

Proposals for the EU Industrial Forum

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Summary

With a view to unlock the potential of new value chains and innovation-driven “locomotives” for the recovery of the EU, the Industrial Forum is mandated to provide recommendations to the Commission on a “dedicated toolbox” (which could include regulatory action, unlocking financing or making the most of trade defense instruments) to foster the twin transition of relevant ecosystems, in line with the Industrial Strategy.

The recommendations by Industrial Forum should be based on a step-by-step approach to the abovementioned toolbox. The first step should be to assess whether the regulatory framework of any given ecosystem is fit for purpose, i.e. regulatory barriers that need removal or introduction of new regulatory measures that can underpin industrial development in the ecosystems. The Forum should conduct a thorough analysis on this and provide recommendations for regulatory action - horizontal as well as sector-specific actions.

Once the regulatory aspects of the ecosystems have been assessed in detail, investments needs should be assessed and proposals to unlock investments, private and public, should be developed as a second step. IPCEI should not become the norm but be utilized only when strictly necessary. Furthermore, the use of IPCEIs should be based on strict principles and can only be justified in case of documented market failure.

Similarly, consideration on the use of trade defense instruments should be reserved for later steps. In general, the EU should keep a balanced approach to trade defense instruments that allows European companies access to global supply chains, crucial for their competitiveness, while also providing, in specific and justified cases, a shield from dumping and competitors in third countries supported by illegal subsidies. While the EU’s trade defense measures are likely to make some results, the EU cannot level the playing field globally through unilateral measures. Therefore, the main aim for the EU should be to engage further in the dialogue with the US and Japan to push for updated WTO rules on subsidies and behavior of state-owned enterprises.

In line with this step-by-step approach, the recommendations listed below focus solely on the regulatory part of the “toolbox”.

Horizontal proposals

Barriers to market driven European innovation and competitiveness – the role of standardisation

Challenges for industry

Standardization is a process where industry experts and other stakeholders meet to develop state-of-art-technological solutions of market relevance. Standards developed by request of the Commission in accordance with regulation (EU) 1025/2012, furthermore, have the advantage of providing for presumption of conformity with the essential requirements of EU harmonization regulation if they are cited in the OJEU. If the framework conditions for the development of standards in Europe are too restrictive and provide for too many constraints that add no market value relative to other fora e.g. International standardization and consortia, then experts from European companies will choose to pursue standardization outside the established European system. Their expertise will then be applied developing international standards which have the additional advantage of better ensuring market access globally. Eventually, this will hamper the development of European standards and risk making them obsolete on an international market.

SME's depend on presumption of conformity from standards cited in the OJEU. If they do not exist they depend on 3rd party engagement to pursue market entrance. Thus, the lack of such standards limit their innovation and competitiveness. Also, larger companies loose competitiveness if they have to develop products in line with different sets of standards depending on the market they operate on.

Standards are cost-efficient tools to ensure quality, safety, environmental requirements are met. They are voluntarily used by business to business to ascertain, maintain and improve products and services in order to be responsible, to gain competitiveness and reputation, market share and profit.

Recommendations

- Allow for greater flexibility when it comes to the content and structure of standards that provide for presumption of conformity with EU law.
- Ensure the Commission approval procedure of those standards does not constitute a re-negotiation of the technical content agreed upon in the European standardization system and acknowledge the market driven nature of standards
- Allow for fast track procedures to allow for international standards to provide for presumption of conformity with EU law.
- Standard Essential Patents (SEP) are crucial in standardization. The [expert group](#) on licensing and valuation of standard essential patents, appointed by the Commission, has so far not made anything public. Their work on facilitating the use of SEP should be an important part of the work on standardization. Their suggested improvements should be made reality.
- Use environmental standards to drive innovation and the greening of the economy through green public procurement. By incorporating high environmental and social requirements in public procurement, public authorities can incentivize innovative, sustainable technologies while maintaining a level-playing-field.

