

## The Case for 'more Single Market'

### Jacques Pelkmans

#### Introduction

With the Commission's consultation period on the Single Market Act (European Commission, 2010) nearing its end, it is high time for the EU to get its act together. Priority should immediately be restored to the issue of the Single Market, and EU powers to deepen and widen the internal market, where economically justifiable, ought to be utilized to the full. This CEPS Policy Brief explains why.

After a recap of the fundamentals of the Single Market in the Union, the case for renewed vigour in deepening and widening the Single Market is made, based on five arguments. However, following Mario Monti's (2010) insightful report, it is essential that the legitimacy questions surrounding 'more Single Market' be taken seriously at EU and at national level. A discussion of five sources of reticence or resistance is provided. In the conclusions, the political ownership of the Single Market imperative is regarded as critical, not only at EU, but also at national level.

#### A reminder of the fundamentals

'More Single Market' is not just one of those 'fancy' ideas in the EU loop; it has been at the core of the EU mission ever since the Rome Treaty. Making the fundamental values of the Union explicit in the treaty, and adding foreign policy and a zone of freedom, security and justice, are welcome moves, but they do not alter the fact that the hard competences of the EU are largely concentrated in the huge internal market and all that implies. The economic rationale behind the Single Market and its importance has remained largely unchanged since 1957. Of the four economic aims of the Rome Treaty, three were about economic growth and development.

And the central 'means' of that treaty consisted of negative and positive market integration.<sup>1</sup> *Mutatis mutandis* this is also the case for the Lisbon Treaty. The overall economic aim of the EU Treaty (Art. 3/1, EU) now consists of the "well-being of its peoples", combining economic objectives with social and other objectives in Art. 3/3.<sup>2</sup> The economic objectives amount to a modern adaptation of those listed in the Rome Treaty, such as the "sustainable development of Europe based on balanced growth" and related instrumental objectives such as a "highly competitive social market economy", "social progress" and "scientific and technological advances".

The internal market dominates what the EU does and has accomplished. Two telling examples illustrate this. When in 1995 the countries from Central Europe wanted to incorporate the internal market (regulatory) *acquis* under 'pre-accession', the White Paper (European Commission, 1995) summing up this *acquis* covered no less than 23 of the 30 negotiating chapters of accession! When former Competition Commissioner, Mario Monti (2010) advocated an integrated internal market strategy,

<sup>1</sup> See Pelkmans (2006, chapter 2) for a detailed analysis of the economic structure and logic of the Rome Treaty and its three successors. For the (Tinbergen) notions of negative and positive integration, see idem, chapter 1. Negative integration in the Rome Treaty boils down to the customs union, the four free movements and the right of establishment; positive integration consists of harmonization and/or common regulation and the common policies needed for the internal market to function properly (and overcome market failures for example).

<sup>2</sup> In Art. 3/4, EMU is mentioned but no (additional) objective is added.

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he pointed out that no less than 15 DGs of the Commission are involved; the Commission paper speaks of 13 DGs. The principal reason why so many are unaware of the overarching importance of the Single Market is that leading actors at the EU level often prefer to be associated with a specific policy or area of regulation. This preference leads them to conceal the internal market origin by using labels referring to areas of regulation or (common) policies, instead of the legal basis.

The Single Market is therefore the Union's core business. If the EU needs to restore or improve the socio-political legitimacy of the EU with the citizens, workers and consumers (as Monti has demonstrated), the internal market is bound to provide a large pool of options and opportunities, *with* the relevant legal powers in most cases. If the EU is hampered by existing barriers to market access and by omissions in the Single Market *acquis*, despite all the achievements, a new Single Market strategy should be designed as the centrepiece of any longer-term EU initiative. If the EU requires an exit strategy from the crisis, including a lessening of the burden of lowering sovereign debt, its principal means *at the EU level* of government is, once again, 'more Single Market', exactly as the treaty suggests.

## Why more Single Market?

The case for more and a better Single Market rests on five sets of arguments, as illustrated in Figure 1.

