

Hearings of European Commissioners-designate

Andrus Ansip

Vice-President – Digital Single Market

Hearing due to be held on Monday 6 October at 18.30 hours.



Andrus Ansip, Estonia.

Vice-President

Will steer and coordinate the work of the Commissioners for Digital Economy and Society; Internal Market, Industry, Entrepreneurship and SMEs; Employment, Social Affairs, Skills and Labour Mobility; Justice, Consumers and Gender Equality; Economic and Financial Affairs, taxation and Customs; Regional Policy; and Agriculture and Rural Development.

EP Committee responsible for the hearing

Internal Market and Consumer Protection (IMCO)

Biography

Born in 1957, Andrus Ansip is a chemistry graduate of the University of Tartu. He was Mayor of Tartu from 1998 to 2004, then, at national level, was Minister for the Economy from 2003 to 2005, and Prime Minister from 2005 to 2014.

This is one of a set of Briefings designed to give Members of the European Parliament an overview of major issues of interest in the context of the hearings of the Commissioners-designate. A full set of such Briefings can be found at:

http://ethinktank.eu/commissioner_hearings

Commission President-elect Jean-Claude Juncker has organised the Commission around several project teams, corresponding to certain of his political priorities. The Vice-Presidents in charge of these projects, of which Andrus Ansip is one, have been asked to steer and coordinate work across the Commission, to focus better on achieving the goals set for these projects. The Vice-Presidents will also be in charge of the approach to follow-up, implementation and communication of the Commission's priority policies across the Union and beyond.

Background

Developments in information and communication technologies (ICTs) – including high-speed internet, online shopping, media convergence, mobile devices, social media and cloud computing – are transforming European society and the economy, and changing the way that businesses and people interact. However many feel that Europe suffers from the fragmentation along national lines of the market for digital products and services. The fragmented digital market is a drag on individual companies and a barrier to growth, job creation and innovation in EU Member States. It is also blamed for an innovation and productivity gap compared to the United States: ICT usage is responsible for 0.3 percentage points of the gap between annual growth rates in Europe and the US. Closing this gap is important. ICT is responsible for half of productivity growth in the EU, and the digital sector is expected to grow seven times faster than the overall EU economy. The European Added Value Unit (EAVU) considers that, taking into account various constraints, the increase in GDP due to a fully realised digital single market over the next five years could be €340 billion per year. With a fully integrated digital market, accompanied by strong global growth, GDP growth in the EU in the next decade could rise from the average rate of 1.3% over the decade 2002-12 to as much as 2.5% annually in the subsequent ten-year period.

Digital issues directly concern a variety of different stakeholders: commercial ICT-based companies, such as telecom operators, internet service providers, and firms providing services based on the internet, such as Amazon and Google; regulators, both national regulatory authorities and the Body of European Regulators for Electronic Communications (BEREC); and a range of civil society organisations and non-governmental organisations concerned with telecommunications, internet and data privacy and protection issues. However all of society is indirectly concerned. According to the McKinsey Global Institute, 75% of the economic value created by the internet comes from traditional companies that use digital technologies to reduce the costs of running their businesses. Therefore the ultimate beneficiaries of a digital single market would include all consumers and businesses which can benefit from wider choice, lower prices, innovative services, increased efficiencies, greater economic growth and more jobs.

Issues related to an information-based society have been concerns of the European Union since the early 1990s, with action plans issued at roughly five-year intervals. The most recent plan is the 2010 'Digital Agenda for Europe', established as one of seven flagship initiatives of the Europe 2020 strategy. It is a five-year plan designed to help citizens and businesses benefit from digital technologies. Specifically it aimed to create a single digital market through better and simplified cross-border trade and licensing, simplified copyright, better electronic payments and more efficient allocation of radio spectrum. In addition, the Digital Agenda set out to improve standard-setting in ICT, increase trust and security in digital services, upgrade access to fast broadband across the EU and increase ICT-related research and development. It also sought to apply

technology to realise benefits for society by addressing specific problems such as healthcare and ageing.