Servicification as driver for industrial competitiveness

Challenges for industry

Increasing the competitiveness of European manufacturing is a central goal of the EU's industrial strategy. However, the nature of manufacturing has evolved in many ways over the past decades. One of the most notable trends is the increasingly important role of services within manufacturing, also known as servicification or servitisation. For example, service jobs make up 59 per cent of all jobs within manufacturing companies in Germany, a traditional manufacturing powerhouse. On EU level, the value added contribution from services in manufacturing has increased from 36 per cent in 1995 to 40 per cent in 2011. Meanwhile, in the US, the added value of services in manufacturing was 33 per cent in 2011.

This all indicates that services play an increasingly important role in EU manufacturing *and* that the close integration of services is a contributing factor to the competitiveness of EU manufacturing vis-à-vis other advanced economies.

The above showcases the importance of improving the free movement of services within the EU single market – not “just” for the economy as a whole, but for industry and manufacturing in particular. Manufacturing companies use services for a wide array of activities, including development of products (engineering services), optimizing production processes (management consulting), distribution (transportation services), sale of products (retail services), and provision of aftermarket services (maintenance services). The easier it is to provide such services across the EU, the higher the competitiveness of EU industry as a whole, as well as manufacturing in particular.

In spite of this potential, many European companies report continuing regulatory obstacles when it comes to the free movement of services within the single market, as indeed identified by the Commission's own [“Identifying and addressing barriers to the Single Market”](#) report, as well as the European Parliament's [“Legal obstacles in Member States to Single Market rules”](#) study.

These barriers should not be seen as an isolated problem for the EU's “services economy”. Indeed, such a separation of “goods” and “services” can be quite misleading. Due to the process of servicification, the obstacles to free movement of services present a clear challenge for the EU's manufacturing sector, and thus for the EU's industrial competitiveness as a whole.

Recommendations

- In services (much more than in goods), widespread “regulatory heterogeneity” (i.e. that rules and obligations in different Member States serving similar or identical objectives are nevertheless distinct) adds to the costs of doing business across the entire Single Market. Such regulatory heterogeneity should be reduced in order to improve the conditions for services-reliant manufacturing companies.
- The notification procedure under the Services Directive is not functioning as well as it should. It is likely that many national rules are adopted without being notified. This means that barriers to services trade are introduced without proper scrutiny from the Commission and other Member States. The upcoming revision of the Commission's handbook to the Services Directive provides an opportunity to address this issue. However, especially since the proposal for a revised notification procedure was withdrawn by the Commission in 2020, improving conditions on the ground may prove challenging.

- Businesses often experience difficulties in accessing the relevant information on applicable rules and requirements in different Member States. The national Points of Single Contact are underperforming, according to studies and companies' experiences. Ensuring that the upcoming Single Digital Gateway addresses questions and issues with regards to services will be crucial.
- There are approximately 6,000 national regulations on professions in the EU, and this has a restrictive effect on both services trade, which spills over into manufacturing and goods trade. It is necessary to analyse these national regulations on a case-by-case basis to identify which of them are overly restrictive as defined in EU legislation, such as the Professional Qualifications Directive. Increased enforcement action is crucial, since services of many types are intertwined in industrial value chains, as described above.
- Improving the process of posting workers and increasing transparency about relevant requirements and processes is necessary to reduce the costs of aftermarket services, such as maintenance, which are crucial for many manufacturing companies in the EU.
- Innovation today must also be seen in the perspective of service innovation. Service innovation face other challenges when it comes to the knowledge-based assets since they do are not possible to protect through existing IPRs. The Intellectual Property Action Plan should include the challenges faced by those working with service innovation.

Lack of mutual recognition

Recommendations

A growing number of national rules on products are adopted each year. Without an effective and consistent use of the principle of mutual recognition, such rules risk becoming barriers and leading to fragmentation in the Single Market. This results in extra costs for businesses having to adapt their products to comply with different regulatory regimes or lost revenue where businesses abstain from entering new markets due to unnecessary and excessive compliance costs.

Recommendations

- A uniform implementation of the new regulation on mutual recognition should be ensured and the Commission should assess if further initiatives are needed.

