Feedback on registering cases of fragmentation into the Single Market Obstacles Tool (SMOT)

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Introduction

A coalition of 25 business associations called in a Joint Statement in February 2024 for "Deepening the Single Market". They referred to a Compendium containing 100+ examples of obstacles in the Single Market, which ERT analysed in a Technical Study. ERT submitted all materials to the European Commission (in particular DG GROW and the Secretariat-General) for analysis and follow-up, encouraging the European public administration to address the fragmentation in the Single Market.

As it is unclear how the evidence of barriers would be tackled by the European Commission and when feedback may be received, ERT has over the course of April - June also been submitting many obstacles of the Compendium into the Commission's Single Market Obstacles Tool (SMOT) system - through a dedicated model launched in 2023 and accessed via the YourEurope / Single Digital Gateway (SDG) portal to specifically collect cases of cross-border obstacles submitted by businesses.

90+ cases in the Compendium had been gathered in a format that largely follows the SMOT template with the specific intention to facilitate registration, analysis and follow-up by the Commission. The Compendium contains more cases in other formats (e.g. position papers of business associations) that would in fact also need to be analysed, even though we do not know how to best register this information into SMOT.

I. Observations on registered obstacles in SMOT

The SMOT dashboard displays the aggregate data of all submissions: there are now 113 submissions in total. The Single Digital Gateway's homepage shows that 610 obstacles have been received so far. We understood from interactions with officials in DG GROW that external users of the system can only see a part of the obstacles (113 cases) whilst the administrators have access to all (610) submissions.

Although the aggregate data are not always very accurate (for reasons explained further below in our feedback), below are three noteworthy takeaways from the SMOT data:

1) *Countries:* **France is the most represented EU Member States in terms of reported obstacles.** 23/113 cases point to France as the main country in which the obstacle occurs. Belgium is also mentioned in 23/113 cases. However, the high frequency of Belgium is due to the fact that for some (often) anonymous cases in the Compendium, the obstacle was actually a problem in many Member States but one could indicate only one country in the system, so Belgium was opted for by default.
2) *Sectors***: the largest number of cases is reported by companies active in the wholesale and retail trade (18/113) and telecommunications sector (14/113 cases)**. Other areas that are recurrent: cross-border obstacles affecting financial services (11/113), energy supply (10/113), machinery and equipment (8/113).
3) *Type of obstacle***: the obstacles reported by companies and trade associations concern mostly legal and administrative barriers to entry, including obtaining authorisations and permits** (30/113 cases).

It is currently not possible to see in SMOT how all these cases are being analysed or addressed. It is therefore not clear for the organisations which have submitted cases how their information will be used; whether and when any analysis of their cases will be made; or whether they will receive any feedback and/or follow-up on their cases.

II. Feedback on the registration process

Figure 1 at the end of this document shows the fields that organisations must fill out when submitting cases into SMOT. The current template is rather limited and the system is not easy to use for companies or associations. The below issues should be tackled so that the registration can be made smoother and ultimately to provide the European Commission and EU Member States with a more accurate overview of the fragmentation in the Single Market:

1. **Organisations which want to register a case are required to create an account on [EU Login / CAS](#)**. Once created, organisations then have to submit their request to register with SMOT to [GROW-SINGLE-DIGITAL-GATEWAY@ec.europa.eu](#). This formal registration process is relatively long, and is not straightforward or efficient, especially for organisations which are not familiar with how European Commission processes work. It is not clear why an EU Login account and a separate registration request with SMOT are really needed to notify the Commission of a cross-border obstacle in the Single Market. The bureaucratic nature of this procedure hampers the intake of obstacles.

2. **The 1000-character limit for the "problem description" text box means there is limited space to comprehensively describe a specific barrier**. Companies and associations usually mention multiple cross-country examples and want to be able to provide more technical detail, which is vital for analysing an obstacle.

