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The European Digital Single Market and Digital Trade Policy

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## An Overview of the DSM

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

#### 2015

- **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.
  - 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.

- **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.

#### 2016

- **Review of the Regulation on Consumer Protection Cooperation**
  - Measures in the area of parcel delivery.

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

- **Legislative proposals to reform the current telecoms rules and the Audiovisual Media Services 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
Today’s Presentation

1. What is the Digital Single Market?
2. Why is Europe Pursuing a DSM?
3. Potential Concerns Raised by EU Digital Policies
4. What’s Next?
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

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

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

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

- Volkswagen CEO: “Our cars are already mobile computer centers.”

- 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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