While creating a digital single market by 2015 was one of the specific goals of the Digital Agenda, it has proved difficult to achieve. Overall, the European digital market remains fragmented, with 28 separate markets and different regimes for electronic communications regulation, geographically based content licensing, specific national consumer protection rules and inconsistent value-added tax regimes. Perhaps as a result of the importance accorded to growth and job creation since the economic and financial crisis, stakeholders have talked in the past few years in more ambitious terms of a Digital Single Market as a broader, horizontal policy area.

Treaty base and EP competence

A digital single market is not specifically provided for by the EU Treaties; rather digital issues are cross-cutting and affect a number of areas. The main Treaty articles are those on the single market (e.g. Articles 114, 115 TFEU) with legislation following the ordinary legislative procedure. However, other legal bases and procedures may be invoked for legislation in areas where the digital concerns may also be prominent: for example, personal data protection, industrial policy, trans-European networks, research, culture or trade.

Recent developments

The European Commission expects that 95 of the 101 actions of the Digital Agenda will be complete by 2015. Sample results so far:

- Regular internet usage stands at 72% of citizens (on track to hit 75% target by 2015).
- Online shopping is used by 47% of citizens (up by more than 10 percentage points since introduction of the Digital Agenda and likely to meet the 50% target next year).
- Broadband coverage in the EU (at speeds more than 30 Mbps) reached more than 64% of households (and more than 90% in seven Member States).
- Roaming charges for telecommunications have been reduced substantially.

However, progress has been weak in several key areas:

- The use of e-government services (considered much less effective than commercial services like e-banking) has increased only slightly.
- Only a low percentage (14%) of small and medium-sized enterprises (SMEs) sell online (with no Member State expected to hit the target of one third of SMEs).
- Cross-border shopping (12% of citizens) has increased much less than hoped, and at a rate that is not expected to reach 20% by 2015.
- The level of penetration of broadband in rural areas remains low (only 18% of households).
- After several years of increases, in 2012 there was a 2.5% decline in public funding for research and development in ICT; with previous spending already below the necessary annual growth rate, there is a 20% gap between current levels and the target of doubling funding levels by 2020.

Over the course of the past five years, legislation has been adopted on:

- Reducing the cost of deploying broadband networks by reducing bottlenecks and inefficiencies in granting permits, network deployment and use of existing infrastructure.
- Establishing guidelines for broadband and digital infrastructure projects eligible for funding under the Connecting Europe Facility.
- Reforming the management of copyright in musical use for online works.
- The re-use of public sector information.

- The permitted use of orphan works (where the copyright-holders cannot be found).
- Public procurement (including provisions for electronic communication).
- The nature and level of roaming charges in mobile networks.
- Enhanced coordination in the planning and allocation of radio spectrum for wireless communications.
- Enhancing trust in electronic transactions through mutual recognition and interoperability of electronic identification and trust services.
- An online dispute resolution service to facilitate settling of disputes concerning online transactions between traders and consumers.
- The introduction of clearly labelled push buttons for buying items online and text boxes summarising all the elements of the purchase.
- A ban on the use of so-called 'pre-ticked' boxes.
- A ban on charging more for online payments by credit card.

However, some significant pieces of legislation have not been finally adopted. For example, a proposed regulation on a **single market for electronic communications**, also known as the Connected Continent regulation, aims to revise existing rules to create greater simplicity for telecom operators, better enable operators to operate in multiple countries, harmonise spectrum policy management and increase consumer protection. The EP adopted amendments at first reading that included the ending of roaming charges in Europe from the end of 2015 and strengthened provisions for net neutrality. Parliament now awaits the results of an 'intensive examination' in Council, where the approaches to roaming, net neutrality and spectrum allocations have reportedly been questioned.

Another major piece of legislation that awaits Council's first reading is a proposed regulation and directive on **personal data protection**. The proposal addresses differing approaches in the way data protection has been implemented across the EU and seeks to reduce legal uncertainty and to reassure citizens about the protection of their personal data in an online environment. At first reading, Parliament clarified the principles underlying personal data processing and reinforced the general principles for the rights of data subjects, as well as extending the right to erasure of personal information. Similarly the eighth parliamentary term may be called on to continue work on other legislation still being considered by Council, including a directive on **network and information security** and a directive that aims to ensure the **accessibility of websites of public sector organisations**.