First, the *treaties and Court of Justice (CJEU) case law* make it abundantly clear that the internal market features as the 'super workhorse' of the EU. In Art. 3/3, first paragraph, the internal market is to serve four core socio-economic objectives of the Union, conditioned by four formidable policy constraints.<sup>3</sup> Essentially, it is still about economic growth (as in Rome) but with a host of conditionalities and add-ons. CJEU case law has always been important, too, for the deepening and sometimes the widening of the internal market. In particular, when moving beyond the relatively unproblematic goods and capital markets to those for services, labour and codified technology (e.g. IPRs), the CJEU has developed a tradition of 'balancing' rulings. These rulings tend to

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<sup>3</sup> Art. 3/3, first para. reads: "The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment." See Art. 26, TFEU for the definition of the internal market, unchanged from Art. 14, EC or indeed the Single European Act. Note that Art. 26/1, TFEU speaks about the establishment and "ensuring" the "functioning" of the internal market, a crucial reference to the positive integration required to make the Single Market 'work'.

weaken the often severe constraints on or distortions of free movements in these three types of markets in the EU. However, the Court cannot go too far and risk a 'gouvernement des juges', which would undermine legitimacy. Deepening or widening thus largely depends on the EU legislator. When the horizontal services draft directive was finally proposed (30 years too late), the EU legislator was compelled to overcome its long shirking of responsibilities with respect to the failure to establish an internal market for services. The EU patent might at long last follow other EU IPR legislation, mostly adopted one or two decades ago. In intra-EU movement of labour, the internal market logic is perhaps even more problematic. Art. 26/2 still defines the internal market without reference to "workers" or "labour" – only "persons" are mentioned – despite the subsequent Art. 45, TFEU which states firmly that "freedom of movement of workers shall be secured".

Given the longstanding tradition (not in the Treaty) of host-country control in intra-EU migration as well as in the posted workers Directive, there is a major risk that rigid national labour markets and/or high minimum wage countries cannot accommodate the 'free' movement of labour. The reason is simple: for workers from low-wage EU countries, little or no demand for them will emerge as there is no advantage (perhaps even additional costs) to the companies in the high-wage country.<sup>4</sup> Furthermore, there are numerous other obstacles to cross-border movements of workers that are undoubtedly more severe than in goods, for example.

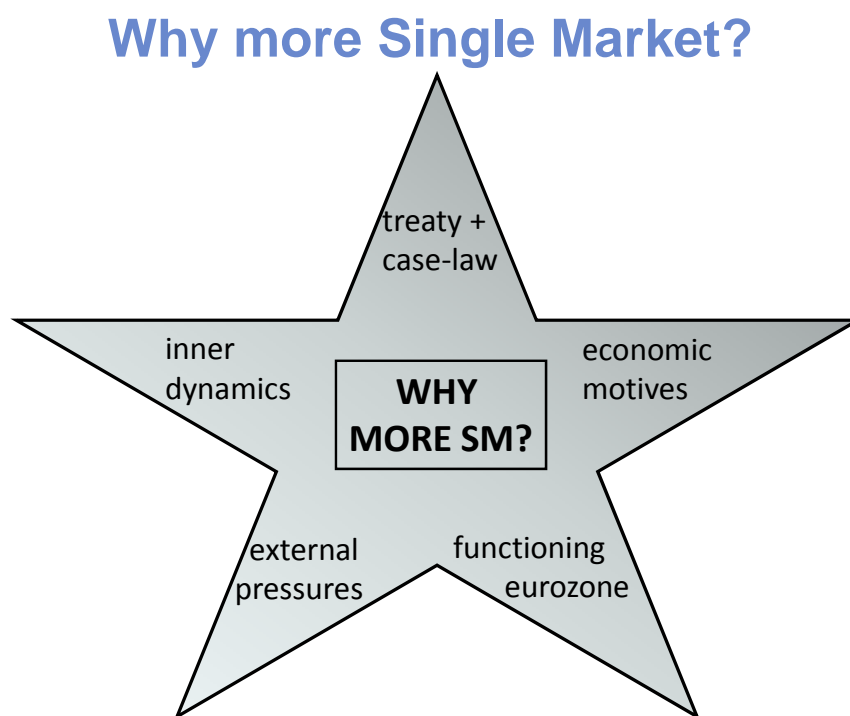
There is a broad agenda in this area and it was ignored for decades. Only since 2001<sup>5</sup> has a hesitant beginning been made to address these many obstacles. Finally, there is the even deeper and rightly sensitive issue of the regulation of national labour markets linked to domestic welfare states, besides national (and distinct) traditions of industrial relations.

