# A vision for access to the Internal Market
## Keep it simple, keep it flexible

*Brussels*, 28 July 2014

## Background

DIGITALEUROPE welcomes the Commission's ambition to strengthen the internal market through the continued assessment of Union Harmonisation legislation on industrial products. As markets continuously change the Internal Market legislative framework has to be updated and should become more adaptable to a market in continuous evolution.

During the last years EU product harmonisation legislation had to be brought into line with the New Legislative Framework (Decision 768/2008/EC). After a first NLF alignment exercise for the Toy and RoHS directives, the next objective was the so-called "Alignment Package" consisting of the eight directives that were discussed in detail by the EU decision-makers and finally published on 29 March 2014.

The recently adopted Radio Equipment Directive (RE-D) constitutes another key element of this alignment process taking the outcome and discussions on "Alignment Package" into consideration.

## Outcomes of the NLF alignment

During these revision and alignment processes the digital Industry noted a worrying tendency, namely the introduction of new administrative requirements without removal of existing red tape. An over-stringent interpretation of the NLF, leading in exceptional cases even to a "copy & paste" of problematic provisions was applied while admittedly softening one obligation that had been introduced through NLF (namely the case of the "single DoC").

As a follow-up activity the Commission in its latest communication "A vision for the internal market for industrial products" published on 22 January 2014 highlighted the "overriding need to minimise administrative burdens, especially for SMEs" and underlined the objective of simplification of rules.

However, Industry's recent experience resulting from proposed legislative changes announced as "cutting red tape" is that often burdens increased rather than decreased, partially due to the application of horizontal principles to all sectors, regardless of their proportionality for any given sector.

## Industry's Vision for the Internal Market

### Harmonisation of legislation

DIGITALEUROPE supports an appropriate level of harmonisation in Internal Market legislation which primary function is to regulate the safety and environmental compliance of products.

However, the quest for harmonisation (i.e. horizontal legislation) should always take the proportionality principle into account to avoid disproportionate burdens for certain sectors, or categories of products within a sector. For example, a problematic provision that was debated is additional language requirements in regards to test reports and related information for national authorities to be translated from English into any of the 24 official EU languages. Another example of a problematic additional requirement that actually constitutes potentially a trade obstacle is that for a "postal" address on the product that was introduced through the "Alignment Package".

Instead, product legislation should become more flexible, i.e. include special cases and exceptions instead of being forced into a "one size fits all" solution. Vice-versa, horizontal legislation has to be adaptable instead of carving provisions into stone. A regulation based on Decision 768/2008/EC should be flexible enough to meet emerging needs. Strong stakeholder involvement is paramount, as it should trigger necessary updates and revisions of any type of regulation.

## Market Surveillance

DIGITALEUROPE fully supports the strengthening of market surveillance to ensure that only compliant products are placed on the market, while safeguarding public interests as well as fair competition.

Enhanced cooperation between national market surveillance authorities and common work programmes should aim at maximising efficiency. A harmonised approach to sanctions would be a positive step and could help to drive a consistent and appropriate response to non-compliance. Also, more financial resources will have to be allocated to market surveillance to raise the overall performance of enforcement activities in the EU and to compensate for different national levels of market surveillance.

A fundamental principle to be followed by market surveillance authorities is laid down in article 8 of Regulation (EC) 764/2008 on "Information to the economic operator". It establishes the most basic rule for information requests namely to always "contact the manufacturer first". If this is not possible, contact should be made with the other economic operations further down the supply chain; unfortunately this golden rule is not always followed in practice.

## Take full advantage of smart digital tools

DIGITALEUROPE welcomes the use of smart digital tools for traceability and market surveillance purposes, such as e-labelling as an alternative, effective, innovative and potentially less burdensome way to demonstrate compliance. An e-labelling option, namely to display compliance information (such as the CE mark) on the built-in screen of a given device rather than printing it on the device itself, would be one step to bringing market surveillance into the 21st century. This should not replace the option that manufacturers and economic operators may still use the currently established ways to show compliance, as well as, to organize their tools independently with flexibility, yet in respect of requirements.

Again, stakeholders involvement at any stage is crucial when evaluating whether a proposal is fit for purpose or not, or when assessing the related costs as well as defining possible future traceability and data exchange technologies and methods.

**DIGITALEUROPE**
Rue de la Science, 14 B-1040 Brussels [Belgium]
T. +32 (0) 2 609 53 10 F. +32 (0) 2 431 04 89
www.digitaleurope.org | info@digitaleurope.org | @DIGITALEUROPE_
Transparency register member for the Commission: 64270747023-20

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## The global dimension

The digital industry is global. Unfortunately industry is witnessing in several countries the emergence of new non-tariff barriers (NTBs), establishing regulatory systems with burdensome, specific national procedures, measures and additional requirements.

In this context the Internal Market should be the "role model" for simple, open and transparent market access. The EU has the responsibility to promote simplification of regulatory systems globally with the view to remove as much as possible NTBs and trade obstacles in other regions.

To achieve the above the Commission needs to follow a clear strategy for "international convergence" which has to be based on smart regulation and simplification. Hence, "convergence" efforts should not result in additional burdens for product approvals in EU. Tools such as product registration or additional third party product testing schemes, which are used in other regions, need to be avoided by all means.

Therefore, the digital industry urges the Commission's to not deviate from its objective to minimise administrative burdens for access to the Internal Market and beyond – in order to achieve this, the Commission has to place the use of international standards for technical requirements at the centre of its international convergence efforts.

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For more information please contact:
Klaus-Dieter Axt, DIGITALEUROPE's Public Affairs Director
+32 2 609 53 22 or klaus-dieter.axt@digitaleurope.org

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**DIGITALEUROPE** ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include 58 corporate members and 36 national trade associations from across Europe. Our website provides further information on our recent news and activities: http://www.digitaleurope.org

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