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# The European Digital Single Market and Digital Trade Policy

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ITIF
The Information Technology & Innovation Foundation

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- Innovation processes, policy and metrics
- Science policy related to economic growth
- E-commerce, e-government, e-voting, e-health
- IT and economic productivity
- Innovation and trade policy

# Today's Presentation

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|---|---|
| **1** | **What is the Digital Single Market?** |

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| **2** | **Why is Europe Pursuing a DSM?** |

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| **3** | **Potential Concerns Raised by EU Digital Policies** |

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| **4** | **What's Next?** |

# ■ An Overview of the DSM

## Roadmap for completing the
## Digital Single Market /// Initiatives

### 2015

### 2016

**Better access for consumers and businesses to digital goods and services across Europe**

Legislative proposals for simple and effective cross-border **contract rules** for consumers and businesses

A wide ranging review to prepare legislative proposals to tackle unjustified **geo-blocking**

Review of the **Regulation on Consumer Protection Cooperation**

Measures in the area of **parcel delivery**

Competition sector inquiry into **e-commerce**, relating to the online trade of goods and the online provision of services

Legislative proposals for a reform of the **copyright** regime

Legislative proposals to reduce the administrative burden on businesses arising from different **VAT** regimes

**Creating the right conditions for digital networks and services to flourish**

Comprehensive analysis of the role of **platforms** in the market including **illegal content** on the Internet

Legislative proposals to reform the current **telecoms rules** and the **Audiovisual Media Services Directive**

Review of the **e-Privacy Directive**

Establishment of a **Cybersecurity contractual Public-Private Partnership**

**Maximising the growth potential of the Digital Economy**

Adoption of a **Priority ICT Standards Plan** and extending the European Interoperability Framework for public services

Initiatives on data ownership, **free flow of data** (e.g. between cloud providers) and on a **European Cloud**

New **e-Government Action Plan** including an initiative on the 'Once-Only' principle and an initiative on mandatory interconnection of business registers

# Goals of the Digital Single Market

**Better access for consumers and businesses**

- Geoblocking
- Copyright
- E-commerce
- Parcel delivery
- Reducing VAT burden

**Advanced digital networks and innovative services**

- Telecoms market
- Media services
- Platforms and intermediaries
- Trust and security

**Enhance the digital economy**

- Data economy
- Inclusive digital economy and society
- Interoperability and standardisation

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# Why is Europe Pursuing a DSM?

- By 2025, half of all value in the global economy will be created digitally;

- DSM could create €415B in additional economic growth;

- DSM could create hundreds of thousands of new jobs;

- Europe has only 21 digital economy "unicorns," compared to China's 27, and America's 79.

