
Comments on
The Digital Single
Market Strategy

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DIGITALEUROPE's vision is of a European Union that nurtures and supports digital technology industries, and that prospers from the jobs we provide, the innovation and economic benefits we deliver and the societal challenges we address.

DIGITALEUROPE commends the European Commission for making digital a top priority for Europe and welcomes the timely delivery of the European Commission's Digital Single Market (DSM) strategy.

It is estimated that 75% of the potential economic benefits from the digital transformation now under way will be felt by Europe's existing industries. Therefore we welcome the Commission's plans to facilitate access to online markets and strengthen digital networks, and strongly hope for ambitious measures to support SMEs and boost the digital transformation of the economy and society.

We stress that the acid test for the DSM strategy is the impact it will have on economic growth and job creation in Europe. In order to achieve these goals, the implementation of the DSM strategy should be guided by the following general principles:

- Be pro-innovation and pro-competition.
- Adopt simple and flexible rules for businesses and consumers.
- Recognise the global nature of digital and remain open to free trade.
- Involve and consult regularly with all interested stakeholders.

DIGITALEUROPE will act as a trusted partner in the implementation of the DSM so that the much expected benefits of the DSM in terms of growth and jobs can be enjoyed by European citizens and businesses as early as possible.

Better online access for consumers and businesses across Europe

Cross-border e-commerce rules that consumers and business can trust

Businesses that want to sell cross-border today face a fragmentation of laws across the European Union. DIGITALEUROPE therefore welcomes the ambition to simplify and harmonise EU rules as to incentivise consumers and businesses to engage in cross-border ecommerce. As a means to ensure legal certainty, improve harmonisation and encourage companies to engage in cross-border activities, we support the adoption of the law of the seller. We also believe that consumer protection lies in the implementation and enforcement of existing EU rules as opposed to creating unnecessary new ones.

European consumers already benefit from a strong level of protection. We would therefore encourage the European Commission to take stock of existing EU rules that already protect consumers when trading online. New legislation should only complement them where necessary, and also recognise the differences between the online and offline markets, whilst keeping business-to-business out of the scope of any new initiative.

Better access to digital content - A modern, more European copyright framework

We support the ambition to make copyright fit for the digital age and adapt to consumer behaviour and technological change. The most urgent reform concerns the exception for private copying and the obsolete regime of copyright levies, which has no justification whatsoever in the Digital Single Market. Copyright levies should be phased out, and replaced by alternative systems of compensation when justified. We support the fight against piracy but we are concerned by the proposed enforcement strategy which could create new intermediary liabilities for third-party content.

Reducing VAT related burdens and obstacles when selling across borders

Since January 2015, new 'place of supply' rules apply to cross-border digital services. Substituting the country of origin principle with the country of destination principle in the patchwork-like VAT context has dramatically increased the administrative burden associated with cross-border e-commerce. DIGITALEUROPE supports plans to reduce the administrative burden on businesses created by the fragmented VAT regimes.

Creating the right conditions and a level playing field for advanced digital networks and innovative services

Making the telecoms rules fit for purpose

DIGITALEUROPE welcomes the Commission's assessment that there is an urgent need to make Europe's ICT networks ready for the digital age and it supports proposals to attract investment in infrastructure. Similarly, we agree that spectrum management in the EU is still very fragmented and creates uncertainty that prevents European innovation with global impact, limits economies of scales and hinders investment. We call for an inclusive and evidence-based review of Telecoms rules, which should be rapidly implemented so that our networks can support the fast-growing digital economy.

Tomorrow's 5G networks will have to satisfy requirements of universal coverage, bit rates of 10 Gbps, dramatic reduction of latency to the range of 1 ms and an ability to connect an expected 50 billion devices. If the EU is to be at the forefront of global 5G innovation, a variety of bands with favourable physical characteristics will have to be made available in a coordinated and timely manner.

DIGITALEUROPE supports the modernisation and simplification of the EU Telecoms Framework with the objective of adapting it to the digital age and not mechanically extending obsolete requirements to new and innovative business models.

A media framework for the 21st century

DIGITALEUROPE welcomes the European Commission's approach of assessing the impact of technological change on the audio-visual sector before initiating a modification of legislation that could stifle innovation in a very dynamic but still nascent market. Technology disrupts the market, rather than distorting it, by making it possible for anyone to access any content, anytime, anywhere. The country of origin principle has been a fundamental enabler of an EU audio-visual single market and should therefore remain at the heart of the AVMS-D.

The distinction between linear and non-linear services is still relevant as consumers have much more control of their screen when using Video-on-Demand services. Also, since competition and viewer demand drive the composition of service offerings, must-carry and findability are not necessary to guarantee easy access to the very much demanded public and local content.

Self and co-regulation are appropriate solutions to tackle the evolution of advertising, child protection, accessibility, media freedom and plurality.

A fit for purpose regulatory environment for platforms and intermediaries

In cases where market distortions are identified and healthy competition is threatened, EU competition rules should apply. DIGITALEUROPE believes that this question deserves in-depth consultation with all parties involved, and future measures should not create obstacles to developing or attracting innovation in Europe. In addition, we firmly believe in the principle underpinning the e-Commerce directive that intermediaries should be protected from liability for third party content.

