All Party Parliamentary Group for European Reform

Inquiry into the EU single market in services

October 2013
About the All Party Parliamentary Group for European Reform

The APPG for European Reform was set up in November 2011 to explore each area where European Union legislation impacts on the United Kingdom and to assess whether this is better dealt with at the national, regional, local or European level. The APPG works with MEPs, interest groups and other experts to explore what a reformed Europe, including a new UK-EU relationship, could look like and what needs to be done to achieve it. It is co-chaired by Thomas Docherty MP and Andrea Leadsom MP.

During 2011 and 2012 the APPG held inquiries into Trade, Regional Development Policy, Agriculture, Fisheries, the EU Budget and Institutions, Social and Employment Law, Financial Services, Environment and Energy Policy, Policing and Criminal Justice, Immigration, and Defence.

Open Europe acts as the Group’s secretariat and has prepared this report.

Contact details:

Thomas Docherty MP, Member of Parliament for Dunfermline and West Fife
House of Commons, Westminster, SW1A 0AA
Telephone: + 44 (0) 1383 626 669
Email: thomas.docherty.mp@parliament

Andrea Leadsom MP, Member of Parliament for South Northamptonshire
House of Commons, Westminster, SW1A 0AA
Telephone +44 (0) 20 7219 7149
Email: andrea.leadsom.mp@parliament.uk

Open Europe
7 Tufton Street, London, SW1P 3QN
http://www.openeurope.org.uk

Stephen Booth, Research Director
Telephone: + 44 (0) 207 197 2333
Email: stephen@openeurope.org.uk
Contents

Executive summary ............................................................................................................................ 4
Structure of the inquiry ..................................................................................................................... 7
The EU’s single market in services: an overview ........................................................................... 8
Why services liberalisation? ............................................................................................................. 11
  The importance of services liberalisation to Europe and the UK .................................................. 11
  What is the economic potential of services in the EU’s single market? ....................................... 14
What are the current obstacles to growth and trade in services across the single market? .......... 16
  Barriers remain despite the Services Directive ........................................................................... 16
  Regulated professions .................................................................................................................... 17
  Retail and e-commerce .................................................................................................................. 18
  Financial and professional business services ............................................................................... 20
  Creative services ............................................................................................................................ 22
What can be done to develop the EU single market in services? .................................................... 24
  1) A coalition of the willing should adopt the ‘country of origin’ principle to boost cross-border services trade .................................................................................................................. 24
  2) Reduce the number of regulated professions ......................................................................... 25
  3) Establish new mechanisms to block unnecessary or discriminatory regulation ................... 25
  4) Put services liberalisation at the top of the European Commission’s agenda .......................... 26
  5) Use EU enforcement mechanisms to ensure implementation of the existing Services Directive ........................................................................................................................................... 26
  6) Develop the potential of e-commerce ....................................................................................... 26
  7) Apply ‘Better Regulation’ principles ......................................................................................... 26
Executive summary

The APPG’s inquiry has found that there is no ‘single market in services’ in any meaningful sense of the term. This is due in part to the sheer diversity of service sectors in the EU, and because these sectors are regulated by a complex mix of national and EU regulation. A large variety of sectors, which together represent around 45% of EU GDP, such as retail and wholesale trade, construction and crafts, and professional services, are covered by the EU’s Services Directive. Meanwhile, other important sectors such as financial services, telecommunications and energy are regulated under stand-alone pieces of EU regulation. The diversity of services markets in the EU means that the single market in services cannot be ‘completed’ by one harmonised set of rules. However, much more can be done to reduce barriers to trade in services across Europe.

While services are a large proportion of the EU economy, they remain a small proportion of EU trade. Services account for over 70% of Europe’s output but only account for around 22% of internal EU trade.

The challenges and opportunities facing different services sectors are often completely different and UK firms’ experience of trading within the EU single market can vary greatly. There is also a discrepancy between the anecdotal evidence from UK business about the ease of trading in European markets and the actual value of trade with the EU market. Many surveys find that UK businesses consider access to EU markets to be easier than to markets elsewhere, but only 37% of services exports were to the EU in 2012. This has fallen from 41% in 2002. While the economic situation in the eurozone is likely to have dampened demand, this makes the argument for liberalisation of services within the EU even stronger.

The EU’s 2006 Services Directive did ban member states from imposing certain restrictions on service providers from other member states and introduced new mechanisms to improve information for prospective exporters. However, there remains a great deal of legal ambiguity with regard to what barriers member states can keep in place. As a result of these remaining barriers to trade, there is huge untapped potential for services in the EU. Open Europe, the secretariat to the APPG for European Reform, estimates that the benefits of greater liberalisation of only those sectors covered by the Services Directive could boost EU GDP by up to between 1.8% and 2.3% of EU GDP.

Of those sectors not covered by the Services Directive, the EU market in wholesale financial services has developed with some success since the 1990s and 2000s. However, the regulatory response to the financial crash of 2008 and the continuing eurozone crisis has brought new challenges. Firstly, the sheer scale of new regulation and, secondly, the potential for new eurozone-centric initiatives to spill over to the wider single market.

In other areas, such as digital and online services, the process of creating a cross-border market has only tentatively begun. And in the retail sector, a mixture of failing to implement the existing Services Directive and barriers related to trade in goods, such as product labelling, combine to limit the potential of retail firms.

The APPG proposes a series of measures to ensure a more liberalised trading environment for services throughout the EU:

1) **Adopt the ‘country of origin’ principle to boost cross-border services trade**
Adopting a ‘country of origin principle’ would mean that a cross-border service provider, as opposed to a firm trying to establish a physical presence in another member state, would only need to comply with the regulations of their home state in order to market themselves elsewhere in the EU. This
would make EU cross-border trade in services far less burdensome and lessen the need for the European Commission to centrally monitor and police every member states’ regulations.

If EU-wide agreement to further open up services markets is not possible, the UK should gather allies to pursue so-called ‘enhanced cooperation’ to liberalise services. A coalition of the willing could agree to adopt the ‘country of origin’ principle, which would act to boost trade and competitiveness in the services sectors of the countries taking part. This was an idea first floated by Mark Rutte, the Dutch Prime Minister, in 2011.

2) Reduce the number of regulated professions
More than 25% of the 800 regulated professions in the EU are regulated in just one member state. Those professions regulated in only one member state should all be liberalised with a target to reduce the number of regulated professions to a maximum of 600.

3) Establish new mechanisms to block unnecessary or discriminatory regulation
In order for the EU to remain competitive and open to the globe, it is vital that new regulation does not cut off the single market, and the UK, from markets elsewhere. In financial services, for example, the UK’s trade surplus is largely dependent on trading with countries outside of the EU. It is therefore vital that EU rules do not result in new barriers to trade with these global markets or create overly burdensome rules that could harm the competitiveness of firms operating in the EU. The recent cap on bankers’ bonuses is one example.

To solve this problem, national parliaments should have stronger powers to block new EU regulation. Establishing a ‘red card’ would enable a group of national parliaments to block unnecessary or disproportionate EU proposals. An ‘emergency brake’ should be established that can be applied to EU proposals with a disproportionate impact on an individual member state’s economic interests or that discriminate against non-euro member states.

