative?**

The aggregated annual costs combined for the European Commission and all Member States should amount to around EUR 9 million. The Commission has already contributed EUR 8 million from the Horizon 2020 research and innovation funding programme towards the development of the required digital infrastructure needed for the "Once-Only" Principle Project (TOOP), an initiative to demonstrate the "once-only" principle on a cross-border scale with the aim to reduce the administrative burden of businesses and public administrations. Additionally, the Commission will make available up to EUR 6 million to support translation costs.

For EU citizens, the Single Digital Gateway could mean saving up to 855 000 hours of time annually. For businesses, annual benefits are estimated to amount to at least EUR 11 billion.

### **When will the Single Digital Gateway be launched?**

With the support of the European Parliament and the Member States during the legislative negotiations, a fully-fledged single digital gateway could be a reality by 2020.

## **2. Single Market Information Tool (SMIT)**

### **Why does the Commission need a new information gathering tool?**

People and companies can only benefit from the Single Market if commonly agreed rules are fit for purpose and are correctly applied in all Member States. When the Commission is alerted to cases where the Single Market may not be working properly, evidence is needed to demonstrate if and where EU laws were applied incorrectly. Enabling the Commission to act faster and more effectively to ensure compliance will benefit all citizens and companies who will be able to exercise their Single Market rights in a better and quicker way.

To ensure this, timely access to comprehensive, reliable, and accurate market information is crucial.

Single Market difficulties can be found in many different areas. For example, in a [public consultation](#) citizens and consumer organisations reported price

discrimination based on residency; restricted access to online audio-visual content while abroad; delivery of online purchases impossible to certain countries. In the majority of cases, the Commission is able to acquire the information necessary to resolve the problem from Member States or through public consultations, complaints and publicly available statistics. But sometimes the available information is not enough for the Commission to:

- confirm with certainty whether national legislation or practice is in breach of EU rules;
- assess with sufficient precision the impact on the Single Market;
- judge how efficient a Commission action (an infringement procedure against a Member State or a proposal for new EU legislation) would be in improving the current situation in the Single Market.

### **What is SMIT?**

The Single Market Information Tool (SMIT) will allow the Commission to obtain, in clearly framed cases, timely, comprehensive and reliable quantitative and qualitative information from selected market players in specific instances, and as a last resort, where there are indications of serious difficulties with the application of EU Single Market legislation.

The information will be handled subject to strict confidentiality requirements. Being an addressee of a SMIT information request does not imply any wrongdoing, and SMIT will not allow the Commission to pursue infringement cases against individual market players.

It does not impose a recurring reporting obligation, but allows to source clearly defined and readily available data in targeted cases where this is strictly necessary.

SMIT is not a new enforcement procedure, but rather a tool that can be used within the current infringement procedure under Article 258 TFEU and as a last resort.

SMIT will help support the cooperation between Member States and the Commission in ensuring the correct application of EU law. Enabling the Commission to act faster and more effectively to ensure compliance will ultimately benefit all citizens and companies. SMIT will also allow the Commission to gather facts on areas of EU law which may need to be revised, thus ensuring that all proposals are evidence-based and results-oriented, in line with the better regulation principles.

### **In which areas would SMIT apply?**

SMIT is designed to apply to the Single Market in its broad sense: a functional area without internal frontiers where goods, people, services and capital circulate freely. It includes a wide range of EU legislation including financial services, telecommunications, industry, transport, environment, energy, agriculture and fisheries sectors (other than the conservation of marine biological resources).

### **Is SMIT a tool to detect and pursue breaches of EU law by companies?**

SMIT is not a tool to investigate and punish a conduct of a company. SMIT will assist in detecting a potential problem which may deprive consumers and businesses of the benefits of the Single Market. SMIT is an information tool to be used in the context of existing enforcement mechanisms, notably infringement proceedings against Member States. It can also be a contribution when drawing up new regulation.

### **In what kind of scenarios could SMIT be used?**

SMIT is a generic tool that could help resolve any specific Single Market problem.

By way of example, data such as cost structure, pricing policy or product volumes sold could prove valuable to collect information on suspected geoblocking practices, to corroborate information on public tenders, or to obtain data on the pricing and underlying costs of cross-border parcel delivery.

As an illustration of its use, let's look at the utilities sector. If water, energy or transport services are subject to enough market pressure in a Member State, entities and contracting authorities operating in that sector can be exempted from the application of one of the public procurement directives, the Utilities Directive (Article 34 of the Directive 2014/25/EU). Such an exemption significantly reduces the administrative burden and allows companies to procure at their own discretion. Companies in those sectors thus have a clear incentive to be exempted from the application of this Directive. Analysing whether the degree of market pressure is sufficient to justify an exemption requires micro-level information that is not publicly available, including business secrets (such as data on prices, quantities and cost structure). Currently, the Commission can neither obtain such information from stakeholders other than the applicant, nor question the validity of the evidence presented by the applicant. The latter is particularly relevant because the Commission is at a clear disadvantage regarding the information about a sector compared to the applicant. Since the applicant has a clear incentive to be exempted, it could present the information in the most favourable light possible. This being a Single Market piece of legislation, the Commission is unable to use its information gathering powers available under EU competition law. Given the relevance of utilities for EU citizens' everyday life, a precise and timely assessment is essential.

### **How would the Commission determine when the use of SMIT is appropriate?**

The Commission would not use SMIT routinely, but only as a last resort, and always following a case-by-case assessment. The use of SMIT would be limited based on the following criteria:

- There must be a serious difficulty with the application of EU law;
- The information is not publically available;
- The information has not been provided by a Member State or by a natural or legal person upon request by the Commission.