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<sup>4</sup> The Court in *Celle, Niedersachsen*, in asking a preliminary ruling from the CJEU in what is now known as the *Rueffert* case, wondered about 'free' movement and observed that host-country control caused (here Polish) workers "... to lose the competitive advantage which they enjoy by reason of their lower wage costs. Consequently, the obligation... constitutes an impediment to market access." Equally with respect to "equality of treatment" and given "proportionality", the *Celle* Court notes that "in the case of foreign workers, the obligation to comply with the collective agreements does not enable them to achieve genuine equality of treatment with German workers, but rather prevents [here, posted] workers ... from being employed in Germany". The CJEU sided with the *Celle* Court. Case C-346/06, ruling 3 April 2008.

<sup>5</sup> The first Commission paper to openly acknowledge the many barriers to intra-EU labour movements and announce it would address them was a COM paper entitled "New European Labour Markets, open to all, with access for all", dated 1 March 2001.

Figure 1. Why more Single Market?



There are sound subsidiarity grounds to support such national competences. Nevertheless, this does not mean that their serious impact on the free movement of workers and (often) on the internal market for services (given the high labour content of services) should be totally exempt from reform. Indeed, without undermining national social competences and their socio-political legitimacy, there ought to be a *European* dimension in *national* labour and social policies. In the presence of such profound differences between the member states (which de facto act as distortions and hindrances of ‘free’ movement), it can only be the combination of complementary national and EU reform efforts that can generate significant welfare gains for the EU economy.

Second, the *economic motives* for more and a better Single Market remain as important as ever. Politicians, journalists and many readers want to hear a single number, capturing the outcome of economic analysis. The single number is about economic growth. A better ‘sell’ is of course ‘growth and jobs’, although job numbers are even harder to simulate than growth. Thus, the 1988 Cecchini Report on EC1992 simulated a 4.5% addition to EU GNP, the 1996 Monti review (*ex post*) reduced that to less than 2% (based on data of the years just after 1992, and a less than complete implementation at the time). A Bolkestein 2003 paper suggested some 2-plus %

increment to GNP over the ten years since 1992 and the (very) approximate numbers currently suggested in the emerging debate on the Single Market Act range from 4% to 7% or even more (if all would be accomplished).<sup>6</sup> These numbers cannot do full justice

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<sup>6</sup> For the Cecchini Report, see Emerson et al. (1988); for the Monti Review, see *European Economy*, Reports and Studies, 1996, No. 4, December; for the Bolkestein paper, see European Commission, DG Markt, 2003; for the current debate, no overall study seems to be available, but *Copenhagen Economics* (2010) gives an estimated 4% of extra GDP for the Digital Single Market alone. All these studies have limitations and none captures everything proposed and/or imputes assumed (rounded) primary effects for domains not captured by the models. Thus, even if they may be optimistic on one element (e.g. Cecchini on public procurement), there always remains a significant number of effects inevitably not captured by the modelling. One example can clarify this. What long-run economic impact will the adoption of a single EU patent have for the EU economy? Even when the static effects of cost reduction (etc.) are approximated, the much more interesting dynamic impact on innovation efforts and their knock-on effects are exceedingly hard, if not too arbitrary to quantify. Yet, this does not render the EU patent less interesting or convincing. Quite the contrary! For a novel attempt to appreciate the Single Market gains over much longer periods, see Straathof et al. (2008); the authors

to the various internal market initiatives, because it is too much to expect that all (major) initiatives undertaken in the Single Market can be modelled. Example: although everybody realizes that the liberalisation of EU network industries has engendered profound changes in these markets, in some even having caused a transformation of business models and dramatic efficiency improvements over (say) 20 years, it is anybody's guess to say how large the overall economic impact has been. Thus, technological and structural change makes it impossible to speak of 'the' gains from the telecoms internal market liberalisation since 1990, because the telecoms hardware and services of 1990 are simply incomparable with the infrastructure, equipment and services in 2011. Another example: in the new member states, the Single Market gains are both cause and consequence of deep structural change, especially intersectorally within industry plus the re-emergence of services, which renders the attribution of gains to the internal market as such next to impossible. Yet, these gains are real and large! The traditional CGE of other modelling is thus bound to drastically underestimate these Single Market gains.