Effective application of existing Single Market tools

Challenges for industry

Tools to ensure the proper functioning of the internal market exist to a large extent, and the issue is more to ensure they are properly applied in a consistent manner to improve the functioning of the internal market than developing new ones. Eg. Member States are obliged to notify national regulations they deem necessary to protect public interest grounds, but they may not necessarily comply with the requirement or they may not respond satisfactory on reasoned opinions issued by other Member States or the Commission to the notifications. To ensure the proper functioning of the internal market the Commission need to react and it has tools at hand. They need to be applied and followed up upon in the above case for instance through pilot meetings or infringements. The same should be the case if a Member State do not act satisfactory when/if a SOLVIT case shows a Member State does not live up to it's Single Market obligations.

Single Market Scoreboards monitor the performance across Member States etc. for instance when it comes to TRIS-notifications, SOLVIT-cases, pilot and infringements. Significant improvements in the Single market could be achieved if these scoreboards were further developed and applied consistently.

Single Market Enforcement task force (SMET) which was launched in 2020 has not yet shown its potential but could have a key role in putting forward solutions for the removal of those implementation issues which otherwise could become barriers. Including stakeholders as part of the cooperation network linked to the SMET in an inclusive and transparent manner would ensure the market relevance of the SMET's work.

The REFIT-platform, with aim that issues of simplification and burden reduction were taken into account, was replaced by the Fit for Future-platform. The new platform still needs to prove how it will take market aspects into account and support actual simplification for business.

Recommendations

In line with the long-term action plan on implementation and enforcement of single market rules COM (2020)94 final: Action 10, 19-22:

- Action 10: Improvement in the functioning of TRIS notifications, taking into account also challenges with less economic impact on the Single Market as a whole can have great impact on the functioning of the internal market within a sector.
- Action 19-22: Development of a Single Market Enforcement Strategic Report that summarizes challenges encountered across all sources of input and contain specific criteria for when resp. pilot, periodic package meetings and infringements are pursued and arguments why specific case may not be pursued.

Technology Infrastructure for dynamic RD&I ecosystems

Challenges for industry

Technology Infrastructures, or test and demonstration facilities, are essential in a dynamic RD&I ecosystems to develop technology and high value-added solutions. Technology infrastructures are vital for companies to validate, prototype and scale-up new solutions before entering the market. Technology infrastructures include competences, technical equipment and infrastructures, digital and/or physical that single companies cannot provide themselves and allow an open access to industry of all sizes.

The European Commission presented in 2019 a staff working document stating that there is scope for the EU together with Member States to be more ambitious, setting out a shared vision and jointly developing a European approach for technology infrastructures to support industry scale-up and technology diffusion at EU level. This was also highlighted in the Communication on the new European Research Area (ERA) in 2020.

Recommendations

- Develop a European Strategy for Technology Infrastructures and set up a governance model to steer such strategy, while adopting a common definition for technology infrastructures at EU level and harmonising the existing EU mapping and repositories based on such definition.

- Ensure the creation and long-term sustainability of the necessary technology infrastructures at EU level, by: (1) increasing cooperation and coordination between Member States at EU level and fostering a strategic foresight dialogue between the EC, Member-States and technology infrastructures' users and providers, (2) developing new public-private financing models to leverage investments while ensuring that state-aid and competition regulations are respected, and (3) enhancing the use of Technology infrastructures in EU programmes and projects.
- Support pan-European access to technology infrastructures by companies of all sizes to leverage their innovation capabilities, by: (1) boosting their use in EU projects and (2) supporting the creation of EU thematic networks of technology infrastructures.
- Direct work and efforts to investing in open test and demonstration environments and so-called 'regulatory sandboxes', which will help develop the regulatory framework to promote new technology and innovation.