4) Put services liberalisation at the top of the European Commission’s agenda
Following the European Parliament elections in May 2014, the next European Commission will be appointed. The UK Government should prioritise securing the posts of either Internal Market Commissioner or Trade Commissioner and ensure services liberalisation is high on the new Commission’s agenda. Failing this, the UK should ensure that these posts are filled by like-minded member states.

Also, the European Council should set the new Commission targets to boost trade in services and reduce the number of regulated professions as part of a ‘competitiveness mandate’.

5) Use EU enforcement mechanisms to ensure implementation of the existing Services Directive
Authorities in some member states continue to impose economic needs tests requiring businesses to prove there is a demand for their services, despite this being prohibited by the EU’s Services Directive. The UK should insist that the European Commission use its enforcement powers to take other member states to the European Court of Justice when it believes that they are failing to implement the Services Directive. The UK could also choose to initiate legal proceedings itself.

6) Develop the potential of e-commerce
Only 11% of individuals currently use the internet to shop cross-border in the EU. Developing the single market in e-commerce is hugely complex and will always face limitations such as consumers’ confidence in buying from abroad. However, there are areas that could be addressed. For example, overly-proscriptive rules on when companies can offer sales promotions, which create great uncertainty for online companies marketing from abroad, should be banned.
7) Apply ‘Better Regulation’ principles
Improving EU impact assessments and limiting the stock of regulation by introducing a ‘one in, one out’ rule for EU legislation would help to ensure that no new trade barriers are erected and that businesses do not face more unnecessary rules. The UK should also ensure that EU regulation exempts small and micro-businesses whenever possible. Sunset clauses should be introduced in new regulation so that the impact of EU rules can be assessed over time. Those rules that can be shown to impose disproportionate costs in practice should be scrapped.
Structure of the inquiry

Over the course of its inquiry, the APPG explored the following issues:

- What are the current obstacles to growth and trade in services across the single market?
- What are the potential economic benefits of further liberalisation?
- What are the different regulatory regimes for different services sectors in the EU and the challenges they pose to firms?
- What is the desirable balance between open markets and incursions into domestic affairs?
- How does access to European markets differ from other international markets and how does EU legislation affect this?
- What practical and legal measures would help to further liberalise EU services markets?
- What political options are available to pursue further liberalisation and what political appetite is there?

The APPG held four evidence sessions to explore the functioning of the EU’s single market in services, inviting businesses, industry groups and policymakers across a range of sectors to contribute.

1) ‘Liberalising trade in services – how to make the EU globally competitive’, 15 May 2013

Speakers: Will Tyler, Chief Executive, Octink; Stephen Booth, Research Director, Open Europe; Margot James MP, PPS to Lord Green, the Minister for Trade and Investment.

2) ‘Financial and business services – how to maintain access to and open up EU markets for cross-border trade’, 12 June, 2013

Speakers: Mark Boleat, Chairman of City of London Policy and Resources Committee; John Barrass, Deputy Chief Executive, Association of Private Client Investment Managers and Stockbrokers (APCIMS)/Wealth Management Association (WMA); Davina Garrod, Partner at Bingham McCutchen LLP & elected Law Society Council Member for EU Matters; Martin Manuzi, Director of Europe, The Institute of Chartered Accountants in England and Wales (ICAEW); James Walmsley, Senior Manager, Government Policy & Affairs, Lloyd's of London.

3) ‘How to make the EU’s Single Market work for the UK’s creative, retail and other non-financial services sectors’, 3 July 2013

Speakers: Dennis Kredler, Director General, European Retail Round Table; Sietske de Groot, Senior EU and International Affairs Policy Adviser, Federation of Small Businesses; Kirsten Corrigan, Brand and Strategy Director, Method Creative.

4) ‘How to make the EU’s Single Market work for the UK’s creative services sector’, 16 July 2013

Speakers: Sarah Cox, Client Services Director, Mayridge; Stephen Watson, Chief Executive, CTN Communications.

This report, prepared by the APPG’s secretariat Open Europe, gives an overview of the EU’s single market in services and summarises the outcome of the Group’s inquiry, drawing on the evidence sessions, further written material submitted to the group and other material, including submissions to the first phase of the UK’s balance of competence review on the single market.
The EU’s single market in services: an overview

EU leaders and policymakers often talk of ‘completing’ the EU’s single market, but what does this mean in practice? What aspects are incomplete and what are the limits of market integration among a group of countries that speak different languages and retain different political and legal cultures?

Since its inception, the EU’s single market has made the most progress in liberalising goods trade, although evidence suggests that barriers remain and will vary across particular goods sectors. For example, intra-EU trade for manufactured goods is around 70% below intra-US trade as a percentage of GDP, despite the fact that the EU population is much more concentrated. Nevertheless, internal EU trade liberalisation is far more developed for goods than for services. This is a particular concern for the UK, which has tended to specialise in the latter.

While services are a large proportion of the EU economy, services remain a small proportion of EU trade. Services account for over 70% of Europe’s output but only account for around 23% and 22% respectively of the EU’s internal exports and imports.1

Developing and liberalising trade in services is far more complex than trade in goods, and is contingent on a number of factors, often requiring the movement of people across borders, ease of establishment in another state, and overcoming different regulatory regimes in home and host states.

In the EU, services are regulated by a complex mix of national and EU regulation. A large variety of services sectors are covered by the EU’s Services Directive (see table below), which together represent around 45% of EU GDP, such as retail and wholesale trade, construction and crafts, professional services, tourism, and the leisure sectors. The Services Directive largely set out the provisions of the EU treaties and codified case law of the European Court of Justice on free movement of services and the right of establishment. It also included measures designed to make administrative cooperation easier by obliging member states to establish “Points of Single Contact” that would give prospective cross-border service providers all the detailed information they needed to supply services in the EU country concerned.

However, some important sectors are excluded from the Services Directive, such as financial, telecommunications, transport services and healthcare, but most of these are covered by other EU internal market legislation.2 The single market in financial services, for example, was developed under the Single European Act (1986) and the Financial Services Action Plan launched in 2000.3

In addition, the EU’s Recognition of Professional Qualifications Directive was designed to facilitate the free movement of services by setting common rules for the recognition of professional qualifications, and therefore making it easier for professionals to establish or to provide services in another member state where a particular profession is regulated. The Posted Workers Directive established a legal framework for businesses to send workers from their home member state to another host member state in order to provide a service for a limited period of time.

