

Issues to be raised in the discussion with the Italian Authorities

1. Competition, liberalisation, simplification

Description of the adopted measures (economic and budgetary package of 22 December 2011)

The powers of the Competition Authority are strengthened, extending the range of administrative acts it can scrutinise and the scope of binding opinions it can issue. In particular, the Competition Authority may bring to court any act adopted by the public administration for violation of the principle of protection of competition. Sectoral regulatory competences in water and postal services were respectively attributed to the energy and communication regulators.

A number of measures have been adopted to liberalise services:

- Any administrative constraint to the freedom to establish, organise and run an economic activity needs to be motivated; the Competition Authority has to issue opinions on any draft bill or regulation at the national or sub-national level introducing new barriers to market entry and entrepreneurial initiative. This does not apply, however, to financial, communication and professional services.
- The freedom to open up retail shops is established as a general principle throughout the country, with limitations only possible for health, safety, and environmental reasons; opening times are also set free.
- As for professional services, the maximum duration of compulsory traineeships is halved to 18 months: this repeals a previous barrier to access.
- Public transport service markets (railways, motorways, port and airport) are to be opened further, and access to their infrastructures liberalised, via a regulatory decree to be adopted within six months. The regulation of market access, tariffs, quality standards, and other aspects are to be brought under a single independent authority.

The administrative burden on firms is reduced in specific sectors. Moreover, employing immigrant workers has been made easier and paper-based procedures for payments by public administrations are to be replaced by electronic procedures.

Some measures aim at supporting SME activity. Public procurement procedures are modified to foster participation of SMEs in public tenders. Two existing funds to support export credit and guarantee credit to SMEs are slightly expanded (by € 100 million each), while the ceiling of credit to be guaranteed increases from € 1.5 to 2.5 mn. The range of projects that can benefit from an existing fund to support innovation, managed by the State-owned Cassa Depositi e Prestiti, is extended.

ANNUAL COMPETITION LAW

1. As regards the general strategy on liberalisation, do you still intend to adopt an annual law on competition, or do you rather envisage adopting separate DL or other legislative means?

SERVICES DIRECTIVE AND PROFESSIONAL SERVICES

2. Is the government considering taking the recent recommendation by the Italian Competition Authority (AGCM) to more effectively implement the provisions of the Services Directive that ensure that authorisations to start an economic activity are only kept when justified and are

transparent, non-discriminatory and proportionate? Horizontal clauses are not always enough and often create legal uncertainty. Does the Government intend to adopt more concrete measures, like an unambiguous and timely identification of all the justified authorization schemes to be maintained, with implicit abrogation ('tagliola') of all the remaining unjustified ones thereafter?

3. Do you envisage to streamline all regional and local legislation regarding their compatibility with the Services Directive and its national transposition measures? What further measures are intended to implement the Services Directive in a more ambitious way at all government levels? Are further measures being considered to discourage future introduction of administrative and bureaucracy-related burdens, especially through secondary norms?
4. What further measures are envisaged to make Italian points of single contact created under the Services Directive fully operational?
5. What further measures are envisaged to reduce entry barriers into regulated professions? Do you envisage allowing young people to undergo their compulsory traineeships (limited to 18 months) during their studies in the university in order to facilitate their access to the professions, while making sure that this does not imply extra years for graduating?
6. What measures are envisaged to ensure the separation of administrative from disciplinary functions in professional orders? How do you envisage organising the control of the advertising of professions?
7. What additional measures are envisaged to implement the law which allows the establishment of limited liability companies of professional service providers?
8. What concrete measures are envisaged to limit the powers of the professional orders to the definition of minimum standards for training/specialisation courses? How do you envisage ensuring the consistency of the training offer with these standards?
9. In addition to the revision foreseen for notaries, do you envisage specific measures to improve the organisation of public competitions and to avoid any discrimination towards notaries qualified in other EU Member States?

LOCAL PUBLIC SERVICES

10. How does the government envisage the implementation of Article 4 of the DL 138/2011 (September economic and budgetary package) concerning local public services?
11. Do you envisage measures to increase the share of purchases of public bodies through Consip (the central public procurement body)? In the area of public procurement do you envisage any other new measures?
12. Are there new incentives planned for local public administrations to privatise companies providing local public services (e.g. transport, energy)?

13. What further measures are envisaged to incentivize efficiency for water service providers, while respecting the results of the June 2011 referendum? Which competences are currently attributed to the Italian Energy Regulatory Authority (AEEG) in the water sector?

14. What is the state of play concerning the benchmarking system introduced for local public service providers by the 2011 Stability Law? In particular, what information provision requirements are being planned on service providers, and how is the information planned to be verified?

OTHER SERVICES

15. What measures does the government envisage to increase competition in the following sectors: fuel distribution, insurance, pharmacies, taxis, and press distribution?

TELECOM AND POST

16. What measures are envisaged to push forward the transposition of the Better Regulation and the Citizens' Rights Directives?

17. According to the latest news, the recent comparative tendering procedure ("beauty contest") for the provision of digital terrestrial broadcasting may be blocked. What are the plans for the attribution of these and other frequencies?

