

## **OBJECTIVES**

The Law on Market Unity is intended to tackle the fragmentation of the domestic market emerging from differences and overlapping of central, regional and local regulation. **The law was finally adopted in December 2013.**

Without prejudice of the distribution of competences among different Administrations, the Law aims at **rationalizing the regulatory framework** on economic activities, eliminating duplicities and simplifying. It also reinforces coordination among competent authorities and introduces a mechanism to rapidly solve operator's problems.

In particular, it tries to structurally establish new approximations and a culture of domestic market unity in the activity of the different administrations (national, regional and local) so as to simplify, avoid duplicities and prevent lack of coherence.

The reform **takes advantage of the experience acquired during the internal transposition of the Service Directive.** Going beyond the Service Directive, the Law will have a wider field of application (all the economic activities). Thus, this law applies to services that are specifically excluded of the scope of the Service Directive as long as they are performed for an economic consideration and not in a public service basis. For example the law will apply to transports, electronic communications services, financial services, healthcare and pharmaceutical services, audiovisual services, social services in the areas of housing, childcare and support to families and persons, private security services, temporary work agencies, or gambling activities. Besides, it will apply also to movement of products and goods.

## **MAIN ELEMENTS**

The law includes 4 main parts or elements:

### 1<sup>o</sup>) PRINCIPLES

The Law creates a frame of reference and introduces a range of principles to which all regulatory provisions governing economic activities must be accommodated.

According to the Law, all existing and future regulation on the economic activities must satisfy certain conditions and principles in order to guarantee the Unity Market. Specifically:

- **Non-discrimination.** Economic operators will not be discriminated by reasons related to the place of residence or establishment.
- **National unique validation principle.** This is the basic principle of the Law which means that goods and services lawfully produced in one region can be supplied without any additional formalities in all the national territory. In addition, economic operators in a region will not be made subject to any requirements different to those to which they are already subject in their region of origin (even if they are not subject to any regulation). Hence, all the authorizations, declarations of responsibility, certifications, qualifications, etc. will have a national validation.
- **Better/Smart regulation principles.** The Law entrenches the application of the better and smart regulation principles (based on the necessity and the proportionality of the public intervention) thus enabling the removal of barriers and obstacles that

unreasonably restrict access and exercise to economic activities. Other principles such as transparency, simplicity, or coherence of the public intervention are also reinforced.

- **Administrative Cooperation** in order to ensure effective supervision and uniform application of the principles.

## 2º) INTERVENTION FRAMEWORK

Following the Services Directive example the law encourages the introduction of new forms of control of economic activities that are both more effective and less burdensome for citizens and enterprises. Specifically, it intends **to replace prior authorization schemes and certain requirements applicable in many economic segments with other, less restrictive means of control that do not discourage activity**. Particularly, the Law prescribes that authorities cannot impose authorization schemes except when they are justified for reasons of public policy, public security, public health or the protection of the environment, and they are proportionate. This provision goes beyond the Law 17/2009 (Law that transposes the services directive). The main idea beyond this regulation is that, in all economic activities, only where a potential harm would be serious, irreparable and irreversible is it justified to preserve ex ante control of the activity. Otherwise, and only if there is a public interest to be protected, the prior authorization scheme must be relinquished and a scheme of ex post control (declaration of responsibility scheme) adopted in its stead.

The **general rule of absence of authorization schemes** is supplemented by a list that excludes the application of certain requirements (discriminatory and economic requirements and additional requirements that those of the establishment region).

## 3º) COOPERATION AND SUPERVISION SYSTEMS

The Law foresees the development of the ex-ante and ex-post cooperation systems among the different administrations with the use and the encouragement of existing mechanisms and the creation of a specific Unit Market Council as a multilateral body to monitor the implementation of the law. In particular:

- Authorities must **exchange information** on the drafts bills that could affect the domestic market unity and there will be a periodical evaluation of the regulatory framework to gauge the impact in the market unit.
- **Sectorial Conferences** will evaluate and analyze the regulatory framework of their respective sector to propose and encourage the necessary amendments.
- The Law introduces a **specific system of supervision** which clarifies the competent authority to impose the control and an administrative cooperation system among the competent authorities to exchange information to ensure effective supervision and adequate protection of consumers.
- As commented, the law creates a **new body of multilateral cooperation** (the Unit Market Council) for the purpose of monitoring and coordinating the efforts of the various public authorities towards the necessary amendments of the regulatory framework. All the Autonomous Communities will be represented on this Council.