---

3 See http://ec.europa.eu/internal_market/finances/actionplan/index_en.htm

8
### Services sectors included and not included under the scope of the Services Directive

<table>
<thead>
<tr>
<th>Included:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Regulated professions (such as legal fiscal advisers, architects, engineers, accountants, surveyors), but these professions are also subject to EU legislation on the recognition of professional qualifications.</td>
<td></td>
</tr>
<tr>
<td>• Craftsmen.</td>
<td></td>
</tr>
<tr>
<td>• Business-related services (such as office maintenance, management consultancy, events, recovery of debts, advertising, recruitment services).</td>
<td></td>
</tr>
<tr>
<td>• Wholesale and retail services.</td>
<td></td>
</tr>
<tr>
<td>• Tourism services (including travel agencies).</td>
<td></td>
</tr>
<tr>
<td>• Leisure services (such as sports centres and amusement parks).</td>
<td></td>
</tr>
<tr>
<td>• Construction services.</td>
<td></td>
</tr>
<tr>
<td>• Installation and equipment maintenance.</td>
<td></td>
</tr>
<tr>
<td>• Information services (such as news agencies, publishing, computer programming).</td>
<td></td>
</tr>
<tr>
<td>• Training and education not funded by the government (such as dedicated courses, business schools, commercial language training).</td>
<td></td>
</tr>
<tr>
<td>• Rental and leasing services (such as cars).</td>
<td></td>
</tr>
<tr>
<td>• Real estate services.</td>
<td></td>
</tr>
<tr>
<td>• Testing and certification services.</td>
<td></td>
</tr>
<tr>
<td>• Household services (such as cleaning, gardening, private childcare).</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Not included:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Financial services (such as banking, insurance, investment services and asset management) are regulated by a range of sector-specific EU Directives and Regulations.</td>
<td></td>
</tr>
<tr>
<td>• Electronic communications and networks, which are governed by the EU Telecoms Package.</td>
<td></td>
</tr>
<tr>
<td>• Transport (road, buses, river, maritime, air and rail) are regulated by sector-specific EU regulation.</td>
<td></td>
</tr>
<tr>
<td>• Services of temporary work agencies, which are governed by EU legislation on temporary agency work.</td>
<td></td>
</tr>
<tr>
<td>• Healthcare - there is EU legislation on patients’ rights in cross-border healthcare and medical professionals are regulated by EU legislation on the recognition of professional qualifications.</td>
<td></td>
</tr>
<tr>
<td>• Public services (such as subsidised education, some public health services and social services).</td>
<td></td>
</tr>
<tr>
<td>• Audi-visual services (such as broadcasting).</td>
<td></td>
</tr>
<tr>
<td>• Gambling.</td>
<td></td>
</tr>
<tr>
<td>• Private security services.</td>
<td></td>
</tr>
<tr>
<td>• Notary or bailiff services.</td>
<td></td>
</tr>
<tr>
<td>• Taxation.</td>
<td></td>
</tr>
</tbody>
</table>

This complex regulatory framework results in different challenges and opportunities for different types of businesses seeking to export or establish themselves elsewhere in the EU. In the modern 21st Century economy it is also increasingly difficult to neatly separate goods and services, as many businesses are involved in both sectors, and services such as transport or logistics are directly linked to goods trade. For example, the APPG heard from Dennis Kredler, the Director General of the European Retail Roundtable, that, while “retail, as an activity, is clearly a service” the retail business “is very much linked to goods. And many obstacles remain to moving goods across borders.”

This illustrates that some of the practical barriers to trade in what would generally be considered a service – in this case retail – are in fact the result of barriers to trade in goods.

---


5 Evidence to the APPG’s session ‘How to make the EU’s Single Market work for the UK’s creative, retail and other non-financial services sectors’, 3 July 2013
Academic research by Federica Mustilli and Jacques Pelkmans has shown that intra-EU trade in services is dominated by services regulated under the Services Directive (63%). However, intra-EU foreign direct investment (FDI) in services is dominated by services such as financial services (61%) and network industries (10%).

---

6 Mustilli, F., and Pelkmans, J., ‘Securing EU growth from services’, CEPS, October 2012, p4-5
Why services liberalisation?

The importance of services liberalisation to Europe and the UK

Despite the promises of the Lisbon Strategy in 2000 to make Europe “the most competitive and dynamic knowledge-based economy in the world” by 2010, the EU has made limited progress in catching up with the GDP per capita of the United States. Although there has been substantial progress in catching up in terms of employment, the EU’s productivity fell relative to that of the US between 2000 and 2010.

![EU economic indicators as share of US (US = 100)](source: European Commission President Jose Manuel Barroso’s presentation to the European Council, 23 October 2011)

The table below illustrates that much of this productivity gap can be explained by the EU’s weakness in the market service industries compared to the US (the UK is an outlier within the EU as its labour productivity growth in services is similar to that of the US'). The EU’s labour productivity in goods production is slightly better and in information and communication technology (ICT) slightly worse than the US'.

<p>| Sector contributions to labour productivity growth (1995-2007) (Average annual growth rates in %) |
|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|---------------------------------|---------------------------------|</p>
<table>
<thead>
<tr>
<th>Total Market Economy</th>
<th>ICT Production</th>
<th>Goods Production</th>
<th>Market services</th>
<th>Reallocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU</td>
<td>1.6</td>
<td>0.4</td>
<td>0.7</td>
<td>0.6</td>
</tr>
<tr>
<td>US</td>
<td>2.6</td>
<td>0.8</td>
<td>0.3</td>
<td>1.8</td>
</tr>
<tr>
<td>UK</td>
<td>2.6</td>
<td>0.5</td>
<td>0.7</td>
<td>1.6</td>
</tr>
</tbody>
</table>


---

7 Europe’s Sources of Growth, Presentation by President of the European Commission Jose Manuel Barroso to the European Council of 23 October 2011


8 Similarly, in 2012, Mustilli and Pelkmans noted that, “Since 1995, EU productivity growth in services has fallen to a low annual average precisely when that of the US increased sharply.” See Mustilli, F. and Pelkmans, J., ‘Securing EU growth from services’, CEPS, October 2012, p9

9 ‘Reallocation’ refers to the labour productivity effects of labour switching between sectors. This varies across the time period and from country to country therefore an adjustment is needed for the EU aggregate. The figures in the table may not add up exactly due to rounding.
Nevertheless, since 2000, services have contributed more to EU gross value added (GVA) than the manufacturing sectors and this trend looks set to continue in the coming years. Therefore, the EU’s competitiveness and productivity in these sectors is increasingly vital.

![Sectoral EU Gross Value Added Index (2000-2014)](image)

*Source: Eurostat and Open Europe calculations*

The EU’s single market remains an important destination for UK exporters, despite the eurozone crisis. Sietske de Groot, Senior EU and International Affairs Policy Advisor at the Federation of Small Businesses, told the Group that the single market is very important – “88 per cent of our exporters do so within the European Economic Area” and that EU countries are often the first forays into exporting.

A 2012 survey of members of the British Chambers of Commerce found that “the EU remains the most popular destination for UK exports and is also seen by many businesses as providing the greatest prospect for growth in the short term.” However, it found a size and sector divide. Whereas “large exporters that are part of an international group or supply chain and operating in the manufacturing and transport sectors are the most likely to perceive the BRICs as the best platform for growth”, “Micro and small businesses are much less likely to have penetrated these fast-growing markets, or see them as a route to future growth.”

According to a survey of UK exporters by UKTI, there are no significant differences between production and service sector firms, either in the proportion experiencing any significant barriers to trade or by the types of barriers encountered when exporting. However, service sector firms said they were significantly more likely to encounter barriers in High Growth markets outside the European Economic Area (EEA).