18. What measures are envisaged to increase competition in postal services (e.g. definition of the scope of universal service obligations, attribution of universal service provision)?

ADMINISTRATIVE SIMPLIFICATION AND PUBLIC ADMINISTRATION

19. Italy ranked last among EU countries in terms of payment delays by the Public Administration in 2010 and 2011. Is the Government considering anticipating at least partially the implementation of the Late Payments EU Directive 2011/7/EU? What are the concrete measures envisaged to this aim? Would increased powers for the managers of the PAs help tackle this widespread problem? If so how could this be achieved?

20. Are there further proposals in the pipeline of the Permanent Table for Simplification, coordinated by the Ministries for PA and Economic Development? For instance, what are the foreseen deadline and content for the regulations enacting the introduction of compulsory telematic procedures for all communications/notifications to banks and financial intermediaries?

21. According to the documentation sent to the Commission by the former Minister for the PA, the MOA (measuring and reducing administrative burden) programme should entail substantial streamlining for the Italian firms, especially SMEs, by the first half of 2012, through due intervention on some regulation fields like infrastructure, transport, building licences, and inspections. What is the actual progress achieved in the regulatory impact assessment and when are further subsequent simplifying ministerial regulations envisaged to meet the goal of 25% reduction in administrative burden by 2012?

22. Pursuant to the Company Act (L. 180/2011) an "Annual Law for SMEs" should be passed in order to ensure simplifying and incentivizing efforts in favour of SMEs. Are there proposals by the government to the Parliament on this?
23. The Decreto Sviluppo 70/2011 and the Stability Law 2012 have introduced some relevant simplifications, starting from streamlined relations with the PA. Namely: (i) simplifications to take part in competitive tenders for public procurement, like standard notices (bandi-tipo) and automatic acquisition of information on participation prerequisites; (ii) from 2012, streamlined relations with the PA, thanks to *de officio* data transmission and wider use of self-certifications; (iii) the roll-out of pilot "zero bureaucracy zones" to the entire national territory. What is the current progress achieved in the effective implementation of these provisions? As for the gradual overcoming of paper-based procedures within the PAs, have due monitoring procedures been implemented to ensure that simplification is actually pursued and that self-certifications do not entail too high a risk of untruthful declaration on the part of the entrepreneurs?
24. What is the achieved and forecast progress in the digitalisation of the PA, in line with the eGov2012 plan, including the recent measure to digitalise payments above 1000€ by the PAs? What is the expected extent and what are the envisaged incentives to foster it for the new provision (Salva Italia) linking such process to evasion repression through still-to-be-specified simplifications for professional activities, individual firms, and some associations that digitalize their contacts with the PA for fiscal issues?
25. What is the role envisaged in the gradual improvement of the Italian business environment for the "Commission for the evaluation, transparency, and integrity of the PA" (CIVIT)? Does this entail new powers in the future?

II. TRANSPORT

Description of the adopted measures and of the new proposals

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In terms of Infrastructures, the Salva Italia package provides for simplifying procedures to approve strategic Infrastructural projects, better coordinating all administrations involved and granting them funding on the basis of approved draft projects instead of waiting for final ones. Procedures to carry out public works are shortened and the approval of concessions for highways is simplified. To attract private investment, concessionaries of public services above € 1 bn of value can be granted longer concessions (up to 50 years, from the current 30) as well as greater scope to use, or even purchase, real estate property related to the concession. Existing norms on the use of project financing to build motorways (see Stability Law art. 18) are extended to ports and railways with the aim of attracting private capital for improving existing infrastructures (Art. 42 §8 of Salva Italia).

Concerning liberalization, the Salva Italia Package foresees liberalization measures in the field of transportation to be adopted within 6 months.

AGCM makes some suggestions on how to ensure more competitive concession procedures which will incentivise investments in highways, airports and local public transport. It also proposes to give competences over highways to the new Authority for Transport. The AGCOM finally suggests several

measures to be undertaken to improve the market functioning in the railway sector: ensuring the independence of the new regulator; monitoring on the non-discriminatory access to infrastructures; better definition of PSO and non-PSO; open tender procedures for PSO; deletion of administrative hurdles to competition.

TAX EXEMPTION ON INFRASTRUCTURES

26. Which problem does this measure aim to address? (boosting infrastructure building with private money, accelerating infrastructure building)
27. Could the Government better specify who will benefit from these tax exemptions? Which kind of projects will be supported: all projects indistinctly, new projects or on the upgrade of the existing infrastructure network?
28. Can the Government indicate the planned budget allocated for these measures?

