

## A digital single market: the European Commission unveils its strategy

'The global economy is rapidly becoming digital'. This statement, the opening line of the European Commission's (the Commission) Digital Single Market Strategy for Europe, sets the scene for its strategy, which was published on 6 May 2015<sup>1</sup>. It details 16 initiatives under three pillars that the Commission hopes will lay the groundwork for the EU's digital future.

### AIM OF THE STRATEGY

The strategy states that 'achieving a digital single market will ensure that the EU maintains its position as a world leader in the digital economy, helping European companies to grow globally' (see box "What is a digital single market?").

According to the Commission, the online world is hampered by fragmentation and barriers that do not exist in the physical single market: only 15% of EU consumers shop online from another EU member state and only 7% of SMEs sell cross-border. It claims that bringing these barriers down could add an additional €415 billion to EU gross domestic product.

Completing the digital single market is one of the new Commission's top political priorities, and the strategy sets out an ambitious roadmap. The Commission aims to deliver all 16 actions by the end of 2016. Some key elements of the strategy are set out below.

### IMPROVING ONLINE ACCESS

The first pillar of the strategy deals with better access for consumers and businesses to digital goods and services across the EU. The Commission highlights that better online access would provide new opportunities for EU businesses. Better access requires the removal of key differences between the online and offline worlds. These include: differences in contract and copyright law across member states (including around digital content); the VAT burden; expensive and inefficient postal delivery services; and unfair discrimination online, for example, based on geographical location.

### What is a digital single market?

The European Commission states that "a digital single market is one in which the free movement of goods, persons, services and capital is ensured and where individuals and businesses can seamlessly access and exercise online activities under conditions of fair competition and a high level of consumer and personal data protection, irrespective of their nationality or place of residence".

<sup>1</sup> [http://ec.europa.eu/priorities/digital-single-market/docs/dsm-communication\\_en.pdf](http://ec.europa.eu/priorities/digital-single-market/docs/dsm-communication_en.pdf).

Some of the more controversial proposals include:

- **Preventing unjustified geo-blocking:** this is the practice of denying consumers access to a website based on their location, or re-routing them to a local website, which will often have different pricing. This aspect of the strategy has already generated many questions; for example, how will the term “unjustified” be interpreted. The strategy gives some limited guidance, stating that price differentiation may be justified where the seller needs to comply with specific legal obligations, but that, in many cases, geo-blocking is not justified.
- **Reducing copyright differences:** the Commission's proposal includes reducing the differences between national copyright regimes to allow for wider online access to works by users across the EU. It is not uncommon for providers of content (such as apps, music and video) to block access when a user who has bought content in one member state travels to another. Legislative proposals intended to change this practice, among other things, will be launched before the end of 2015. In response, the BBC has already said that it will look into the possibility of easing its iPlayer restrictions across Europe. However, given the high value placed on some content, for example the £5 billion sale of Premier League football TV rights, it may be expected that other content providers will be less enthusiastic. This is another example of the current battle in the EU between rights owners and the anti-trust lobbyists.

## ENABLING DIGITAL SERVICES TO FLOURISH

The second pillar is concerned with creating the right conditions and a level playing field for digital networks and innovative services to flourish. The strategy states that this requires high-speed, secure and trustworthy infrastructures and content services, supported by regulatory conditions that enable innovation, investment and fair competition. Proposals include:

- **Telecoms reform:** the Commission proposes an ‘ambitious’ overhaul of EU telecoms rules. This will cover net neutrality and look at ways of ensuring a level playing field for market players, including new players that compete with traditional telecoms operators but are not currently subject to the same regulatory regime. The Commission will also look at incentivising investment in high-speed broadband networks, including a review of the Universal Service Directive (2002/22/EC), and delivering a more effective regulatory framework.
- **Review of online platforms:** the Commission proposes a ‘comprehensive’ assessment of the role of online platforms and a review of how best to tackle illegal content online. The strategy recognises concerns over the growing market power of some platforms. Simultaneously, the Commission launched a competition inquiry into the e-commerce sector, and it has already begun individual investigations into various practices by Google.
- **Data protection and security:** the Commission wishes to reinforce trust and security in digital services and in the handling of personal data. While recognising the work already being done in relation to cyber security and data protection reform, the strategy confirms that it will initiate the establishment of a public-private partnership on cyber security, and review the E-Privacy Directive (2002/58/EC) once the new EU data protection regime is agreed. The current rules only apply to providers of electronic communications services, for example, traditional telecoms providers, which may not cover some of the newer players in the market.

## MAXIMISING GROWTH POTENTIAL

The third pillar deals with ways to maximise the growth potential of the digital economy. The strategy recognises that digitisation of all sectors is needed for the EU to maintain its global competitiveness, but notes that only 1.7% of EU enterprises currently make full use of advanced technologies such as cloud computing and big data.

To help combat this, the Commission's proposals include:

- **Free flow of data initiative:** the Commission proposes a free flow of data initiative to promote the free movement of data, tackle unjustified restrictions on the location of data and address emerging issues such as ownership, interoperability and access. It will also launch a European cloud initiative covering certification, contracts, switching of cloud services and a research cloud.
- **Interoperability and standardisation:** the Commission will try to boost competitiveness through interoperability and standardisation. While recognising that the current EU Rolling Plan for ICT Standardisation is an essential instrument in this regard, the Commission will launch an integrated standardisation plan. This will define key priorities for standardisation in areas deemed to be critical to the digital single market, such as health, transport, environment and energy.
- **Supporting an inclusive e-society:** the Commission will support an inclusive e-society in which businesses and individuals have the necessary skills to benefit from e-services. This involves addressing digital skill shortages and presenting a new e-government action plan. The plan aims to connect business registers by 2017, accelerate the move to full e-procurement and interoperable e-signatures, and pilot the "once-only" principle, aimed at removing the need for governments to make multiple requests for information that they already hold.

## THE ROAD AHEAD

The strategy is wide ranging and the scope and timetable seem very ambitious. That said, many of the actions involve reviewing legislation or making proposals, rather actioning any changes, and some are already in motion.

While the strategy has grand aims, it is also quite high level with limited detail on the specific measures that will be proposed. It will therefore be interesting to see the more detailed reviews and proposals that are planned for the next 18 months and how strong the opposition is to them, particularly in controversial areas such as copyright reform.

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