---

10 The figures for 2012 – 2014 are forecasts. To produce the forecast we use the Eurostat’s forecasts for overall GVA and scale them to the services and manufacturing sectors assuming a share of GVA growth based on the average over the past decade. The share could of course change but we do not expect the gap between the two to close substantially over the next few years.

11 Evidence to the APPG’s session ‘How to make the EU’s Single Market work for the UK’s creative, retail and other non-financial services sectors’, 3 July 2013


13 High Growth Markets: Argentina, Brazil, China, India, Indonesia, Malaysia, Mexico, Qatar, Russia, Saudi Arabia, Singapore, South Africa, South Korea, Taiwan, Thailand, Turkey, United Arab Emirates, Vietnam
### Barriers experienced by UK exporters by market type and sector

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>High Growth</th>
<th>EEA</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base: All exporters</td>
<td>240</td>
<td>592</td>
<td>68</td>
<td>193</td>
</tr>
<tr>
<td><strong>Types of Barriers</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal &amp; regulatory</td>
<td>34%</td>
<td>38%</td>
<td>38%</td>
<td>52%</td>
</tr>
<tr>
<td>Customs</td>
<td>22%</td>
<td>25%</td>
<td>33%</td>
<td>35%</td>
</tr>
<tr>
<td>Contacts</td>
<td>20%</td>
<td>25%</td>
<td>22%</td>
<td>34%</td>
</tr>
<tr>
<td>Information</td>
<td>10%</td>
<td>10%</td>
<td>14%</td>
<td>13%</td>
</tr>
<tr>
<td>Resource</td>
<td>14%</td>
<td>16%</td>
<td>11%</td>
<td>21%</td>
</tr>
<tr>
<td>Language &amp; cultural</td>
<td>15%</td>
<td>16%</td>
<td>23%</td>
<td>23%</td>
</tr>
<tr>
<td>Bias</td>
<td>11%</td>
<td>12%</td>
<td>9%</td>
<td>13%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number of Barriers</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>At least one barrier</td>
<td>56%</td>
<td>57%</td>
<td>60%</td>
<td>73%</td>
<td>49%</td>
<td>42%</td>
<td>60%</td>
<td>59%</td>
</tr>
<tr>
<td>- One</td>
<td>18%</td>
<td>15%</td>
<td>19%</td>
<td>17%</td>
<td>16%</td>
<td>15%</td>
<td>21%</td>
<td>13%</td>
</tr>
<tr>
<td>- Two</td>
<td>14%</td>
<td>13%</td>
<td>13%</td>
<td>15%</td>
<td>14%</td>
<td>7%</td>
<td>13%</td>
<td>17%</td>
</tr>
<tr>
<td>- Three</td>
<td>9%</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td>8%</td>
<td>8%</td>
<td>11%</td>
<td>13%</td>
</tr>
<tr>
<td>- Four or more</td>
<td>15%</td>
<td>20%</td>
<td>19%</td>
<td>31%</td>
<td>11%</td>
<td>13%</td>
<td>15%</td>
<td>17%</td>
</tr>
<tr>
<td>No significant</td>
<td>44%</td>
<td>43%</td>
<td>40%</td>
<td>27%</td>
<td>51%</td>
<td>58%</td>
<td>41%</td>
<td>41%</td>
</tr>
</tbody>
</table>

*Source: UKTI*

However, while these and other surveys suggest that many businesses consider access to EU markets to be easier than to markets elsewhere, according to the Pink Book, in 2012, only £72bn of the UK’s total services exports of £193.4bn, was to EU countries compared with £121.4bn to non-EU countries. The EU was therefore the destination for 37% of UK exports in services. In 2002, the EU’s share of UK services exports was 41%. The economic situation in the eurozone is likely to have dampened demand but this makes the argument for liberalisation even stronger.

### Total UK services exports broken down by EU27 and non EU (£bn)

*Source: ONS Pink Book 2013*

---

The fact that this anecdotal evidence is not matched by the trade figures could be a result of the fact that the UK’s exports in services are dominated by the financial and business services sectors. The graph below also shows that, in some service industries, export markets differ widely. For example, insurance is a service that the UK successfully exports to non-EU countries that it struggles to export to the EU market, largely due to cultural preference and the prevalence of a different business model throughout the EU.

![UK services exports to EU27 and non-EU by type (£bn)](chart)

Source: ONS Pink Book 2013

What is the economic potential of services in the EU’s single market?

The European Commission estimates that the EU’s Services Directive has already led to benefits of €101bn (0.8% of EU GDP). But previous economic studies estimate that the benefits of further liberalisation under the Services Directive for the EU as a whole could be a boost to EU GDP of between 0.55% (£69.5bn) and 1.81% (£228.8bn) a year.
The graph below highlights the estimated impact of the Services Directive so far (blue bars). It also shows, according to European Commission estimates, how much more could be gained (red bars) if the Directive was implemented in all member states to the ‘best-practice’ level seen in the five most liberalised member states.

In its 2013 report, *Kick-starting growth: how to reignite the EU’s services sector*, Open Europe estimated that a more ambitious approach to liberalising the services already covered by the EU’s Services Directive (see below) could boost annual EU GDP by up to 2.3% or €294bn, in addition to the €101bn already gained under the Directive.\(^\text{15}\)

\(^{15}\)Open Europe, ‘Kick-starting growth: how to reignite the EU’s services sector’, April 2013
What are the current obstacles to growth and trade in services across the single market?

Barriers remain despite the Services Directive

As noted above, the Services Directive is a catch-all piece of legislation designed to liberalise services trade across a broad range of sectors. However, a 2011 ‘peer-review’ of the Services Directive, whereby member states challenged each other on the regulatory requirements they had retained despite the Directive, reported more than 34,000 requirements still in force.16 This figure gave an indication of the number of potential barriers to cross-border services that exist, and includes requirements that member states have either chosen to maintain or have subsequently been changed.

A follow-up report published in June 2012, which focused on the business services, construction, real estate, retail and tourism sectors, detailed the progress made but also some of the specific barriers that remain in place.17 These included discriminatory barriers based on nationality or residence; economic needs tests; and obligations to apply fixed, minimum or maximum tariffs for services.

The Directive was subject to fierce political negotiation and the European Commission’s proposal was heavily amended in the legislative process. As a result, the liberalising “country of origin principle”18 contained in the original proposal, tabled by the Commission in 2004, was removed. So rather than fully adopting the principle of mutual recognition, Article 16(3) of the Directive states that, notwithstanding the limitations of “non-discrimination”, “proportionality” and “necessity” laid out in the Directive, member states:

“Shall not be prevented from imposing requirements with regard to the provision of service activity, where they are justified for reasons of public policy, public security, public health or the protection of the environment...”19

As the 2012 European Commission report noted, “the Directive left some room to Member States when deciding which existing regulation was incompatible with the provisions of the Directive.”20 This ambiguity has to be continually policed and enforced by the European Commission and the ECJ.

