

Brussels, 29 June 2018

Orgalime comments on the European Commission proposal for a Regulation setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the Internal Market (SMIT) - [COM\(2017\) 257](#)

Orgalime hereby provides its comments on the European Commission proposal on SMIT. We fully share the European Commission's aim of strengthening the Single Market. Our companies have a vital interest in a well-functioning Single Market. However, we believe the proposal for a new Regulation would not help the EU better achieve this objective. Our reservations are based on the following concerns:

- There are already many existing mechanisms for the European Commission to obtain relevant information in relation to the Internal Market: The Technical Regulation Information System (TRIS), the Single Digital Gateway, the Alternative Dispute Resolution Mechanism SOLVIT, the Enterprise Europe Network, the Online Dispute Resolution platform, etc¹. The better regulation principle requires that before proposing new EU rules, it must be demonstrated that the new rule in question would fill an existing gap. We believe that this gap has not been sufficiently demonstrated.
- Moreover, we strongly oppose the proposal to empower the European Commission to enquire about certain sensitive company data² and allow the Commission to use this data at its discretion. The protection of such data is key for the competitiveness of companies, constituting their know-how as protected under the Trade Secrets Directive³. Foreseeing such mechanism would entail an unnecessary and systemic risk to the confidentiality of the data.
- The Commission proposal foresees sanctions⁴ in cases where the undertaking or the association of undertakings submits incorrect, incomplete or late information. We believe introducing sanctions would be a mistake. The sanctions foreseen in the proposal are particularly problematic since they can be applied even if the undertaking is not suspected of having violated any specific piece of legislation. If SMIT were to be adopted by the EU institutions, which we hope will not happen, all the procedures should, in a spirit of good cooperation between policy-makers and businesses, remain voluntary.

We hope that the policy-makers will duly take into consideration the concerns expressed above.

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¹ TRIS foresees a procedure aiming at preventing the creation of barriers in the internal market even before they become effective. The Single Digital Gateway provides information, procedures, assistance and problem-solving services. SOLVIT is an online dispute resolution mechanism to solve erroneous application of EU law by Member States. The Enterprise Europe Network helps businesses, especially SMEs, to innovate and grow on an international scale. The Online Dispute resolution platforms is a tool to launch a complaint regarding good or services.

² Recital 11 of the proposal. Sensitive company data includes, for instance, the company business strategy through the pricing policy, factual market data, products or services characteristics or the geographical distribution of customers and suppliers.

³ Directive 2016/943 on the protection of undisclosed know-how and business information.

⁴ Article 9 of the proposal.

Orgalime, the European Technology Industries, speaks for 45 trade federations representing the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs nearly 11 million people in the EU and in 2017 accounted for some €2,000 billion of output. The industry represents over a quarter of the output of manufactured products and over a third of the manufactured exports of the European Union