# Europe's Internet Economy Substantially Lags US's

**Age Structure of European and U.S. Enterprises in the FT Global 500**
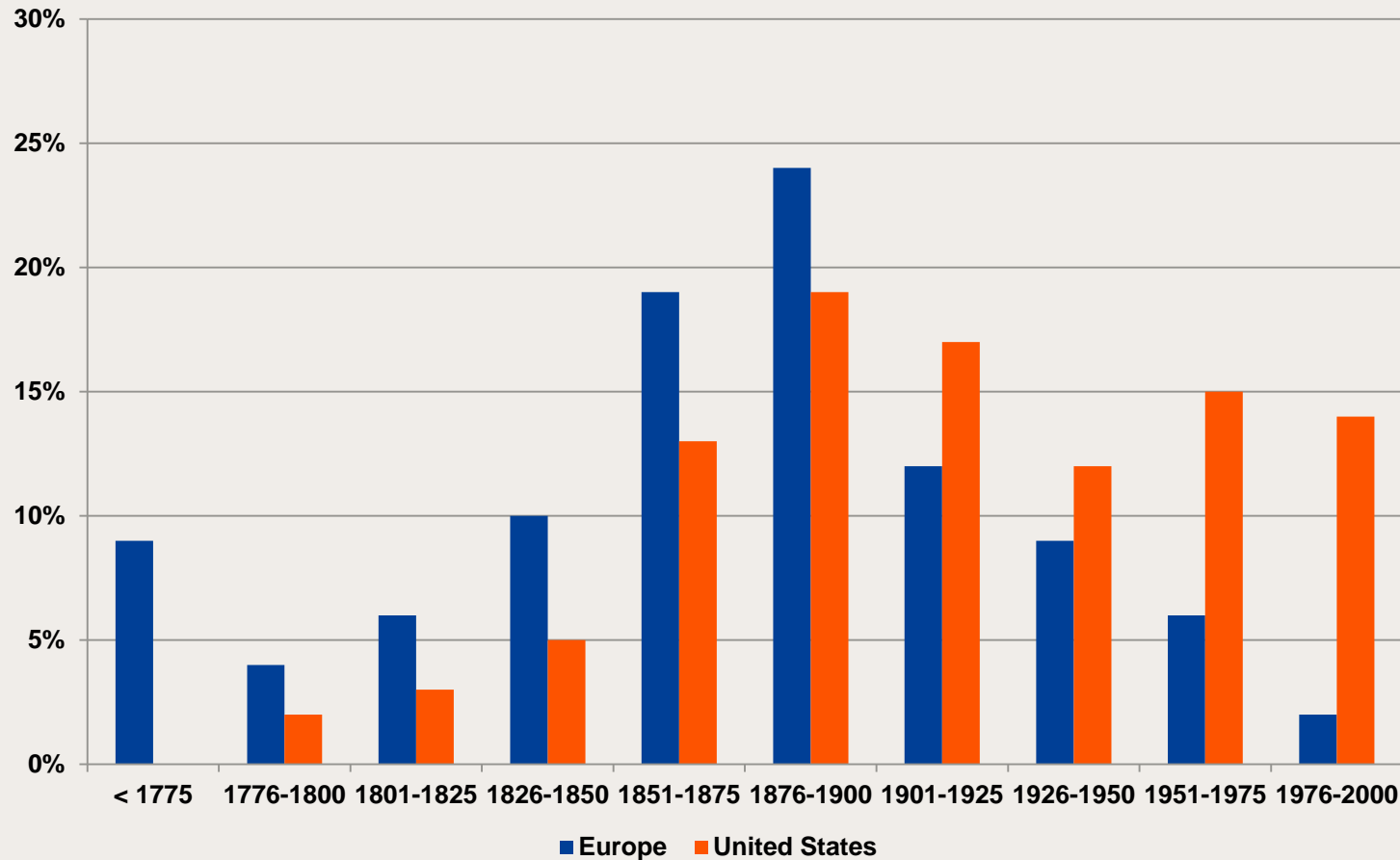


**Source: Nicholas Veron,** *The Demographics of Global Corporate Champions*

# ■ Tepid Levels of EU Cross-Border Digital Trade

**4%** (EU – cross-border)

54% (US)

42% (national – 28 Member States)

## The Digital Market today is made up

by **national** online services (42%)

and **US-based** online services (54%)

**EU cross-border** online services represent only 4%
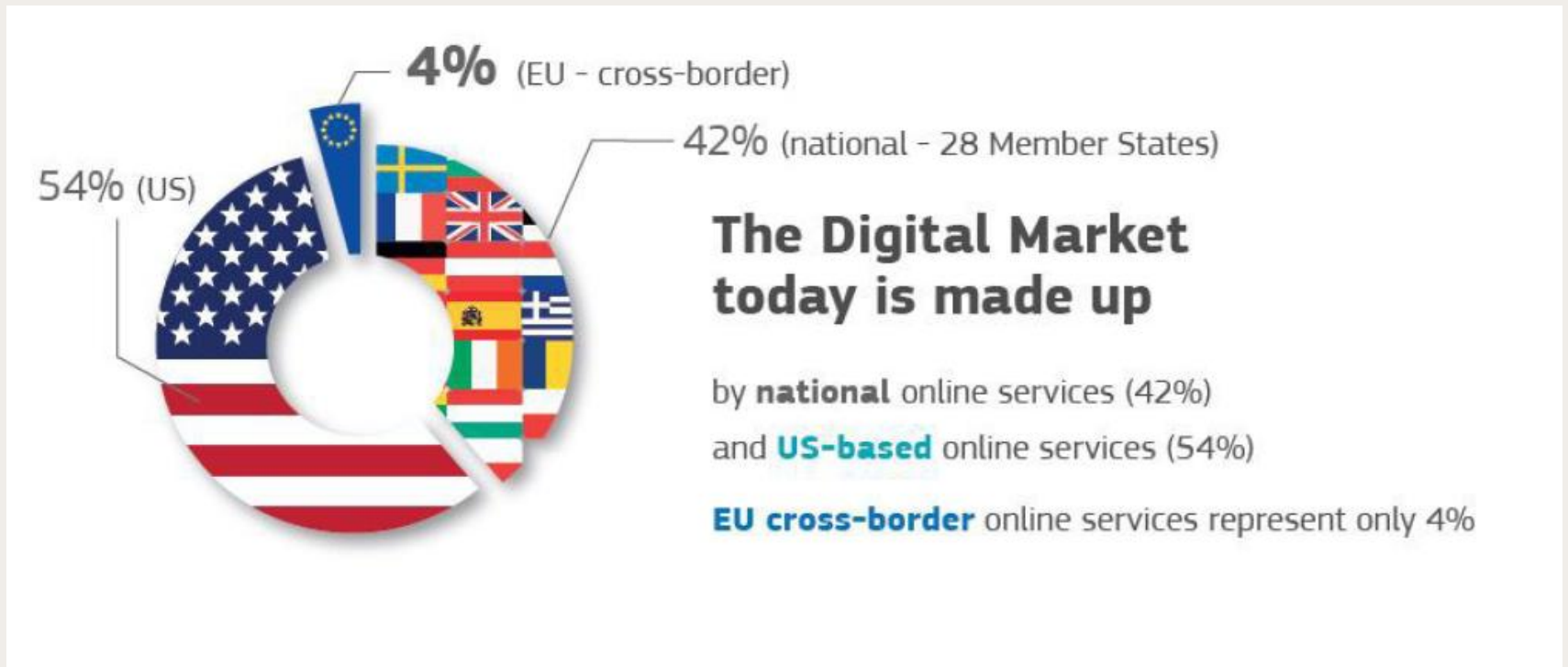
# Increasingly, All Companies Are Digital Companies

- ½ of all global trade in services depends upon cross-border data flows

**PHILIPS**

No longer "sells" X-Ray or MRI machines, but rather "radiological services" to hospitals; manages all devices remotely

**TESCO**

Using big data to optimize inventory based on weather and historical sales

**Volkswagen**

Volkswagen CEO: "Our cars are already mobile computer centers."