Will Tyler, member of the Council for the London Chamber of Commerce and Chief Executive Officer of Octink, a display specialist offering event branding and marketing, told the APPG that London businesses believed that many EU member states do not implement and enforce EU regulations as effectively as the UK does, putting British businesses at a competitive disadvantage. “The Netherlands and the Nordic countries are in better shape, but in some other member states, generally the southern and eastern countries and also Germany and Belgium, national regulators

---

17 European Commission, ‘Detailed information on the implementation of Directive 2006/123/EC on services in the internal market’, SWD(2012) 148, 8 June 2012, Chapter III
18 The principle that a service provider would only need to comply with the regulations of their home state and that member states could not restrict services temporarily supplied by a provider established in another member state
19 Article 16(3) of the Directive
unduly use flexibility in the EU measures to obfuscate and delay,” he said.21 This is a complaint that is not unique to the services sector, the APPG has heard this complaint from business from a range of different sectors.

In its response to the UK’s Balance of Competences Review, the FSB noted that one if its members, which provides business services, had told them that, despite the Services Directive, “It is easier to apply for a Spanish licence than ask the authorities to clear with the UK administration that he has the necessary licenses to operate his business in Spain.”22

Evidence submitted to the Group by Malcolm Harbour MEP stressed that the Services Directive does not necessarily undermine the so-called ‘country of origin’ principle since the Directive codifies ECJ case law, “which specifies that ‘public policy, public health and public safety’ are the only grounds under which access to service markets may be denied”:

“The Services Directive foresees that unless there are overriding reasons related to public interest, a company should only be regulated and supervised in its country of origin (or country of establishment). If it then provides services in another Member State on a temporary basis, that Member State should, in principle, not oblige the company to adhere to all of its regulatory requirements.”

However, Mr Harbour’s evidence further noted that, “In practice, however, this is often not the case and businesses face double-regulation in the country of establishment and the country of temporary service provision.”23

Mustilli and Pelkmans have suggested that as a result of the Services Directive “many barriers have been either abolished or reduced, and black-listed protectionist practices have disappeared”. However, they note that, “There are nevertheless many barriers remaining, especially with impact on FDI.” They note of the services industries outside the scope of the Services Directive, such as the network industries, financial services, transport or professional services “none of these regulatory regimes has led to a genuine internal market, although transport (other than freight rail) has come close.”24

**Regulated professions**

Barriers to the free movement of services can also be imposed by regulation governing the access to certain professions or particular service activities. The EU’s Recognition of Professional Qualifications Directive was designed to facilitate the free movement of services by setting common rules for the recognition of professional qualifications, and therefore make it easier for professionals to establish or to provide services in another member state where a particular profession is regulated.

According to the European Commission, despite the EU’s Recognition of Professional Qualifications Directive, there are 800 different activities in the EU that are “considered to be regulated professions in one or more Member States and are reserved for providers with specific qualifications.” The justification for regulating many of these professions seems weak given that

---

21 Evidence to the APPG’s session ‘Liberalising trade in services – how to make the EU globally competitive’, 15 May 2013
22 FSB’s response to the Government review of the balance of competences between the United Kingdom and the European Union, Internal Market: synoptic review
23 Written evidence submitted to the APPG by Malcolm Harbour MEP CBE
“more than 25%” of the regulated professions in the EU are regulated in just one member state. Examples cited by the Commission are the services of photographers, barmen, corset makers or chambermaids.²⁵

Given that healthcare professionals, where adequate training can be a matter of life or death, currently benefit from EU mutual recognition of qualifications it is difficult to justify the large number of regulated professions, particularly those regulated in just one member state.

Retail and e-commerce

Dennis Kredler, Director General of the European Retail Roundtable, told the APPG that due to the nature of retail the challenges facing retail businesses were multiple, spanning barriers to both goods and services trade, which meant an EU single market in retail “does not yet exist...this hampers retail growth.”²⁶ He pointed out that freedom of establishment in another member state is not always non-discriminatory. “In some Member States, procedures associated with permit allocation are still designed to restrict competition,” he said. “Full implementation of the Services Directive should take care of this.”

In its response to the UK Government’s Balance of Competencies Review, Kingfisher PLC, a retail group with brands such as B&Q, Castorama, Brico Dépôt and Screwfix, argued that the EU Services Directive’s “ineffective and piecemeal implementation in one of our European markets, Spain, has had a material impact on the business”:

“For example, regional authorities continue to impose an ‘economic needs test’, which requires businesses to prove there is a demand for their services to the regional authorities. Not only does this severely impair the freedom of establishment but it also creates a business environment which benefits incumbents to the detriment of open and fair competition.”²²

Mr Kredler noted that retail providers also had to cope with trade barriers relating to goods. “Many obstacles remain to moving goods across borders. Product labelling requirements are a major headache, for example,” he said. “Product labelling rules require more mutual recognition – or harmonisation. There are EU labelling rules, but many Member States are ‘gold plating’ these with additional labelling requirements.” Meanwhile, research by Accenture noted that “retailers with one, common inventory for both stores and online operations must put the same label on all inventory—and in multiple languages”, regardless of whether the goods are sold domestically or shipped abroad. This can have a severe impact on potential profitability.²⁸

In addition, the British Retail Consortium has noted that “Some multi-national food producers will only sell to retailers in a given country via suppliers in that country, denying retailers the opportunity of buying the same goods at lower prices from elsewhere.”²⁹ Mr Kredler noted that, “Instead,

²⁶ Evidence to the APPG’s session ‘How to make the EU’s Single Market work for the UK’s creative, retail and other non-financial services sectors’, 3 July 2013
²⁷ Kingfisher PLC’s response to the Government review of the balance of competencies between the United Kingdom and the European Union, Internal Market: synoptic review
retailers are forced to source nationally, which means that they cannot benefit from economies of scale. This is a barrier to entry into a new market, because by definition a new market entrant will initially lack scale.”

Mr Kredler also noted that, despite the potential of the internet, “Many of the obstacles encountered with online expansion are the same as the ones encountered with bricks and mortar expansion”. For example, the inquiry heard that any sign that a company was marketing itself online in another member state, for instance by using different languages or even adding an international dialling code to a phone number, could mean having to comply with that member state’s domestic regulation in areas such as product labelling.

The European Commission notes that “Technical or legal reasons, such as refusal of non-domestic credit cards, cause as many as 60% of attempted cross-border internet shopping orders to fail.”

Meanwhile, Eurostat figures suggest that only 11% of individuals currently use the internet to shop cross-border in the EU.