In any event, it is unhelpful to narrow the economic motivation for the Single Market down to single proxy numbers at the macro-economic level. The proper functioning of the internal market requires a close inspection of the functioning of specific markets or segments<sup>7</sup> in both goods and services. In this respect, the most important drive is found in the services markets, too long neglected at EU level and of paramount importance for any EU policy to acquire higher productivity growth in the longer run. It is only recently that serious analytical economic work on intra-EU services has begun. Pursuing this kind of economic analysis and building more effective, indeed intrusive liberalisation (where current protective regulation is not justified by market failures) on this basis is promising.<sup>8</sup> The horizontal

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calculate effects on goods and services trade as well as foreign direct investment stocks over 50 years.

<sup>7</sup> As the Market Monitoring exercise, arisen from the November 2007 Internal Market Review, has clearly shown; example: food distribution and retail. Also, some Inquiries by DG Competition (e.g. retail banking; electricity and gas markets) have demonstrated this and yielded a wealth of detailed information as a basis for more effective EU policy action.

<sup>8</sup> Again, two examples: the FP7 ServiceGap project (2010-13) aims to identify and further analyse the detailed channels of influence of (intra-EU) internationalization of services, both free movement and FDI, on long-run productivity growth. For details, see [www.servicegap.org](http://www.servicegap.org). In Kox et al. (2010), a very detailed empirical investigation is provided of the causes of the poor productivity

services Directive 2006/123 does not, on the face of it, generate an impressive addition to GNP. A recent study by Van der Linden & Piette (2009) into its effects on Belgium demonstrates in some detail that the services falling under the Directive are typically not the ones where major obstacles to free movement are suspected; the impact on freer FDI (right of establishment), now that a blacklist of bad practices of member states is in force, seems a little more promising. However, this modelling approach cannot take into account the extensive and intensive screening exercise of thousands of domestic laws at the national and regional level that took place between 2007-09, nor can it easily incorporate the 'mutual evaluation' exercise between the member states from 2010.<sup>9</sup> Interestingly, the Commission rightly capitalises on the surprisingly productive collaboration between the member states as well as among them and the Commission intends to pursue this route even further in the next few years. It is of course still true that the Directive is very badly drafted and has allowed far too many derogations. However, a successful drive at two levels of government might, at least to a significant degree, substitute for a revision of the Directive in 2012 when the 'rendez-vous' clause instructs a review and leaves open the option of revision. Should this drive turn out to be ineffective, the rendez-vous clause can still be seized as a crowbar to open these markets.

Third, a deeper and wider Single Market will *support the proper functioning of the eurozone*, the monetary union of 17 EU countries. The basic idea behind that is that the 'E' of EMU ought to serve the proper functioning of the 'M'. Given the recent turbulence in and around the eurozone, the contribution of 'more Single Market' to the better functioning of the eurozone might seem to be of lesser importance than a proper economic governance of EMU. In the very short run, it certainly is, but only because the weaknesses in the eurozone regime have prompted or amplified the sovereign debt crisis and the budgetary implications will reverberate for years to come. This is not how the eurozone is normally supposed to function. Better market functioning, especially in services and labour, is vital for a smooth operation of the eurozone. In Pelkmans et al., (2008), we

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performance of European business services. The authors find, inter alia, that competitive pressures are muted, enabling all kinds of subscale and otherwise inefficient services providers to survive. In turn, this seems to be caused by restrictive regulation, making exit from the market as well as labour re-allocation overly costly.

<sup>9</sup> See COM (2011) 20 of 27 January 2011 and SEC (2011) 102 of 27 January 2011 for detailed reporting on this amazing exercise and further action.

demonstrate that product (goods and services) markets reforms do help to lubricate adjustment processes in the euro area.<sup>10</sup> These reforms have a national and a eurozone-wide aspect, preferably working hand-in-glove. Of course, product market reforms have to be complemented by greater flexibility in national labour markets, helped in the margin by fewer distortions of and barriers to free movement of (migrating or temporary) workers. It should be emphasised that such market flexibilities need not be associated with ‘American’ labour market regimes at all, nor, for that matter, be suspected of being ‘asocial’ in some other sense. Combining a degree of worker security of having (easy access to) work with flexible markets has, so far, been achieved by EU countries which are amongst the most ‘social’ in the Union, such as Denmark and the Netherlands, and to a lesser extent by Austria. Such EU countries also have low unemployment (and high employment rates), including low youth unemployment. As has been noted by several authors, the improvement in the functioning of the eurozone allows the ECB to accommodate such reforms, which renders them less costly in the short run and hence more acceptable to voters.

