

MBB Reflections on the upcoming Single Market Emergency Instrument (SMEI)

Background to SMEI

The Single Market Emergency Instrument (SMEI) was first announced in 2021 as part of a review of the EU's industrial strategy. This proposal is a reaction to the problems faced by the EU during the pandemic. Through SMEI, the EU hopes that it can identify the lessons learnt from the Covid-19 crisis and tackle the weaknesses, barriers, and fragmentation within the Single Market in better equipping it in facing and handling emergency situations. This will be especially ensured through the guarantee of the movement of goods and people at all times.

The Commission plans SMEI to be the instrument that can address the barriers faced during the crises that can significantly hinder free movement of persons, goods and services in the Single Market and disrupt supply chains. It aims to enhance the Single Market's resilience through appropriate and necessary crisis preparedness and crisis management and guarantee its smooth functioning in times of crisis.

The Commission is presenting the SMEI as two pillars, the crisis preparedness pillar and the crisis response pillar. It is generally agreed that the latter pillar on crisis-response should be the main framework of SMEI. The crisis preparedness pillar main aim would be to prevent disruptions and prepare for crises before they arise. Such preparations would include the monitoring of supply chains, risk assessments and preparedness, having storage and stockpiling systems and strengthening of the supply chains. The crisis response pillar would include a series of measures that would be put into action in the event of a crisis. Such measure would include the streamlining of procedures, enabling joint action in public procurement (although in this case given that these rules already contain emergency provisions there is no need for them to be modified through SMEI) and identifying and blocking measures that go against the Single Market among others.

What we learnt from the COVID-19 crises and what propelled SMEI

SMEI has the potential to be a useful instrument insofar as to facilitate administrative cooperation, strong coordination and exchange of information between the European Commission and Member States. It can help out the sectors that suffered the most as a result of the disruptions caused by the pandemic which include transport and logistics, the automotive sector, tourism and the food service industry.

Some of the emergency measures that were applied during this past crisis, and which were deemed a success include the "green lanes" allowing to an extent the intra-EU flow of goods

and services, the creation of the EU Digital COVID certificate which can be used as a blueprint in creating a system which can facilitate mobility cross-border in such crises.

At EU level, it would have been more helpful for all, were there more comprehensive and clearly structured information. Such standardisation of information through the EU could create a timely information route in times of a crisis.

Mobility was heavily impacted during the time of the last crisis. Discrepancies in the stances taken by the different member states (for example in the case of waiving of social security contributions and the validity of recovery certificates) can lead to less mobilities as many tend to get discouraged by such uncertainties and increased burden. Streamlining of measures through SMEI would help alleviate this issue of free movement of workers.

A useful platform that can be used as an example of good practices includes the website reopen.europa.eu which provided a good reference point to the forms that were required by each country to be completed ahead of cross border movement. Lessons learnt from the past pandemic is the need to have more streamlining of the requirements by the different member states (especially when they are trying to reach the same objective), as well as keeping such a platform updated.

Some shortcomings from the Covid-19 pandemic that need to be addressed include the lack of effectiveness of the Commission guidelines when it comes to quarantine. Having a more concrete plan about quarantine for critical workers would be useful in SMEI. Another shortcoming references the barriers faced in the authorisation of certain emergency state aid. The Commission's demand on the compensation schemes for the hardest hit companies needs to be revised to ensure that these companies can benefit from such aid in securing their survival.

The delay in the reaction time by Member states to relax their travel restrictions after the Council recommendation is also something that needs to be addresses in a SMEI framework. Moreover, the fact that the "green lanes" we not fully or uniformly implemented meant that supply chains disruptions were negatively impacted despite Council recommendations to facilitate these "green lanes".

Another prevalent question that needs to be addressed following the Covid-19 pandemic is how we are to classify which products are critical to be prioritised for transportation across borders and which are not. A final point is on the discrepancy between Member States application of the European Digital Covid-Certificate. Without harmonisation, this paperwork was not as useful.

Having taken into considerations some of the pitfalls that need to be taken when formulating SMEI, the following are some suggestions that if incorporated to SMEI, would be helpful for local businesses:

There should be access to timely information in coordinating crisis mitigation and this could be made possible through a Single Digital Gateway. A more streamlined system is recommended to be adopted in allowing for the free movement of seasonal workers, cross-border workers or workers exercising critical functions. As alluded to in the previous

paragraphs, streamlining of documents would allow for more seamless travel. Fast track procedures for critical products is needed to ensure a stable supply and little market disruption as possible. It could also be useful to include a more comprehensive and flexible emergency compensation schemes which can be utilised as quickly as possible. It is also being suggested that the “green lanes” concept is enshrined in SMEI in minimising the disruptions to the value chain. Generally, more coordination on non-binding instruments is deemed to be useful and clearly defined steps about how member states are to harmoniously exit from a crisis mode are needed in SMEI.

General Conclusions

The SMEI instrument is being supported in principle since it aims to safeguard the Single Market Freedoms in times of a crisis. Although it is always a challenge to predict what is to come, having a set of measures that are clearly defined and that can only be implemented under strict criteria, will ensure that the EU is able to weather the next crisis. It is also important to underline that such a toolbox of measures can only be implemented under a legal framework. Measures triggered under SMEI should need to be implemented under very strict and limited criteria which would ensure that such measures do not become permanent and are not prolonged beyond the scope of the crisis. Another point that has been repeatedly flagged within the consultation so far is that the term “crisis” needs to be clearly defined.

Another point which is being flagged is whether the measures being proposed under both pillars could potentially lead to added burden and responsibilities on private operators especially in the event of a crisis. Any burdensome measures include those that oblige businesses to disclose sensitive information or having to revamp their day-to-day operations or having any other disproportionate measure should be avoided.

It is fundamentally agreed that SMEI should facilitate and allow for administrative cooperation, strong coordination, and exchange of information between the European Commission and Member States.

Next Steps

The Commission is planning to launch its inter-service consultation on the SMEI proposal between 15 June – 30 June 2022 and according to the Commission’s tentative agenda, a legislative proposal is currently planned to be published at the end of July.

The full text of the Commission’s initiative can be found at the link below:

[Single market – new EU instrument to guarantee functioning of single market during emergencies \(europa.eu\)](#)

For questions or more detailed information please contact EU Affairs Manager Daniel Debono and Policy Executive Christine Said on infobrussels@mbb.org.mt.

The Malta Business Bureau is the EU advisory organisation for the Malta Chamber of Commerce, Enterprise and Industry, and the Malta Hotels and Restaurants Association. The MBB is also a partner of the Enterprise Europe Network.