**Table: % of people using the Internet for ordering goods or services from other EU countries (2012)**

<table>
<thead>
<tr>
<th>Country</th>
<th>% of people using the Internet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>50</td>
</tr>
<tr>
<td>Belgium</td>
<td>40</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>30</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>20</td>
</tr>
<tr>
<td>Denmark</td>
<td>10</td>
</tr>
<tr>
<td>Germany</td>
<td>90</td>
</tr>
<tr>
<td>Estonia</td>
<td>80</td>
</tr>
<tr>
<td>Finland</td>
<td>70</td>
</tr>
<tr>
<td>France</td>
<td>60</td>
</tr>
<tr>
<td>Croatia</td>
<td>50</td>
</tr>
<tr>
<td>Cyprus</td>
<td>40</td>
</tr>
<tr>
<td>Cyprus</td>
<td>30</td>
</tr>
<tr>
<td>Denmark</td>
<td>20</td>
</tr>
<tr>
<td>Estonia</td>
<td>10</td>
</tr>
<tr>
<td>Finland</td>
<td>90</td>
</tr>
<tr>
<td>France</td>
<td>80</td>
</tr>
<tr>
<td>Croatia</td>
<td>70</td>
</tr>
<tr>
<td>Cyprus</td>
<td>60</td>
</tr>
<tr>
<td>Denmark</td>
<td>50</td>
</tr>
<tr>
<td>Estonia</td>
<td>40</td>
</tr>
<tr>
<td>Finland</td>
<td>30</td>
</tr>
<tr>
<td>France</td>
<td>20</td>
</tr>
<tr>
<td>Croatia</td>
<td>10</td>
</tr>
<tr>
<td>Cyprus</td>
<td>90</td>
</tr>
<tr>
<td>Denmark</td>
<td>80</td>
</tr>
<tr>
<td>Estonia</td>
<td>70</td>
</tr>
<tr>
<td>Finland</td>
<td>60</td>
</tr>
<tr>
<td>France</td>
<td>50</td>
</tr>
<tr>
<td>Croatia</td>
<td>40</td>
</tr>
<tr>
<td>Cyprus</td>
<td>30</td>
</tr>
<tr>
<td>Denmark</td>
<td>20</td>
</tr>
<tr>
<td>Estonia</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: Eurostat

In 2011, the Swedish National Board of Trade cited twenty examples of barriers to e-commerce. For example, some member states impose an establishment requirement in order to be able to acquire a local domain name (e.g. “.co.uk” in the UK). This is often justified by the need to ensure that the holder of the domain name would follow national legislation and regulations. For example, in Germany individuals or institutions “must appoint an administrative contact who is resident in Germany and who has a postal address at which it is possible to serve documents (i.e. not a mere P.O. box).”

---

31 Kommerskollegium, “Survey of e-commerce barriers within the EU”, 2011
32 See DENIC website. DENIC is the central registry for all domains under the Top Level Domain .de; http://www.denic.de/en/faq-single/277/246.html?cHash=95f1b1743d3d62b8f1f46583e91cfce01
The rules on pricing and sales promotions in other member states are another potential barrier to e-commerce companies. For example, in France, the periods when a trader can hold a sale are restricted to designated “sales periods”, which vary depending on different regions, and there are financial penalties for non-compliance. Consequently, foreign companies that make their products available to French consumers via their websites must also comply with these rules and are obliged to report their plans to hold sales to the relevant French authorities. This creates great uncertainty and analysis of the local regulations generates extra costs for foreign and online companies.

Financial and professional business services

The APPG heard from representatives from a wide range of financial and professional business services. Mark Boleat, Chairman of the City of London Policy and Resources Committee, noted that the UK’s interests were in securing access to the EU market, but not single market harmonisation for the sake of it. He commended the Government’s recent diplomatic efforts in securing allies across the EU but noted that only 3% of European Commission staff were British and this limited UK influence over new regulation.

In evidence to the Government’s Balance of Competencies Review, the City of London Corporation notes that “Currently, 249 of the 325 banks located in London are foreign-owned. Firms invest in London because they know that they can benefit from access to 27 markets via the EU passport for financial services.”

In its response to the UK Government’s Balance of Competencies Review, Anthony Browne, Chief Executive of the British Bankers’ Association (BBA), noted that the wholesale financial services sector is “one of the most integrated parts of the Single Market” and that “London is the main beneficiary of this integration as is demonstrated by the strength of London’s performance across the variety of metrics used to assess the share of the global capital markets business.” However, the BBA also notes that, “The on-going reform of EMU and development of Banking Union may give rise to tensions between the ‘ins’ and the ‘outs’ which impinge on the Internal Market.” The City of London Corporation said, “The resolution of the Eurozone crisis constitutes by far the greatest current challenge to the Internal Market.”

On the EU’s impact on the UK’s role in global markets, the BBA notes that “The UK potentially benefits significantly from the EU negotiation of Free Trade Agreements,” adding that,

“Trade partners would likely put a much lower priority on negotiating with the UK alone, compared to negotiating with the EU, which represents the largest trading bloc in the world. In addition this status provides much more negotiating leverage for the UK within the EU.”

---

34 Evidence to the APPG’s session ‘Financial and business services – how to maintain access to and open up EU markets for cross-border trade’, 12 June 2013
35 City of London Corporation’s response to the Government review of the balance of competencies between the United Kingdom and the European Union, Internal Market: synoptic review, 28 February 2013, p8
36 Letter accompanying British Bankers’ Association response to the Government review of the balance of competencies between the United Kingdom and the European Union, 28 February 2013
37 British Bankers’ Association’s response to the Government review of the balance of competencies between the United Kingdom and the European Union, Internal Market: synoptic review, 28 February 2013
38 City of London Corporation’s response to the Government review of the balance of competencies between the United Kingdom and the European Union, Internal Market: synoptic review, 28 February 2013, p10
than UK might have on its own, particularly in the area of services, including financial services.”

The City of London Corporation notes that, “It is worth considering that the UK’s trade surplus in financial services is dependent largely on trading with countries outside of the EU: 25% of the surplus comes from the United States with 38% coming from the rest of the world.” It concludes that, “the need to maintain and indeed develop greater access to financial markets in third countries is essential to maintaining levels of market liquidity in the City of London, and therefore access to investment capital across the Internal Market.” However, “A number of the proposals for reforming and deepening the Internal Market potentially run counter to this aim” such as the “third country equivalence rules initially proposed under MiFID 2”.

Davina Garrod, Partner at Bingham McCutchen LLP & elected Law Society Council Member for EU Matters, told the APPG that the UK’s legal services market is the largest in the EU, responsible for a quarter of total turnover, adding that 14% of the largest law firms are headquartered in the UK, partly due to access to the single market. The Law Society notes that “More than three quarters of the 50 largest law firms in the UK have offices elsewhere in the Union, including 100% of the Top 20.”

The Lawyers Services Directive and the European Lawyers Establishment Directive enables lawyers and law firms from EU member states to provide legal services throughout the single market and establish a practice in any member state. However, many EU countries prohibit non-lawyers from partly or fully owning legal firms or from exercising decision-making power within law firms. Recently, a number of member states, including the UK (England and Wales and to some extent Scotland), Italy, Spain and Denmark have allowed non-lawyers’ involvement in law firms. In England and Wales, for example, it is possible, subject to certain conditions, for non-lawyer management, ownership and multidisciplinary practises (known as alternative business structures or ABSs). However, these kinds of practices remain illegal in the majority of member states and most bar associations are against introducing them. Ms Garrod said that she thought that engaging with the EU was the best way to win support for the UK’s approach to these issues.