Fourth, *external economic pressures on the Union* constitute yet another set of arguments to bolster the internal market. Although EU countries trade and invest far more in the Union than they have economic exchange with the rest of the world, many value chains that ‘end’ inside the Union are intercontinental in nature. The more far-reaching ones tend to chop up ‘tasks’ in that chain – often goods inputs but increasingly also certain service inputs – and spread the execution of these ‘tasks’ over the globe. Allocation of the work is determined by dynamic comparative advantages and proximity to intermediate product markets and to final markets. This happens inside companies as well as in networks or alliances. Capital markets are more and more globalized and even R&D in specific sectors (e.g. pharmaceuticals; electronics) has been transferred to other continents. The counterpart to these developments is the steady further sharpening of competition in more and more submarkets, in the world more generally as well as in Europe. All this raises the costs of neglecting the

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<sup>10</sup> Based on the Blanchard & Quah methodology of identifying demand and supply shocks, we use an econometric approach applied to 11 eurozone countries over data for 35 years. ‘Better adjustment’ or resilience to shocks is measured as the cumulative output growth loss over 8 years for the case of supply shocks and the cumulative inflation change over 8 years for both demand and supply shocks. This is refined to sectors in goods and services. It is striking that sectoral and country rigidities clearly matter; hence, so do the reforms.

Single Market and of the unwillingness to reform the process. It also causes European companies to miss out on dynamism and innovation that would provide greater opportunities in markets outside Europe. This is not just a big business cause. It is crucial for dynamic and innovative SMEs to test markets beyond their home turf. Occasionally, some might succeed directly in third markets, including the BRICs. But for most SMEs, even the participation in the Single Market seems to be a considerable challenge. Confirming earlier impressionistic surveys with new in-depth data crunching, Mayer & Ottoviano (2007) show that of the millions of companies in the EU, only a fraction of them belong to the ‘happy few’ participating in the Single Market, with yet another fraction of the happy few active in many more national EU markets beyond the neighbours. Typically, only the more highly performing firms survive and thrive in the Single Market. This is precisely the reason why Europe’s productivity growth would be well-served by facilitating greater participation by SMEs, via less red tape but above all by reducing or eliminating remaining, often subtle obstacles and distortions, especially in services markets (where SMEs are far more dominant than in goods). The point extends to (SMEs’) access to finance, not least venture capital, where tax and other problems still create unnecessary hurdles. Venture capital is most unlikely to be given if the Single Market would not be securely open to such innovative entrepreneurs.

Fifth, lubricating and *stimulating the ‘inner dynamics’ of European market integration* forms another, low-key but worthwhile reason to encourage ‘more Single Market’. The inner dynamics arise from the permanent revisions of the regulatory *acquis* of the internal market. The main source of this ‘inner dynamics’ is found in the exceptions and imperfections of first- (or, even second-) generation directives in the Single Market *acquis*. These shortcomings are routine in ‘Brussels’ due to political compromises, fears about adjustment for workers or companies or vested interests. Numerous directives now undergo reviews after so many years and this can often be an occasion to ‘deepen’ market integration by removing gaps or omissions. At times, new insights, new forms of competition or new technologies might add pressure to deal with the weaknesses in EU regulation. This kind of ‘creeping integration’ is usually sound and today’s EU regulatory impact assessment serves as a helpful filter to keep biased or distortive regulation to a minimum. Thus, all network industries have gone through at least three stages of liberalisation combined with EU regulation (broadcasting perhaps only two), financial services are currently in the fourth generation of directives, diploma (qualifications) recognition has also gone through several stages, the New Approach

has been upgraded and perfected after 23 years, chemical regulation has been profoundly revised and upgraded with REACH, much of EU environmental regulation has become (more) market- or incentive-based, directives on counterfeiting have been toughened, etc. At times, 'Better EU Regulation' can prompt the removal of EU directives that appear not to be justified (e.g. dozens of directives on the shape and size of fruit and vegetables) or can cause revisions with less red tape or lower SME requirements. In such instances, there is not 'more' Single Market but less regulatory burden (say, a 'better' Single Market). The obligation to do a review can be seen as an autonomous mechanism driving the process, but priority setting (for the Single Market) or the avowed desire to go for a 'better' Single Market via Better Regulation creates a much more favourable policy setting and a meaningful reference to overarching socio-economic objectives of the EU. Without such setting, revisions – especially of one isolated directive - risk being relegated solely to technocrats and sector specialists, since there is no political gain whatsoever, and MEPs or Council might be too easily captured by specific interests. For larger initiatives, these pitfalls can be avoided. The 2008 Goods package (now referred to as the New Legislative Framework) on the improvement of the New and Global Approach stands out as an excellent example of how useful 'creeping integration' can actually be, if consensus is forged and preparations carefully worked out with all stakeholders. In many other cases, it seems preferable to include them in Single Market strategies driven by the highest levels of political leadership.

