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Doing the Single Market justice

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Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

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Ladies and Gentlemen,

Last year I had the honour to be invited to deliver the Ludwig Erhard lecture here at the Lisbon Council. It gave me the opportunity to highlight the potential of Europe's digital economy.

Developments over the past year have not changed my analysis. Europe needs a Digital Single Market more than ever. We need it to help European consumers and businesses. The problem is that we currently have 27 individual digital markets rather than one digital market.

There are still far too many cross-border problems that prevent businesses and citizens from benefiting from the Digital Single Market.

Two out of three EU households have an internet connection, but only 8% of consumers buy online from another Member State. When you consider that an EU-wide test of online shops has shown that only 39% of them allow you to place an order if you come from another country, you can start to understand why this is so. It is still too difficult to buy online in the European Union because the Digital Single Market still does not exist.

So, we have to build consumer confidence in the Digital Single Market to achieve a good environment for e-commerce.

We must reduce the bureaucratic barriers that add up to unnecessary costs for businesses and chill their inclination to trade across borders.

This is the goal of the Commission's Digital Agenda for Europe – the first flagship initiative under the Europe 2020 strategy, which has been skilfully drafted by my colleague Neelie Kroes. The Digital Agenda tackles the main barriers to market access and highlights the benefits of cross-border digital services in order to get Europe back on track to economic recovery.

The Commission's Digital Agenda highlights how various challenges are interrelated. Taken in isolation, the problems of lack of trust in the internet or fragmented digital markets are serious enough concerns, but taken together they result in a recipe for under-achievement in the digital age. Achieving a virtuous cycle for the European economy is therefore a priority for the Commission.

In my new Justice portfolio, this means building trust for consumers and providing legal certainty for internet users. The Consumer Rights Directive and Data Protection are two crucial instruments to solve the problems of the digital economy.

The Consumer Rights Directive

Let me start with the Consumer Rights Directive. This legislative initiative lies at the heart of consumer policy in Europe. We need to maintain a constructive momentum towards the adoption of legislative proposals. A swift decision on the Consumer Rights Directive can only bring more confidence for consumers and traders in cross-border purchases. That is why I fully support the Belgian Presidency's goal of reaching a political agreement at the 10 December Competitiveness Council. That should clear the way to adoption in the course of 2011.

I am a realist; I know that flexibility is needed if we want to reach that goal. We will probably not be able to achieve full harmonisation across the board as was originally proposed. That is why I already signalled that we should focus on those areas that have the most important Internal Market impact. I am referring in particular to Chapter III on distance and off-premises contracts.

This chapter is essential for boosting e-commerce. Most governments accept that progress must be made to develop the Digital Single Market. We must fully harmonise these specific rules to allow distance traders and direct sellers to move beyond their national borders. For example, EU rules on the proposed 14-day cooling off period and standard withdrawal forms will give distance traders and direct sellers the legal certainty they need for simplified cross-border trade, while at the same time giving consumers certainty that the cooling off period is the same from wherever they purchase a product in Europe.

Further work in Parliament and Council will show on which points we can move toward full harmonisation or where we should stick to the current level of consumer protection. You can count on me that my work with the two law-making institutions will be strongly inspired by the need to achieve a more integrated single market for businesses and consumers.

Contract law

As Justice Commissioner in charge of civil and commercial law, I also know that beyond the Consumer Rights Directive, there remains a fundamental discussion about the divergences between national contract laws. That is why just before the summer, the Commission proposed several policy options for a possible European contract law. This important public consultation runs until the end of January 2011.

The first priority is cutting red tape. This goes for businesses and consumers.

For businesses: It's clear why they are reluctant to trade across borders. There are differences between national contract laws that entail additional transaction costs, fees and further legal uncertainty.

We especially need to help small companies, the so-called SMEs: They are battening down the hatches against an economic crisis. They are also the lifeblood of the EU economy, making up 99% of all companies in the EU.

SMEs should be able to offer their products and services to consumers in other countries without having to become experts in the national contract law of 27 EU countries.

Turning to consumers: They often cannot buy products from other Member States because businesses refuse to sell products in their country. Consumers in smaller Member States suffer from this problem the most as they are left with less choice and higher prices.

The contract law options paper includes different ways to respond to these concerns, including the design of trusted on-line mechanisms that traders could opt for when offering their products in different markets. In this sense, a new European Contract Law could become an important complement to the Consumer Rights Directive for businesses.

Data Protection

Another element to boost business and consumer confidence is strong data protection rules. We must make sure that consumers can surf and shop online without worrying about the safety of their personal information.

The confidence of consumers in new technologies can only grow if their rights are clearly enforced. As the means of collecting personal data are becoming increasingly sophisticated and less easily detectable, consumers should know by whom and why their data is collected and processed and what their rights are. **To strengthen individuals' rights and enhance the Internal Market dimension of data protection, I will present in October an outline for the revision of the current Data Protection Directive.** I want users and businesses to benefit from a consistent set of rules applied coherently in 27 countries.

Transparency must be strictly applied. Whether you are online or offline, you should get full, easily accessible and easy to understand information on how your data is being processed. Moreover, the collection of personal data should serve a legitimate purpose and not go beyond what is strictly necessary. I therefore intend to strengthen the concept of data minimisation.

Data should be collected and processed only under informed consent of a person to whom they relate. The current rules say that the individual's consent should be "a freely given specific and informed indication of his or her wishes". Unfortunately, this rule is interpreted in different ways. **Therefore, I want to clarify and strengthen the rules of consent.**

My objective is also to cut red tape. In order to lessen the administrative burden and to reduce costs for businesses, the current notification system must be simplified. I have heard many complaints on the cumbersome general obligation to notify all data processing.

At the same time, I want to enhance the responsibility of data controllers. They should put in place effective mechanisms to ensure compliance with data protection rules.

The internet is global and data from the EU should also be protected when transferred and processed outside the EU. To that end, I intend to improve, strengthen and streamline the current procedures for international data transfers.

In tackling data protection, particularly online, and preparing new rules, we are very much looking into the future: how can we build a strong, coherent Digital Single Market? What can we do to encourage new technologies in an environment in which consumers know their rights?

Let me give you an example. "Privacy by design" could be the solution. Data protection compliance should be embedded throughout the entire life cycle of technologies and procedures.

We also have to make the Digital Single Market a **cybercrime-safe environment**. For example, we need to tackle the danger of Botnets – networks of infected computers – which stage large-scale, coordinated attacks and can damage entire economies. The Commission is therefore proposing criminal sanctions against people responsible for these kinds of cyber attacks.

Conclusion

Ladies and Gentlemen:

The Commission recently presented a targeted long-term strategy for smart, sustainable and inclusive growth. The Europe 2020 strategy aims to remove obstacles in the Single Market and to increase the mobility of our citizens, services and investments.

We have a huge potential at our fingertips: our market of 500 million consumers. I want to help consumers and businesses get the most out of the Single Market.

One of my priorities as EU Justice Commissioner is to ensure that citizens feel at ease about living, travelling and working in another Member State. Our citizens should be confident that their rights are protected no matter where they are in the Union. A well-functioning European Area of Justice has an important role in reinforcing the Single Market. Boosting confidence in the judicial system is crucial: Consumers and businesses may limit their investments and transactions to national markets if they lack confidence. Small businesses often lose out because high transaction costs prevent them from expanding into new markets.

Consumers are in love with digital downloads, high-speed internet and mobile phones. But they face frustrations when trying to take advantage of our huge Single Market. That's why **we aim to break down barriers in the online world and enhance mutual trust**. We will all benefit when consumers can shop, travel and surf with ease.