Reinforcing trust and security in digital services and in the handling of personal data

DIGITALEUROPE shares the ambition of the European Commission to ensure trust and security in digital services and in the handling of personal data. Adopting a future-proof and risk-based General Data Protection Regulation, which would create conditions for both privacy to be protected and innovation to flourish, is absolutely essential to the Digital Single Market and should remain a top priority.

DIGITALEUROPE also supports the creation of a Public-Private Partnership on cybersecurity in the area of technologies and solutions for online network security. However, we believe that the adoption of a Network and Information Security Directive focusing on truly critical infrastructure is a greater priority. In addition, much could also be achieved by raising awareness on cybersecurity and adopting solutions already in the market-place.

Maximising the growth potential of the digital economy

Building a data economy

Once more, the adoption of a harmonised, risk-based and modern EU framework for personal data protection that creates trust while at the same time enabling societally beneficial innovations in the data economy, will be of utmost importance.

DIGITALEUROPE supports the Commission's plan for a free flow of data. Local content requirements in relation to digital services and data storage would be critical barriers to the European economic growth not only in third countries, but also in the European Union. Removing restrictions to free flows of data and removing data localisation measures is therefore positive, especially in the context of Big Data and the Internet of Things.

The European Commission is also discussing the review of the EU-US Safe Harbour Agreement with the US authorities. We believe that such an instrument is an effective and flexible tool, which allows for transfers of data while protecting the privacy of EU citizens, and on which thousands of companies rely. Suspending it would create legal and organisational difficulties.

The uptake of Cloud computing in Europe is an essential element of the Digital Single Market, and we strongly recommend that new initiatives on Cloud are aligned with the current work for an EU Cloud Code of Conduct. The European Cloud initiative should recognise the global nature of this technology and not lead to mandatory localisation or fragmented certification schemes.

Boosting competitiveness through interoperability and standardisation

We believe that the new regulation (EU) No 1025/2012 on European standardisation provides a very appropriate and effective framework for the development and use of standards in the European market.

The creation of the European Multi Stakeholders Platform (MSP) on ICT standardisation demonstrated over the last years to be the best instrument to assist and advise the European Commission and the Member States in defining and implementing a strong European standardisation strategy in the ICT domain. The MSP is providing an essential contribution and guidance to the European Commission for the identification of ICT Technical specifications for direct referencing in public procurement or in support of European Policies. The MSP has also created as rightfully highlighted in the DSM the EU Rolling Plan for ICT Standardisation which is indeed the essential instrument and tool for successful use of existing global standards and identification of specific needs for the development of new standards.

Finally, when considering the future standardisation governance in the EU and in particular when discussing ICT priorities and plans in a new "strategic group" of Member States, ESOs and European Commission it will be crucial to also ensure direct participation of the ICT industry and involvement of the MSP.

An inclusive e-society

The largest obstacle to harnessing the power of digital technology is a shortage of digital skills in the workforce. DIGITALEUROPE supports the Commission's plan to address digital skills and expertise as a key component of its future initiatives on skills and training, which should be an ambitious initiatives including specific policy actions backed by funding mechanisms for digital job solutions. Initiative such as the eSkills campaign and The Grand Coalition for Digital Jobs need to continue in the future with a focus on actions in the Member States and a closer alignment to European funding mechanisms.

DIGITALEUROPE supports the Commission's e-Government Action Plan for 2016-2020, as we believe that encouraging governments to fully embrace digital technologies is essential. Such initiatives will deliver better, more efficient and more individualised public solutions. They will also enhance transparency and participation.

Delivering the digital single market

International dimension

As mentioned in the Communication, the EU is the biggest global exporter of digital services. An ambitious digital trade and investment policy will allow the European Union to be a front runner on the international scene.

Conclusion of the negotiations for the expansion of the Information Technology Agreement (ITA) and the Trade in Services Agreement (TiSA) will continue to support the digital transformation of European Industry and its transition towards Industry 4.0 and its inclusion into global value chains. Furthermore, we believe that more regulatory cooperation between our main trading partners addressed in an ICT chapter in ongoing and future bilateral trade agreements will lead to more joint innovation, fewer administrative burdens and costs for businesses, and then to more growth for the EU. Also, more cooperation with trading partners is needed to remove local content requirements in relation to digital goods and services, which act as critical barriers to the European economic growth and to the development of the EU industry which relies on IT technologies and on the free flows of data. The Commission could consider extending the scope of its future "Free Flows of Data" initiative to trading partners, and to address restrictions to data flows via the use of new trade disciplines in Free Trade Agreements (FTAs).

We very much hope the future EU Trade Strategy for Growth and Jobs will build on the recommendations of the DSM Communication and set up principles to promote and foster digital trade as a horizontal matter to the benefit of the whole EU industry.

Finally, DIGITALEUROPE strongly supports the view that the Commission should continue to develop the multi-stakeholder model of Internet Governance.

About DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies.

DIGITALEUROPE ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include **58** corporate members and **37** national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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Hungary: IVSZ

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Sweden: Foreningen Teknikföretagen,
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Switzerland: SWICO

Turkey: ECID, TESID, TÜBISAD

Ukraine: IT UKRAINE

United Kingdom: techUK

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