Martin Manuzi, Director of Europe at the Institute of Chartered Accountants in England and Wales (ICAEW), noted that his organisation’s members had different views on the UK-EU relationship but that the UK exports accountants to Europe. He added that the UK often plays a dominant role in cross-border accountancy groups and could therefore benefit tremendously from greater liberalisation. However, he said that member states’ implementation of rules on the mobility of accountancy professionals was “very patchy”. He argued that one way of successfully selling greater liberalisation and competition elsewhere in the EU was for the UK to help develop the profession and professional expertise in other member states.

---

39 British Bankers’ Association’s response to the Government review of the balance of competencies between the United Kingdom and the European Union, Internal Market: synoptic review, 28 February 2013
40 City of London Corporation’s response to the Government review of the balance of competencies between the United Kingdom and the European Union, Internal Market: synoptic review, 28 February 2013, p11
James Walmsley, of Lloyd's of London, told the APPG that Lloyd’s is an international business with 80% of its premium income coming from outside the UK. He noted that the EU regulatory regime for insurers is “based on principles of exclusive Home State prudential supervision, mutual recognition of regulatory systems and passporting,” which is “a beneficial regime for the conduct of cross-border business.” He noted that it compares “very favourably” with the regulatory regimes applicable to Lloyd’s when it seeks to take on insurance business in countries outside the EU, and that the access that this regime presents to EU insurance markets is an important factor in attracting outside investment in the London insurance market. Lloyd’s is therefore not looking for new EU legislation to increase access to cross-border business.

He said that, instead, Lloyd’s has concerns about the recent volume and intensity of new EU legislation. He added, “We are also alive to efforts – not only at EU level – to apply regulatory requirements intended for the banking sector in the wake of the financial crisis to insurers.”

John Barrass, Deputy Chief Executive of the Association of Private Client Investment Managers and Stockbrokers (APCIMS) which has subsequently changed its name to the Wealth Management Association (WMA), stressed to the APPG the distinction between wholesale and retail finance markets. Speaking from the standpoint of UK retail financial services, he noted that retail investors “tend to stay within their cultural origins and language groupings when selecting professional help and advice” therefore “there is very little retail cross-border use of financial professionals.” He noted that due to tax laws there are products (such as ISAs in the UK) which are not transportable across borders between different EU countries.

He said that “there should be more allowance in rule making for wholesale and retail market operations, i.e. ‘one-size’ does not always fit both situations.” He argued that, “An overriding framework of permitted products, required information, standards of information distribution to retail investors, including information about risk and movements in product value, and ethical conduct between firm and client should be agreed at EU level that allows for differences in local market practice and investor behaviour.” He added, “Directives should be the predominant form of EU law in retail financial services; they reflect the fundamentally national character of retail financial markets in being implemented by national Parliaments and regulators at national level.”

**Creative services**

Stephen Watson, Chief Executive of CTN Communications, which provides visual communications, events and digital platforms, told the APPG that the “single market offers a substantial opportunity for UK based creative communication agencies,” adding that “the free movement of capital and labour within the EU makes it much easier to own and operate subsidiaries.” He said that “Compared to doing business in other growth markets such as Asia – or the Middle East, the EU has many advantages.”

However, he said that access to the single market could undoubtedly work better. “Too many UK creative companies are put off looking for business across the EU because the perception is that it’s too bureaucratic,” he said. “A single market should be a simple market. From this side of the channel – courting business In Europe, setting up businesses and engaging in joint ventures, still seems difficult.” He added that the creative industries benefit from London’s role as a financial centre. “Any threat to London’s primacy from potential EU regulation, could impact negatively.”

---

44 Evidence to the APPG’s session ‘How to make the EU’s Single Market work for the UK’s creative services sector’, 16 July 2013
Kirsten Corrigan, Brand and Strategy Director of Method Creative, said that her company exported to both Austria and Switzerland. She stressed the benefit of free movement of people had allowed her to easily recruit a multinational team from across the EU. She added that cultural links to the EU were also important.  

Sarah Cox, Client Services Director for Mayridge Group, an international events company, noted her company’s ability to widen its supply chain and buy more cheaply than before, particularly from Spain and Eastern Europe. She added that the reasons why Mayridge had succeeded in winning European business ranged from the UK’s reputation as a home of “sophisticated, high quality and safe production methods” to the value of the English language.

She said that one reason Mayridge would lose out on business was “tough competition from protectionist domestic markets in Europe,” where potential clients are encouraged “both culturally and through national government initiatives, to support their own local industry.” Ms Cox added that “one of the biggest challenges” is understanding and correctly applying VAT rules, as well as the impact that reduced VAT rates in various EU member states has on our ability to be competitive. She also cited high UK labour costs and the cost of taking UK materials and labour overseas as barriers to securing business in European markets.

45 Evidence to the APPG’s session ‘How to make the EU’s Single Market work for the UK’s creative, retail and other non-financial services sectors’, 3 July 2013
46 Evidence to the APPG’s session ‘How to make the EU’s Single Market work for the UK’s creative services sector’, 16 July 2013
What can be done to develop the EU single market in services?

The APPG’s inquiry has shown that there is no ‘single market in services’ in any meaningful sense of the term. The challenges and opportunities facing different services sectors are often completely different and the wide range of experience of the EU single market, both positive and negative, among the witnesses at the APPG’s evidence sessions highlights this.

For example, the EU market in wholesale financial services has developed with some success since the 1990s and 2000s. However, the regulatory response to the financial crash of 2008 and the continuing eurozone crisis has brought new challenges. Firstly, the sheer scale of new regulation and, secondly, the potential for new eurozone-centric initiatives to spill over to the wider single market.

In other areas, such as digital and online services, the process of creating a cross-border market has only tentatively begun. In the retail sector, a mixture of a failure to implement the existing Services Directive and barriers related to trade in goods, such as product labelling, combine to limit the potential of retail firms.

It is also clear that the distinction between goods and services is not a neat one and barriers in one sector can impede growth in the other. The case study of the retail sector explored in this inquiry highlights that physical barriers are still preventing services industries’ growth in the EU single market. Product labelling and restrictions on the sale of branded goods are areas that could be investigated further.

As a result, there is unlikely to be any single solution, but rather a series of measures that would ensure a more liberalised trading environment for services throughout the EU:

1) A coalition of the willing should adopt the ‘country of origin’ principle to boost cross-border services trade

Open Europe estimates that fully implementing the existing Services Directive and implementing the “country of origin” principle could boost cross-border trade and produce a permanent increase to EU-wide GDP of up to 2.3% or €294bn, in addition to the €101bn already gained under the Services Directive (0.8% of EU GDP).

Adopting the “country of origin principle” would go further than simply better implementing the existing Directive. It would mean that a cross-border service provider, as opposed to a firm trying to establish a physical presence in another member state, would only need to comply with the regulations of their home state. Member states would not be able to restrict services supplied by a provider established in another member state. Based on the principle of mutual recognition, this would make EU cross-border trade in services far less burdensome without requiring further regulation of firms that chose to supply services exclusively in their home country. It would also lessen the need for the European Commission to centrally monitor and police every member states’ regulatory regime for services because the various caveats that can be applied at the moment would be removed.