## Reticence and resistance

Monti's 2010 Report on more Single Market is a landmark. His deep and broad strategic analysis of the socio-political legitimacy problems surrounding more market and in particular more Single Market is required reading for all EU policy-makers, whether in national capitals or in the Brussels circuit. Agreeing with the thrust and relevance of his approach and with most of the proposals [Pelkmans, 2010b], Monti might nevertheless be a little too pessimistic about the resolve of EU policy-makers, given the political hangover – at the time of writing and consulting – from the crisis and the echoes of tumultuous debates on the EU Constitution, the Services Directive, REACH and the free (East-West) movement of EU workers. The upheavals in the EU of five to six years ago no longer constitute a major argument about deep resistance: the draft constitution has become law as the Lisbon Treaty in a revised form; REACH has been mainstreamed and its agency works quite well and the

Services Directive as adopted is hardly controversial.<sup>11</sup> The aftermath of the crisis having turned into a sovereign debt crisis is problematic, if not a menace to hopes of swift recovery, but it does have a silver lining: in practically all EU countries, and even more so in the euro area, excessive privileges and rigidities are no longer as invulnerable as before and this can generate a double dividend of 'easier' national reforms and a greater preparedness to pursue an ambitious Single Market agenda.

Of course, all this does not mean that there is no reticence about or resistance to a Single Market Act. Figure 2 summarises five types of reticence or resistance and these are discussed below.

First, although the Treaty, amplified by case-law, gives a very important position to the internal market, there are still a few *gaps and omissions in the Treaty logic*. Vetoes have mostly disappeared, but not on the EU patent and not on some labour issues linked to the welfare state. On services the old treaty, text from 1957 has never been changed or updated, which sets limits on the CJEU case law in this respect. The Meroni doctrine prohibiting independent (regulatory) EU agencies (say, for network industries), hinges on a straightforward constitutional logic of delegation (the principle of conferral). However, its extreme rigidity and disregard for internal market fragmentation is glaringly inconsistent with the aims and instrumental objectives (such as the 'functioning' internal market) of that very treaty.<sup>12</sup>

Second, whatever the exact substance of the Internal Market Act, there is bound to be the classical political economy *resistance of vested interests* which, unfortunately, gets translated by some member states into their 'public interest', although often it is manifestly against their public interest. This conduct cannot be effectively countered by proper impact assessment because the Council and the European Parliament are political organs and can ignore or bypass the results from Commission's now careful and rigorous impact assessments.

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<sup>11</sup> Note that member states have been highly cooperative in the implementation, screening and mutual evaluation phases of the directive. More generally, it would seem that many of the initial fears about services liberalisation have withered away, if only because services and their economic significance have become better understood.

<sup>12</sup> See, for example Pelkmans & Renda (2011) for striking empirical evidence on the so-called EU internal market for eCommunications, which turns out to be deeply fragmented. Note, too, that not only is the lingering fragmentation in network industries insufficiently tackled, the complexity of today's EU agencies, which do have internal market related functions, is costly and dysfunctional.

Figure 2. Why NOT more Single Market?



The unique virtue of EC1992 was that the internal market imperative at the time was too overwhelming to be easily questioned. The walls of many protectionist or anti-competitive ‘Jerichos’ were tumbling down, to wit, insurance, selected national quotas against Japanese cars, scheduled air transport, the national inward-looking bastions of veterinary and phyto-sanitary protection, exchange controls and a range of smaller ones. It is illusionary to expect such a consensual drive to take place again. But sustained political ownership of an ambitious programme by the Commission and the European Council would at least be very helpful to minimize or overrule such resistance.