3. **It is impossible to add an organisation's contact details in the SMOT**. This is problematic as it would be important for the analysis of and follow-up to the obstacles that officials can ask more questions and enter into a dialogue with the specific company/ies experiencing the problem.

   o We understood from our interactions with officials in DG GROW dealing with the SMOT that the Commission is currently not aiming to follow-up with individual companies, as SMOT has not been conceived as a case-handling tool (like SOLVIT). The purpose of SMOT is rather to provide the overall picture of the different obstacles and identify wherein it is necessary to focus and tackle issues that go beyond just individual cases.

   o ERT argues that:
      - It would hugely benefit the analysis of barriers if there were an option to indicate companies' contact details in the SMOT template. At the same time, it should remain possible for companies or associations to submit anonymous case studies into the SMOT, without adding contact details.
      - SMOT could evolve into a case-handling tool or at least function as a "gateway" that passes cases on to other case-handing tools (e.g. SOLVIT, SMET, etc.) and that liaises actively with other services in the public administration, in the Commission and in EU Member States.[1]
      - SMOT should ensure that feedback is provided to organisations submitting cases, otherwise there is no incentive to continue gathering and registering evidence of fragmentation.

4. **It is impossible to indicate multiple countries in the "obstacles in" text box**. The ERT team's (imperfect) solution was to add one of the relevant countries in the "obstacles in" text box, and then describe other countries mentioned in the case study in the "problem description" text box. But this means that some of the aggregate data displayed in the dashboard is not entirely accurate as some of the "problematic' countries, where the obstacle occurs, are only described in the "problem description" text box and are thus not reflected in the aggregate data.

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[1] As outlined in the ERT's technical study on single market obstacles: "The Commission and SMET should put a clear system in place to follow-up on barriers and be accountable to those submitting case studies of fragmentation". [ERT technical study: Singel Market Obstacles](#), p. 45.

5. **It is impossible to add multiple entries for the same or similar combination of data in the "obstacle occurrence" text box**. One cannot add multiple SMOT entries for the same combination of data – for that purpose, if similar cases have been reported 3 times, the SMOT requests to input 3 in "obstacle occurrence". However, cases can be markedly different (in detail / emphasis). The ERT team's (imperfect) solution was to try and add slightly arbitrary differences between cases (e.g. changing "obstacle in" countries). This again means that some of the aggregate data displayed in the dashboard is not entirely accurate.
6. **It is impossible to add multiple sectors in the company "activity" text box**. But some multinational companies or associations can, of course, be active in multiple sectors. So, in some cases, only one sector is chosen, while others are left out, which means that the aggregate data displayed in the dashboard is not entirely accurate.
7. **It is unclear how the European Commission will treat the cases**, i.e. whether the Commission will analyse or follow-up in any way or whether the submitting organisation can expect any more general feedback. This reduces businesses' incentive to go through the effort of registering cases.

III. Recommendations

A. Less complex registration of obstacles in SMOT and SMOT follow-up processes:
1. The European Commission, especially the officials in DG GROW dealing with SMOT, should make the **registration into SMOT more user-friendly**, amongst others by addressing the feedback points listed above. A more user-friendly SMOT would encourage more organisations to submit obstacles and enable a dialogue with them.
2. SMOT should flexibly enable organisations to **submit (detailed) position papers** on obstacles (which are not limited to the strict 1000-character limit).
3. A **clear follow-up procedure** should be established. This could include a "**Single Market Desk**" that contains sufficient staff and manages the incoming cases that are received via SMOT (and through other means). It should be responsible for passing on the intelligence to the appropriate services in the European Commission and/or Member States to ensure adequate follow-up as well as for responding in due time to the organisation which registered the obstacle. This Desk should work closely with other Single Market tools (e.g. SOLVIT, SMET, EEN). More staff should be allocated to working on analysing and removing Single Market barriers.
4. SMOT should **provide feedback** after a specific time interval to the submitter of an obstacle in order to give reassurance that the information is being processed and the submitter can expect a more comprehensive follow-up.
5. When analysing problems, the European Commission should critically examine the **origins of an obstacle**, and explain how (European or national) legislation or technical rules can be at the origin of a barrier (e.g. in public reports).
6. SMOT should also **pro-actively reach out** to the business community to collect examples of obstacles, by liaising with various business associations and/or organising workshops to collect information on barriers.