**Shell**

Using data, sensors, visualizations, etc. to explore 10,000 oil wells.

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# Potential Concerns Raised by EU Digital Policies

1) EU's General Data Protection Regulation (GDPR)

2) Attempts to Create a European Cloud

3) "Sector-Specific" Platforms Investigation/Regulation

4) Access to Digital Content/Geoblocking

5) Other Digital Policy Issues

# EU's General Data Protection Regulation (GDPR)

- Seeks to establish a single, European-wide data protection regime—E.g. standards that organizations would have to adhere to for the protection of data.

- Could severely restrict business models used by U.S. Internet companies.

  - Limits selling anonymous data to third parties;

  - Limits ability to target online advertisements to users based on certain protected categories of data (e.g. age/gender);

  *"Every natural person should have the right not to be subject to a measure which is based on profiling by means of automated processing."*

  - Requires data protection officers/data protection audits.

# Potential Effects of the GDPR

- Will decrease the effectiveness of online advertising 65%;

- Would cost European SMEs as much as €7,200 in additional compliance costs annually;

- Overall, ECIPE estimates the GDPR will reduce European GDP by at least 0.4% and up to 1.1% annually.

# Attempts to Create a European Cloud

- Part of Europe's goal is to create a stand-alone European Internet infrastructure—E.g. a "European cloud"

- Fleur Pellerin has called for "building a France of digital sovereignty," including "*le cloud souverain,*" empowering national champions like Cloudwatt and Numergy

    - DT calls for a "Schengen area network" – So that, "European data never touches San Francisco servers"

- But restricting access to best-of-breed service providers can increase SMEs' costs of cloud computing services by 30-60%.

# The "Platform" Investigation

- Concurrent with the DSM, DG for Competition has launched an "investigation into the role of platforms in the digital economy."

- Section 4.5 opens with: "Problems and Problem Drivers"

  - Claim: "*A lack of transparency as to how platforms use the information they acquire, the bargaining power compared to that of their clients, or explaining their relationships with suppliers/manufacturers whose offers they display.*"

  - ***"One study showed that less than 40% of comparison Websites describe their business model."***

# Why Europe's Thinking on Platforms is Misguided

1. Europe's approach to competition policy too often is more about protecting competitors than empowering consumers;

2. It neglects the tremendous efficiencies, scale, and network effects platforms can provide, which is good for consumers;

3. It neglects that Schumpeterian competition exists, whether between existing platforms or the current platform and next-generation ones;

4. If Europe feels like U.S. players are using anti-competitive policies (e.g., pricing/excluding competitors), it should prosecute this under existing competition authority.

# Access to Digital Content/Geoblocking

- DSM seeks to prevent "unjustified geoblocking"—The practice of offering digital products sold online at different prices at different times in different markets.

- Issue is ½ about the portability of digital content and ½ about a pan-European marketplace for digital content;

- But "**territorial exclusivity**"—the capacity to offer targeted licenses to specific geographical areas—is vital to the business models of many digital content producers (TV/film)

- Unfettered geoblocking *would eliminate the ability to price-differentiate in lesser-developed markets, leading to an "upwards harmonization" in prices for digital content.*

# Other Digital Trade Issues

- Local data storage requirements (Norway, Greece, Russia)

- Data taxes – French call for a "data tax" on the "collection, management and commercial exploitation of personal data generated by users located in France.

- France called Amazon's "free shipping" policy a "strategy of dumping"; Parliament passed bill forcing online booksellers to sell at higher prices than brick-and-mortar stores

*"Amazon, Apple, Facebook, and Google are examples of 'brutal information capitalism'…Europe must act now to protect itself… "Either we defend our freedom and change our policies, or we become digitally hypnotized subjects of a digital rulership."*

**German Economy
Minister Sigmar Gabriel**

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# What's Next?

- DSM still in its early stages - Going through a process of stakeholder engagement and consultations (opportunity to influence thinking);

- Data is the fuel of the 21st century economy, and we've got to the policy framework that digital innovation can flourish on both side of the Atlantic;

- Europe needs to think more about *ICT application/use* than about *ICT production.*

# Policy Recommendations

- International organizations should further develop mechanisms to track localization barriers to digital trade.

- The U.S. should propose a Data Services Agreement.

- Europe has said data is "off the table" in the T-TIP, but a T-TIP that doesn't include a mechanism to ensure open cross-border data flows is simply not worth concluding.

# Thank You

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