For various political reasons, the implementation of existing rules and an EU-wide agreement to further services liberalisation has proved difficult to achieve. However, under ‘enhanced cooperation’, a smaller group of EU countries could press ahead with greater integration in services. This was an idea first floated by Mark Rutte, the Dutch Prime Minister, in 2011. ‘Enhanced cooperation’ is a mechanism in the EU treaties that allows member states to pursue further
integration where wider agreement is not possible – it has been used three times before, including for the EU’s proposed Financial Transaction Tax.

In a “pro-growth” letter in February 2012, twelve member states – the UK, the Netherlands, Italy, Estonia, Latvia, Finland, Ireland, Czech Republic, Slovakia, Spain, Sweden and Poland – all committed themselves to “open up services markets” with “urgency, nationally and at the European level, to remove the restrictions that hinder access and competition”.

Open Europe estimates that if this group of countries were to further open up their services markets under enhanced cooperation, it would still produce a lasting boost to EU GDP of up to 1.17% or €147.8bn in addition to the economic gains already realised under the Directive. The APPG believes that if greater progress is not achieved in implementing the existing rules, the UK should seek to gather allies to pursue enhanced cooperation.

2) Reduce the number of regulated professions

According to the European Commission, there are 800 different activities in the EU that are “considered to be regulated professions in one or more Member States and are reserved for providers with specific qualifications.” The justification for regulating many of these professions seems weak given that “more than 25%” of the regulated professions in the EU are regulated in just one member state. Those professions regulated in only one member state should all be liberalised with a target to reduce the number of regulated professions to a maximum of 600.

3) Establish new mechanisms to block unnecessary or discriminatory regulation

In order for the EU’s to remain competitive and open to the globe, it is vital that new regulation does not cut off the single market, and the UK, from markets elsewhere. In financial services, for example, the UK’s trade surplus is dependent largely on trading with countries outside of the EU: 25% of the surplus comes from the United States with 38% coming from the rest of the world. It is therefore vital that EU single market rules do not result in new barriers to trade with these global markets or reduce EU firms’ global competitiveness.

National parliaments should have stronger powers to block new EU regulation. The Foreign Secretary William Hague MP⁴⁷ and former Shadow Europe Minister Emma Reynolds MP⁴⁸ have both suggested the need to strengthen the existing ‘yellow card’ system – whereby a third of national parliaments can ask the European Commission to review a regulatory proposal – with a ‘red card’. A red card should be introduced to enable a group of national parliaments to block an EU proposal.

An ‘emergency brake’ should be established that can be applied to EU proposals with a disproportionate impact on an individual member state’s economic interests or that discriminate against non-euro member states. In its report Continental Shift: safeguarding the UK’s financial trade in a changing Europe, Open Europe suggested such a mechanism could be used to refer a proposal to the European Council, where unanimity applies, should there be evidence that it would impose a disproportionate or discriminatory impact.⁴⁹

---


⁴⁸ Hansard, 16 July 2013 : Column 184WH; [http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130716/halltext/130716h0001.htm](http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130716/halltext/130716h0001.htm)

⁴⁹ Open Europe, ‘Continental shift: safeguarding the UK’s financial trade in a changing Europe’, 2011. The idea has also been suggested by the academics Damian Chalmers, Simon Hix and Sara Hobolt. See ‘Designing a new UK-EU relationship and how it could be achieved’, LSE blogs; [http://blogs.lse.ac.uk/europppblog/2013/06/12/new-eu-uk-relationship/](http://blogs.lse.ac.uk/europppblog/2013/06/12/new-eu-uk-relationship/)
4) **Put services liberalisation at the top of the European Commission’s agenda**

Following the European Parliament elections, a new European Commission must be agreed by the member states. This is an opportunity to tie the UK’s agreement to the new Commission to a new single market liberalisation push. The UK Government should prioritise securing the posts of either Internal Market Commissioner or Trade Commissioner. Failing this the UK should ensure that these posts are filled by like-minded member states.

In addition, the European Council should set the new Commission targets to boost trade in services and reduce the number of regulated professions as part of a ‘competitiveness mandate’.

5) **Use EU enforcement mechanisms to ensure implementation of the existing Services Directive**

As noted above, the Services Directive covers sectors accounting for around 45% of EU GDP. Over 60% of intra-EU trade in services is dominated by services regulated under the Services Directive. According to the European Commission, better implementation could produce benefits of between 0.55% (£69.5bn) and 1.81% (£228.8bn) a year. These benefits largely stem from domestic liberalisation but it would also make it easier for foreign services providers to break into new markets. However, due to the legal ambiguities in the Services Directive described above, better implementation is reliant on the political will of individual member states.

There needs to be proper enforcement of the Services Directive’s ban on certain restrictive practices. For example, authorities in some member states continue to impose economic needs tests requiring businesses to prove there is a demand for their services, despite this being prohibited. In evidence to the Group, Malcolm Harbour MEP suggested that the peer review of services barriers should be followed by “a naming and shaming process” to ensure better implementation, publicising benchmarking data on usage levels of the Points of Single Contact, and fast-track infringement procedures to be applied against member states whenever breaches of the directive are identified.\(^{50}\)

The UK should insist that the European Commission to use its enforcement powers to take other member states to the European Court of Justice when it believes that they are failing to implement the Services Directive. The UK could also choose to initiate legal proceedings itself.\(^{51}\)

6) **Develop the potential of e-commerce**

Only 11% of individuals currently use the internet to shop cross-border in the EU. Developing the single market in e-commerce is hugely complex and will always face limitations such as consumers’ confidence in buying from abroad. However, there are areas that could be addressed. For example, complex rules on designated “sales periods” should be banned as they create great uncertainty and for foreign and online companies.

7) **Apply ‘Better Regulation’ principles**

There are a number of principles that can be applied to ensure that no new trade barriers are erected and that businesses do not face more unnecessary rules. For example, the FSB stressed the need for new regulatory proposals to “undergo a micro and small business test as part of a rigorous

---

\(^{50}\) Written evidence submitted to the APPG on behalf of Malcolm Harbour MEP CBE

\(^{51}\) Using Article 259 TFEU an individual member state can take a complaint against another member state to the ECJ after bringing the matter up with the European Commission.
impact assessment process to ensure they are small business friendly. The Business Taskforce, asked by the UK Government to look at EU red tape, has proposed a number of recommendations to improve the quality of legislation, such as improving EU impact assessments, or limiting the stock of regulation by introducing a ‘one in, one out’ rule for EU legislation. Sunset clauses should be introduced in new regulation so that the impact of EU rules can be assessed over time. Those rules that can be shown to impose disproportionate costs in practice should be scrapped.

52 Evidence to the APPG’s session ‘How to make the EU’s Single Market work for the UK’s creative, retail and other non-financial services sectors’, 3 July 2013
Also see Open Europe, ‘Still out of control? Measuring eleven years of EU regulation’, June 2010, p29-34; http://www.openeurope.org.uk/Content/documents/Pdfs/stilloutofcontrol.pdf