RAILWAYS

29. The authority in charge of the surveillance of public contracts (AVCP) will be in charge of the regulation of transport sectors – road, railways, airport and ports. Can you confirm that this authority is not in charge of awarding contracts?
30. How does the government intend to conjugate the foreseen tax exemption for railway investments proposed to attract private funds and the fact that the rail network in Italy is so far owned by one single company controlled by the State? Are these measures complementary with the proposed reallocation of EU funds in railway projects agreed upon by Italy and DG REGIO?
31. Does the Government intend to intervene to better define the boundaries of the Public Service Obligations in order to avoid a sub-optimal allocation of public subsidies?
32. Railway freight services are affected by limited competition and unclear accounting practices on the side of the incumbent Trenitalia. How does the Government intend to make sure that the EU legislation regarding this sector is properly applied, and how does it want to avoid cross-subsidies from other parts of Ferrovie dello Stato, respectively direct subsidies from the state to the freight sector, which may not be compatible with state aid law?
33. Railway passengers' services would benefit from further opening of the market and more streamlined authorization procedures for newcomers. Is the Government planning to do anything in this regard? This concerns in particular procedures for homologation of rolling stock.
34. The proposed Authority for Transportation will be an important monitoring tool to guarantee non-discrimination among railways operators however it won't resolve the fundamental problem of the unbundling between rail manager RFI and incumbent operator Trenitalia. If RFI and Trenitalia were to be unbundled, what would be the timetable for the implementation, in particular in terms of achieving full separation of RFI from FS also in terms of separate staff, separate premises etc.? Do you foresee the use of public tendering in Regional Railway services?

35. Does the Government intend to renew the funding allocation for local authorities foreseen by law 2/2009 which was favouring the incumbent?

36. Does the Government intend to intervene on the measures contained in the Decree of the 7th of July 2009 on the ownership of the "non-essential" railway infrastructures?

37. FS benefits from a special subsidy on its electricity bill which is paid by the consumers and by public money. Does the government intend to intervene on this measure?

PORTS

38. There is little detail regarding the implementation of art 46 of the "Salva Italia package" on ports intermodal connections. Does the Government intend to provide more details on how to implement this article given the importance of Italian Mediterranean harbours in terms of national as well as European economy?

39. What does the Government intend to do to foster liberalization in ports management? What the Government intend to do to address other issues such as cutting red tape (promoting e-freight, extending the opening hours, the continuous provision of ancillary services ...)?

AIRPORTS

40. There is very little reference to airports in the "Salva Italia package". Does the Government intend to do anything in this regard? Does the Government intend to follow the suggestions of AGCOM with respect to the setting of airport tariffs adequate to stimulate investments? What does the Government intend to do to rationalize the exploitation of the airports in order to limit the need of public intervention to sustain the least profitable ones?

ROADS

41. Does the government intend to include roads and highways within the competences of the foreseen Authority for Transportation currently not included by the Salva Italia package. In case of adoption of such measures, will the Authority for Highways Infrastructures foreseen by law 98/2011 still be created? If so with what competences?

42. Does the Government intend to maintain the minimum tariffs for goods transportation services set by Law 112/2008?

III. ENERGY

Description of the adopted measures and of the new proposals

The Salva Italia package does not contain specific measures on energy except one norm on energy efficiency which foresees the reduction of tax incentives on energy efficiency projects from 2013 onwards (from 55% of total costs to 36%).

The AGCM proposes some measures to address some of the problems – lack of competition and insufficient infrastructures in gas and electricity, unbundling between gas operator and distribution and

storage activities. Positive proposals are also suggested in the field of electricity on information to consumers and standardization. In addition the AGCOM proposes to progressively eliminate the "protected tariffs". Measures are also proposed to improve the functioning of the fuel distribution.

43. How does the Government intend to elaborate its new "Strategia Energetica Nazionale" after the referendum on nuclear power? How does the Government explain the fact that – notwithstanding the recent liberalisation of the electricity sector – Italian households pay 12% more for electricity than the average European and firms pay 26% more?
44. What does the Government intend to do to promote the "Green Economy? How is the plan on the "Green Economy" to be reconciled with the need to cut the very expensive subsidies for green energy production which today contribute to the higher cost of energy in Italy than in the rest of Europe?
45. Several fundamental infrastructure projects in the field of electricity and gas still remain to be completed due to lengthy administrative procedures, especially at local level. The AGCM suggest intervening to speed up all the pending Terna projects on the electricity grid. Does the Government intend to intervene to streamline the authorization procedures in order to speed up the realization of such projects?
46. Are specific measures foreseen that would address the lack of competition in the electricity market in the South and that would improve the energy infrastructure in the South? What is the state of play of the proposed reform of the pricing mechanism in the Energy Exchange?¹
47. The AGCM suggest an ownership unbundling in the gas sector between the incumbent operator ENI and the distributor and storage activities. What is the view of the Government in this regard? Why is the utilisation ratio in the gas distribution network so low?
48. What is the Government timeline for the adoption of all the implementing measures required by Decree 28 of the 3rd of March 2011 which lays down new provisions for the support of renewable energy sources?
49. How does the Government intend to promote energy efficiency measures, in view also of the reduction in fiscal incentives foreseen from 2013 onwards?
50. What's the Government view on the AGCM proposals to improve the market functioning of the fuel distributors?

¹ Italian Law 2/2009 foresees the application of "zone prices" and "pay as bid" as opposed to the current "average prices" and "system of marginal prices" not before 1st of April 2012 but does not provide an exact date for the implementation of this provision.