B. Making the best use of the intelligence in SMOT to deepen the Single Market:
7. In terms of the SMOT's wider objectives, the Commission should clarify and/or improve how exactly the intelligence in SMOT will **feed policy-making processes** as well as policy documents, such as the Annual Single Market and Competitiveness Reports (ASMCR). The evidence of fragmentation should even be used as input for the Commission's Annual Work Programme with the intention to improve the business environment and to harmonise and simplify the regulatory framework in the EU. This would benefit internal policy-making in the Commission and in turn also help convince more organisations to register obstacles in SMOT because they will know that the evidence of fragmentation is really used to overcome problems. Importantly, the cases in SMOT should also be thoroughly analysed when the Commission is designing the "New Horizontal Single Market Strategy" until June 2025 (as requested by the European Council in its Conclusions in April 2024).

8. To make a real difference, the European Commission should keep a **spreadsheet of all barriers** reported by companies until companies receive a (satisfactory) response about the complaint they have brought. The spreadsheet should indicate the status per barrier, propose a deadline, e.g. 2030, for the resolution of barriers, and outline next steps that could lead to potential solutions. It should also name the entities that are responsible for causing and/or removing the obstacle. Such a systematic tackling of obstacles is essential, and **goes beyond the recommendation in Enrico Letta's Report on "Much more than a market" to create a European Code of Business Law as a 28th regulatory regime**. Such a new regime would be welcome but is likely to only facilitate the registration of a company in the EU <u>without</u> solving the existing fragmentation caused by diverging national rules on products, services, capital or people.

9. Persistent and complex barriers should be submitted to the **Competitiveness Working Party and the Competitiveness Council**, which should examine various options to solve complex barriers (including when political disagreements lie at the heart of a barrier), based on the possible options that the administration spells out.

10. As part of the **development of the "New Horizontal Single Market Strategy"**, the Commission should gather the intelligence on fragmentation from all sources (SMOT, SMET, SOLVIT, EEN, Communications and papers by business associations) to display a comprehensive list that illustrates the extent of the fragmentation in all sectors. It can be helpful to make a list of the top 20 problems in the Single Market – similar to the exercise that was undertaken by Commissioner Barnier when he was responsible for the Internal Market. However, the objective should be to propose an encompassing programme as a "**package deal**" to deepen the Single Market in all areas. Such a wider package deal should contain the more than 100 or even more than 1000 existing obstacles. Only such an approach will enable every Member State to overcome its own defensive (vested) interests regarding certain obstacles, in the overall strategic interest of enabling more scale in the Single Market for all companies. Such a package deal should contain a roadmap and milestones until the end of this decade for the removal of barriers. The implementation of this package deal will ensure that the European economy will finally grow faster and gain "on aggregate".

Figure 1 : SMOT template for submitting obstacles

ℹ️ **Add obstacles**
You can define the details for a specific obstacle and then add it to SDG. Once you click on save, a record is inserted.

Year * [‡]

COMPANY INFORMATION

Company size [‡]   Type of business * [‡]

Company age [‡]   Activity * [‡]

CASE DATA

Geographical   Topical

Origin country * [ ]   Case topic * [Employment ‡]

Obstacle in * [ ]   Case category * [‡]
                                                      This field is required

                                       Case sub-category * [‡]

DETAILS

Problem type * [‡]   Legal instrument [‡]

Problem description * [ ]   Suggested solution [ ]

Obstacle occurrence * [ ]

⚠️ **Obstacle occurrence**
Please note that "Obstacle occurrence" shows the count of similar feedback (for the same combination of selected values). You cannot add multiple entries for the same combination of data above.

If you received similar feedback 3 times, input 3 in "Obstacle occurrence". If you already introduced feedback for this issue, you need to increase the number for any new similar feedback.