Third, *national autonomy in regulation and public services* is rightly sensitive and ought to be respected where justified. The EU should only centralise where a sound, functional subsidiarity test supports it, otherwise it simply should not. However, the relevant question is whether the EU level is really the problem in Single Market matters. The answer is: more often than not, the member states are really the problem. This resistance can take different forms. One is to draw ‘red lines’ (such as taxation for the UK ever since the constitution debates), a purely political act of refusal no matter how persuasive and beneficial (say) EU regulation of some aspects can be. Another is to invoke national regulatory discretion, even when

impact assessment has shown that (in the relevant aspects) this discretion causes unnecessary and costly fragmentation.<sup>13</sup> A third one is found in the unquestioned protection of national regulatory agencies in network markets despite the hindrances that this causes when attempting to arrive at a Single Market. In other words, although EU regulation is inevitably geared to establishing or improving the internal market (its legal basis), the EU interest does not assume priority in Council. A fourth one is more difficult to assess. Insofar as ‘services of general economic interest’ (SGEIs) have been identified by member states – they have this prerogative – it is crucial for a proper functioning of the Single Market and potential competitors therein, as well as for the national services providers, to be sure about the exact boundaries of national powers concerning SGEIs (or the non-economic variant of public services). Lingering uncertainty is probably not helped by a dedicated horizontal directive, as some claim, but this does not take away the anxiety. Borderline questions may also arise for domains such as public health, education, social housing and the media, for example. The Commission is advised to find more effective ways of solving these legitimate concerns.

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<sup>13</sup> The example of some 150 exceptions, adding up all the member states, in the application of common EU rules for banking supervision before the crisis began, comes to mind as a telling example.

Fourth, and following Monti's insightful analysis, reticence may result from a *lack of socio-political legitimacy of the Single Market* with voters, workers, citizens and SMEs. Legitimacy issues concerning the EU have become paramount. Basically, it is simple: legitimacy must be earned. Thus, these questions have to be taken very seriously by the EU level and even more by national politicians when speaking out or acting on EU matters. The EU's legitimacy with voters and others has suffered for a host of reasons and few of them are easy to deal with. Much of the reticence is a consequence of the confluence of many sensitive new issues in the decade after (say) 2000.<sup>14</sup>

There is also a lingering sentiment that the Single Market has brought (too) little for consumer rights, for labour unions in the four countries without minimum wage legislation (creating problems for posted workers as well as for keeping up long-standing national traditions of setting wages) and for citizens. The Commission initiative on citizens' rights<sup>15</sup> is therefore most welcome and one can only hope that its advocacy will be heard much louder than so far since late October, and directly towards EU citizens. The 'social dimension' of the internal market is, at times, still played up by certain forces. One wonders whether there is much substance to such complaints.<sup>16</sup> First of all, the Convention on the draft constitution, in Working Group 11 (on the social dimension), concluded that the status quo was 'just right'. Second, member states and national social partners mostly act nationally and for good reasons. What substantive shifts of social policies or regulation to the EU level should be undertaken? Third, the limited social *acquis* is not at all trivial. There is considerable minimum labour market regulation and the acceptance of host-country control in migration. In occupational health and safety as well as gender rights, the EU has strong powers and has used them. But welfare states are and ought to remain national and industrial relations no less so. In short, today's EU social dimension is broadly what we want!

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<sup>14</sup> The more important ones are: two Eastern enlargements with low-wage countries, the EU constitution debates, two referenda with a 'No' and the Lisbon Treaty delays, permanent market reform drives, tensions on budget discipline in the eurozone before the crisis, upheavals about the services directives and about REACH, the candidature of Turkey for EU membership and anxieties about globalization, seen by some as facilitated by the Single Market as its 'agent'.

<sup>15</sup> See COM (2010) 603 of 27 October 2010, EU Citizenship report 2010, dismantling the obstacles to EU citizens' rights.

<sup>16</sup> See Pelkmans (2010a and 2008).

But the irresponsible conduct of national politicians engaging in cheap 'EU bashing' (and that is not the same as criticism) without context and for very short-term political gains (publicity of a kind), is a disease that, over time, acts like erosion in nature. In particular in a huge and technical domain like the Single Market, many national politicians can get away with almost any assertion or cynical remark and little or no correction will ever take place. The reduced socio-political legitimacy has prompted academic analysts to argue that the old 'permissive consensus' of the first three decades of the EU has melted away. As a consequence, progress in the internal market, for example, is bound to be slow and difficult, time and again, and it may also fail. This point is influential in EU policy circles, too, but it is a weak argument at best; more likely, it is simply wrong. Those who recall the 'permissive consensus' of former days apparently forget, all too conveniently, that these were the days of vetoes and threats of vetoes, with a chilling effect on Commission activities and ambitions; endless negotiations about trivial and partial internal market directives; silly and costly compromises (including 'optional' harmonisation); taboos on services in general; no mutual recognition; little or no reference to European standards; a CJEU case against the Council of Transport ministers launched by the EP and a fairly narrow manifestation of EU competition policy (e.g. no mergers as leading national competition authorities refused to give in and political obstacles to more rigour in state aids supervision).