Let the market-based principles be the core of EU Industrial Policy

Challenges for industry

The EU Single Market is providing companies across the EU a level-playing field, therefore it is of utmost importance that the Single Market is the main focus of any EU industrial policy, which further should aim at improving the regulatory settings surrounding the Single Market such as harmonization and standardization. Though when market failures do exist, state aid and in rare cases IPCEI projects can be good solutions to fix societal challenges and improve our future competitiveness within the sector. However, IPCEI projects should be the last resort, rather than becoming the norm, and use of IPCEI can only be justified in case of market failure. Strong EU competition rules are, and have been, a prerequisite for creating the effective competition that currently exists in the EU Single Market. Competition helps drive efficiency, innovation and rewards companies based on merit.

Recommendations

- Preserve fundamental market-based principles for IPCEIs to not undermine effective markets and prevent undue distortion to competition in addition to focusing on innovation and development of new cross-cutting technology.
- Assure that IPCEIs are part of a coherent policy to strengthen each strategic value chains
- Ensure that IPCEIs contribute to key objectives of the EU, solving societal challenges and are in line with the goal of reaching a climate neutral EU by 2050 at the latest.
- Improve the transparency and inclusiveness of IPCEIs as recommended by the Strategic Forum for IPCEI by introducing an ex-ante consultation period.

EU regulation is not fit for the digital age

Challenges for industry

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

suited to the current digital reality of businesses like the General Product Safety Directive (GPSD) or are difficult to digitalise and automatise by public authorities.

Recommendations

- Update the General Product Safety Directive (GPSD) in order to address the development of new technologies.
- Introduce a set of principles on digital-by- default and future-proof regulation providing for an innovation-friendly and forward-looking regulatory environment that allow businesses to test, develop, and apply new business models.
- EU regulation should allow Member States to support businesses' transformation and greater use of digital solutions by enabling digitalization of public services to businesses and citizens relying on state-of-the-art technology, reuse of relevant data and standards.

The necessity of dataflows

Challenges for industry

Information and communication technology, ICT, is continuing to develop at a rapid rate and is fundamental to industrial competitiveness. Internet of things, IoT, lead the way to efficient manufacturing and connected products. With connected products industry can add services as well as making innovation out of transferred data. Therefore, it's crucial to focus on the connectivity capacity and shaping robust dataflows possibilities. Data protection rules need to better support digitalisation. The ability of companies to compete internationally will require access and processing of both EU- and third country data.

It is important when facilitating more data sharing to also include situations where the re-use of data is subject to the rights of others (i.e. data protection, intellectual property rights and commercial confidentiality).

Recommendations

- Europe needs the highest-possible quality of data communications infrastructure, and this must expand in line with speed and bandwidth requirements. The EU should therefore focus its investment support on superfast broadband and 5G.
- A principle-based technology-neutral regulatory framework, research and a favourable investment climate will be central to ensuring competitiveness in the digital field and to strengthening innovation and technology development. For European interests it is of great importance that companies' international data flows are facilitated both legally and technically.

Sector specific proposals

Ecosystem for Digital

Free, Fair, and Rule-based Digital Sovereignty

European Digital leadership needs to be open and reliant on democratic, international relationships and mutual cooperation. The EU is part of a global world with global supply chains and it is only in our own interest to further develop these. Therefore, Digital Sovereignty is not about excluding others or taking a protectionist's approach. Instead, Digital Sovereignty is about building on our strengths and reducing our strategic weaknesses.

Creating a well-balanced AI Regulation

The development and uptake of AI is at an early stage, and the risk of regulatory fragmentation must be hindered. If the EU fails to provide a coherent European approach within a short timeframe, the development and usage of AI solutions may fall prey to diverging national regulation, which is a well-known hindrance for the scale-up of developers and deployers of AI, especially SMEs.

At the same time, as AI is a fast-evolving technology, a too rigid European approach will not accommodate the fast pace of this new technology nor the way in which this new technology and business models create value and can thereby hinder innovative and applications. Furthermore, AI can make the application and enforcement of existing EU legislation and national legislation regarding product liability and product safety more difficult.