## 4º) COMPLAINT RESOLUTION SYSTEM

The Law creates a **specific resolution mechanism** that the economic operators can use if they consider that an act of a public authority violates the market unity and other specific measures to guarantee the application of the Law.

The **new Spanish National Markets and Competition Commission (CNMC)** will have the right to challenge acts or regulations going against domestic market unity. This will add a market efficiency approach -from this independent Commission- to the resolution system.

In addition, the CNMC may request the suspension of the challenged act or regulation that is considered against the market unity. Once requested this suspension will be applied automatically. This provision is a guarantee of effectiveness and an additional protection of the domestic market unity.

Short periods of proceedings are also imposed in order to avoid unnecessary delays.

## **SCREENING EXERCISE**

The Program of Market Unity includes an **on-going screening of existing regulation** (screening exercise) to be carried out in parallel to drafting the Law on Market Unity

The first screening exercise consisted in the identification of laws and other kind of regulations on economic activities that need to be assessed under the principles of domestic market unity. There were around 30 economic sectors of activity that have been analyzed and more than 6500 regulations (of all levels of administration) identified.

All this information was organized and processed. A specific electronic application was created for the second phase of the screening process (the evaluation of the regulations identified in order to proceed with the necessary amendments for the adaptation to this law and the necessary analyses in the sectorial conferences).

First stage of the evaluation phase has finishing. A final report explaining this process and summarizing main results and future steps was submitted to the Council of Ministers of 8<sup>th</sup> November. Actions in more than 2.700 regulations are expected and more than 25 sectorial conferences will analyze regulatory frameworks.

According to the law, Administrations will have a **transitional period of six months** to adapt their regulations to the Law. However, due to the evaluation process already being carried out, amendments of national legislation could be implemented even before the adoption of the Law.

Apart from this revision, the law establishes procedures for periodical and systematic revisions and assessments of the regulatory frameworks under the drive of the specialized council for domestic market unity.

The Program on Market Unity is thought to be implemented during 2013 and 2014.

## **ECONOMIC IMPACT**

The Ministry of Economy and Competitiveness, through a general equilibrium model for the Spanish economy, has estimated the macroeconomic impact on growth and other fundamentals of this kind of regulation.

In particular, in order to assess the short- and long-term economic impact, the following steps have been followed:

- Firstly, in the calculation it has been assumed that the regions with higher administrative burden should converge toward the national average for a six-years-period (not considering any increase in expenditure of those Regions that are below the national average). Under those assumptions, a reduction of 35% in the administrative burden associated with company creation has been estimated.

- Secondly, the net effect of the process of convergence described above on the Total Factor Productivity (TFP) has been calculated. The increase of resources available to companies due to the reduction of the administrative burden is equivalent to an increase of 2.07% in productivity.
- Finally, on the basis of these results, a simulation has been carried out calculating the potential positive impact of the development and deepening of the internal market on the main macroeconomic variables. In order to make the impact assessment, REMS model has been used. REMS is a general equilibrium model, supported by microeconomic foundations, specially designed for modelling, simulating and evaluating the impact of economic shocks and economic policy actions in the context of an open market economy. Using this model it is possible to simulate the impact of external shock and disturbances on the performance of a wide set of macroeconomic variables. The results of the estimation were as follows:

According to this internal estimation, **this Law can add 1.52% to GDP growth in the long run** (over the next 10 years).

**Macroeconomic effects of Market Unit Program:**

	<b>GDP Growth (First year)</b>	<b>Long-term effect (*)</b>
<b>GDP</b>	<b>0.15</b>	<b>1.52</b>
<b>Private consumption</b>	<b>0.18</b>	<b>1.80</b>
<b>Private investment</b>	<b>0.05</b>	<b>0.51</b>
<b>Imports</b>	<b>0.01</b>	<b>0.08</b>
<b>Exports</b>	<b>0.08</b>	<b>0.82</b>

**(\*) Deviations from the stationary state**