### **How would it work in practice?**

- **Commission decision** – If the above conditions are met, the Commission will first adopt a formal Decision, stating its intention to launch a SMIT procedure and would notify it to the Member States concerned without delay.
- **Information requests** – Requests will be addressed only to players that could be expected to provide relevant information and from whom the information should be readily available (e.g. acquiring such information does not require extended research). Small and medium-sized enterprises (SMEs) could also be concerned, while micro-enterprises would be exempted.
- **Compliance** – The Commission would be empowered to impose monetary sanctions in case a market player provides incomplete or misleading information, or if a reply was not provided to a formal information request. The Commission would not impose such sanctions automatically, but would undertake a case-by-case assessment, with due regard to proportionality and appropriateness and in respect of discretion requirements. To impose a sanction, the Commission would need to adopt another formal Decision.

The Commission will ensure that the information submitted by companies is treated confidentially, following best practices from the competition policy field and protecting their business secrets. Furthermore, the Commission will be allowed to use the information collected only for the purpose for which it was requested.

#### **Will small companies be able to cope with the burden of such information requests?**

Small businesses face the greatest barriers when trying to start up and scale up across the Single Market, so their data could prove valuable in informing the Commission about practical difficulties they face. However, the Commission is mindful of the need to avoid overburdening small companies with requests for information.

Although SMEs are in the scope of the proposal, in respect of the principle of proportionality, the Commission will limit information requests to the strict minimum and avoiding significant additional costs of data gathering. Micro enterprises (defined as companies with less than 10 employees and with a turnover of less than EUR 2 million) are exempted from this proposal in order to avoid imposing disproportionate administrative burden on them.

#### **Does SMIT introduce new powers for the Commission?**

This proposal does not create any new powers for the Commission. It implements existing powers conferred by Treaty (Art. 337 TFEU) which allow collecting information necessary to the Commission, being guardian of the Treaty. Already today the Commission is able to collect some sensitive company data to enforce single market rules in the area of competition. Such information is for instance collected from companies to examine antitrust and mergers cases or from Member States for the purposes of the state aid control. SMIT will not be used to investigate individuals' or companies' conduct but to ensure correct application of EU law in all Member States.

## **Will the information be made public?**

No, information will not be made public but on the contrary be handled subject to strict confidentiality rules.

Moreover, recipients of SMIT requests will have the opportunity to indicate the information they consider to be covered by the obligation of professional secrecy. Accordingly, any undertaking will have the possibility to submit confidential and non-confidential versions of the reply.

In the context of a formal infringement procedure, the Commission could transfer in full the replies received to the Member State concerned unless the responding firm marks business secrets/sensitive information.

## **When will the SMIT Regulation start to apply?**

Once adopted by the European Parliament and the Council, the Regulation will be published in the Official Journal of the European Union and become directly applicable 20 days later.

## **3. SOLVIT**

### **What is SOLVIT and what has it delivered?**

[SOLVIT](#) provides rapid and pragmatic solutions to citizens and businesses when they are experiencing difficulties while moving or doing business cross-border in the EU. It is a free of charge service provided collaboratively since 2002 by the national administrations in each EU country and in Iceland, Liechtenstein and Norway. It is a faster, informal alternative to filing a court case, submitting a formal complaint to the Commission or putting forward a petition. It is an efficient tool to address the issues of companies, allowing cross-border business in Europe to grow in a secure environment.

SOLVIT deals with all cross-border issues related to the application of EU law in the area of the four freedoms of movement (persons, goods, services and capital), including policies closely linked to them (such as taxation, employment, social policy and transport). In 15 years, SOLVIT's case load has increased by a factor of 40. In total, the network has dealt with more than 17,000 cases of which nearly 90% were solved.

Real life [examples](#) include:

- **Residence rights** – SOLVIT helped a French trainee pilot to register as a resident in Belgium;
- **Recognition of professional qualifications** – the network helped three Portuguese nurses get their qualification recognised in Spain;
- **Taxation** – a French company asked SOLVIT to help get a VAT refund from Germany and received the amount requested after the network intervened.
- **Freedom to provide services** – thanks to SOLVIT intervention, a Swedish company (True Heading AB) was able to get hydrographical data for navigation from the competent Polish authority that had previously refused to provide them with.

- **Free movement of goods** – an Austrian producer of paints was having difficulties selling his products in Poland. The problem was resolved thanks to SOLVIT intervention.

More success stories

here: [http://ec.europa.eu/solvit/problems-solved/index\\_en.htm](http://ec.europa.eu/solvit/problems-solved/index_en.htm)

### **How will it be improved?**

The Commission is presenting an Action Plan to help even more people and businesses benefit from the services of SOLVIT by:

1. offering capacity building (e.g. increased legal trainings and knowledge sharing) to improve further its accessibility and its quality;
2. making it easier to find SOLVIT, especially through the web portal [Your Europe](#) and the single digital gateway in the future;
3. improving data collection so that evidence from SOLVIT cases can be used to improve the working of the Single Market.

The joint efforts by Member States and the Commission will reinforce SOLVIT in its unique role of ensuring that national authorities comply with EU law, whilst helping to resolve problems encountered by businesses and citizens in practice.

### **4. Next steps**

Today's proposals for a regulation on the single digital gateway and for a regulation on the Single Market Information Tool will now be sent to the European Parliament and Council for adoption. The Solvit Action Plan will be presented to the European Parliament and Council. The implementation of the Solvit Action Plan is a joint responsibility of the Commission and the Member States.

See also [IP/17/1086](#)