Recommendations

- Establish clear definitions of high-risk and low-risk AI applications, the category of high-risk AI should be the exception rather than the rule.
- A solid and coherent European framework regulatory for AI should be introduced to create a frictionless Single Market for the further development and uptake of AI as well as strengthening Europe ' s industrial base in AI. The framework must be future- oriented, take existing legislation into account and most importantly strike the right balance between creating a framework that promotes innovation as well as responsible behaviour in a proportionate and risk- based manner. With a well-balanced regulation the potential disturbance of innovation and creativity that could have lasting negative impacts on our economy and society are minimised.
- Legal and practical guidance for AI developers and deployers, covered by the regulatory framework, especially SMEs, is necessary to ensure that the regulatory framework does not become a deterrent for adopting new technology. Guidance and regulatory dialogue are needed.

Lack of interoperability, safety and security requirements as well as high infrastructure costs

Standards for capturing, defining and transmitting data are key to interoperability, and hence for the effective sharing of data. However, as these features are not currently part of the European data economy, businesses face high costs when transferring and utilising B2B data. This is particularly problematic for the SMEs.

Recommendation

- Data spaces should be built on interoperable data and metadata instead of data pools in order to have common standards, which ensures that data is accurate, complete, consistent and universally understood by all users.

Uncertainty about data sharing and use and legal requirements

Where European companies are uncertain of what rules apply and how they should be interpreted, the complexity of the regulatory framework may serve as a disincentive, and hence a barrier, for B2B data-sharing. In particular, SMEs are challenged by legal uncertainty as they do not have the same legal resources as larger firms. For instance, European companies have pointed to uncertainty as to whether they can share industrial data without suffering antitrust implications

Recommendation

- The European data spaces should further be characterised by a transparent structure and clear rights to use data, and where relevant measures to guide companies on the regulatory framework.

Ecosystem for low carbon energy intensive industry

Carbon Capture, Usage and Storage (CCS). CCUS technologies are necessary tools for carbon emission reductions including negative emissions. They may also play an important role in the future production of materials, feed, food or fuel such as hydrogen or green synthetic fuels. Therefore, it should be further explored if CCUS can be included in the RED as a climate instrument for the EU to achieve its climate objectives.

Energy-Intensive Industries and low- and zero-emission Energy ecosystems: Efforts in these two ecosystems, should be focused on the further development and deployment of Power-to-X (PtX) and Carbon Capture, Utilisation and Storage (CCUS). Hydrogen made by converting electricity, as in PtX or decarbonizing gaseous liquids with CCS, can help decarbonise industry and contribute to sustainable transport solutions, such as zero emission shipping. CCUS has the potential to significantly reduce "hard-to eliminate" emissions from the greatest CO2 emitters, thereby playing a central role in the transition of the energy-intensive industries towards a climate neutral EU by 2050. Furthermore, CCUS technologies are imperative in order to recycle CO2, a resource we cannot throw away but keep in the economy but out of the atmosphere.

Recommendations

- Taking full advantage PtX products require efficient energy system integration with emphasis on electrification and implementation of market rules for the internal electricity market and the development of common standards for hydrogen and other PtX products. This is important as PtX or biofuels can enable sector-coupling to replace gaseous and liquid fossil fuels used in sectors where potentials for direct electrification are limited.
- The technologies of CCUS are largely available today and the challenge is therefore primarily a lack of public, political and financial support in order to establish large-scale demonstration plants and storage facilities. To ensure better coordination the Commission should adopt a strategy for the wider deployment of CCUS, including large-scale public-private projects on carbon capture plants and storage facilities to overcome the market failure with the aim of establishing a European infrastructure for the capture, transport, utilisation and storage of carbon that exploits the different strengths of Member States in the value chain.

Ecosystem for Health

Enhance innovation in the life-science industry:

The life-science industry should be further developed to ensure that European innovative capacity is maintained, and the development of the production of essential medicines and medical devices is strengthened and renewed.

Recommendations

- The aim should be to scale up the innovation capacity in the European ecosystem by strengthening the framework conditions for conducting medical research and to enhance the agile transformations of businesses to ensure access to critical medicines and medical devices in times of crisis like with COVID-19.
- A common framework to ensure increased, secure utilisation of health data and digital technologies.