If the 'permissive consensus' worked as asserted, it was probably due to vetoes, loopholes, taboos and major gaps in the *acquis*, plus strong powers of the member states. The Single Market today needs to be legitimate in the eyes of voters but its ambition is much greater, the taboos far fewer, the vetoes reduced to a few and justifications of Commission proposals more convincing due to impact assessment.

Finally, a significant problem for 'more Single Market' is the overload of the EU agenda. There are quite a few *competing EU agenda priorities* such as climate strategy, the various 'flagships' of EU2020 and some new powers under the Lisbon Treaty. In the eurozone the exit strategy has, so far, been dominated by rescue funds, tough budgetary measures and the gradual move to better 'economic governance'. Only very recently has the issue of resuming economic growth in Europe begun to rise on the EU agenda. The Single Market squarely belongs to the growth strategy, even it though it stretches wider (e.g. citizens' issues). It is the task of the European Council to clarify in no uncertain terms that the Single Market cannot and should not be regarded as 'low politics' compared to the 'high politics' of economic governance. The 'high politics' of merely repairing



the fault lines of the eurozone regime amount to little more than a containment of costs and frantic political dealing to keep the club together in times of extreme stress. It is so conspicuous because of the direct consequences for national budgets and so sensitive since some moderate degree of (first unwanted) centralisation or deeper coordination cannot be avoided, whether in market regulation and supervision or in rescue funds and the profound repercussions of sustainable public finance over decades to come. However, long-run economic growth is generated by market players, helped by sound infrastructure investments. The European Council should urgently refocus and invest its potentially enormous political energies on the triptych of a) 'more Single Market', b) national labour and services markets reforms, and c) infrastructure in a European (and not national) perspective.

## Conclusion

The case for 'more Single Market' is strong and rests on many pillars. It should urgently be turned into action, and in a strategic way. The Union cannot afford for action in this vast area to be splintered over many sectors without clear, overarching socio-economic goals and credible common political ownership. We have seen far too little of this and the awareness of this or interest on the part of the Council and/or the European Council is also virtually non-existent (other than paying lip service).

The sovereign debt crisis or the governance of the eurozone does not justify further neglect of the pursuit of 'more Single Market'. Relegating the Single Market to a lower priority is not only short-sighted, it is a plain and serious policy failure.

What matters for pursuing 'more Single Market' successfully is that the issues of socio-political legitimacy are taken seriously at both the EU and the national levels. National governments and parliamentarians are vital to restoring legitimacy with voters and others. This CEPS Policy Brief shows that the climate for deepening and setting up new initiatives is improving, whilst the extreme anxieties of five or six years ago have largely abated.

It remains imperative, however, that the European Council shows leadership and political ownership of 'more Single Market' and that the national political leaders carry the message home as part and parcel of domestic political processes. The core argument for more Single Market – though not the only one – is the resumption of economic growth as a handmaiden of the EU's exit strategy from the sovereign debt crisis. It should also support global competitiveness of the Union's economy and help lubricate the proper functioning of the eurozone. The ideal strategy is a combination of more Single Market, more daring domestic reforms in labour and services and adequate

infrastructure investments with a European perspective. This will serve as the micro-economic foundation of an overall economic strategy for the Union today.<sup>17</sup>

Some resistance is to be expected as a routine manifestation of EU politics – in itself a sound form of acquiring or reconfirming legitimacy. Beyond that, political choices will have to be made, in particular by member states, and this ought to be facilitated by a far more explicit and authoritative priority setting by the European Council. Among these political choices, a somewhat greater acceptance of modest and targeted centralisation, where justified by subsidiarity testing, is required. If this can be accomplished to ensure the sustainability of national fiscal policies in the eurozone, it is hard to grasp why similar functional arguments would not be acceptable for overcoming the lingering fragmentation of the internal market, which is hindering the badly needed resumption of economic growth in the Union.

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<sup>17</sup> In the same spirit as the Open Letter to Van Rompuy, see Gros et al. (2010).

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