European Parliament

The European Parliament takes the view that completing the digital single market is crucial to stimulating growth and creating employment in the European economy. It considers that fragmentation and lack of legal certainty are primary concerns in this field, and that inconsistent enforcement of existing EU rules in Member States also needs to be addressed. Fragmentation is also partly due to the poor implementation or late transposition of existing directives by Member States, a factor which should be subject to more rigorous scrutiny by the EU institutions. In December 2012, the Parliament called for targeted legislative proposals to strengthen consumer access to, and trust in, products and services traded on-line, and to offer consumers a simple one-stop shop for solutions. It favours developing common European standards to facilitate cross-border e-commerce, backed by a European financial instrument for credit and

debit cards. It has recognised the potential of cloud computing and called on the Commission to rapidly propose a European-level strategy for this important market.

In its most recent resolution, the Parliament welcomed the adoption of the 'Code of EU Online Rights' and also made a series of recommendations regarding future legislation, in order to increase consumer confidence in the digital market, notably through measures to combat the unequal treatment of consumers in the single market arising from current cross-border restrictions applied by companies involved in distance selling. Members also emphasised the need for a high level of network and information security in order to guarantee the functioning of the single market and consumer confidence. The first reading of a related legislative proposal was adopted in March 2014.

The Internal Market and Consumer Protection (IMCO) Committee is responsible for the Digital Single Market, including product delivery and consumer protection aspects. However, the broad range of digital issues means that other parliamentary committees will be involved in considering legislative proposals and resolutions, especially the Industry, Research and Energy (ITRE) Committee, which is responsible for the information society, information technology and communications networks and which will most likely be called on for work on services for electronic communications, radio spectrum, cyber-security, e-government and industrial policy. The Economic and Monetary Affairs (ECON) Committee can be expected to work on electronic payments; Legal Affairs (JURI) on copyright and data protection; Civil Liberties, Justice and Home Affairs (LIBE) on security issues; Culture and Education (CULT) on digital content; and International Trade (INTA) on external trade aspects.

Venice Declaration

In July 2014, the Italian Presidency of the Council held a 'Digital Venice' meeting which provided the occasion to present a 'Venice Declaration' setting out three main goals: driving economic recovery through infrastructure, skills development and a digital industrial policy; network and information security to ensure access and freedom for all; and greater emphasis on smart cities. The Declaration outlines ten specific points for action, including the creation of the Digital Single Market. The Venice Declaration was expected to form the basis for conclusions of the October 2014 meeting of the European Council. However the fact that a number of large telecom operators came out with a separate document, and a reportedly tepid reception of the document by the Commission, have cast doubts on this approach.

Priorities and challenges

One challenge is that digital issues affect many different policy areas which have traditionally been dealt with by different directorates-general within the European Commission, with (according to some commentators) little coordination, no overarching vision and frequently conflicting aims. To ensure better coordination of digital issues, there have also been calls for a new Council configuration to deal exclusively with matters affecting the Digital Single Market.

European Council

At its October 2013 meeting, the European Council (of EU heads of state or government) underlined the importance of a strong digital economy which can boost productivity, create new jobs and stimulate the economy. It pointed particularly to the need to create a framework for big data and cloud computing, to establish consistent tax rates for digital and physical products, and to ensure a high level of consumer protection. In March 2014, the European Council again drew attention to the importance of the digital market, including the updating of digital infrastructure networks.

Digital Single Market and the new Commission

Commission President-elect Jean-Claude Juncker has indicated that the development of the Digital Single Market will be one of his top priorities. He sees it as a way to find new sources of growth and jobs without creating new debt. He has called for the breaking down of national barriers, specifically differences related to telecom regulation, management of radio spectrum, the application of competition law, copyright and data protection. He has stated his intention to conclude negotiations on common data-protection provisions, to take a more ambitious approach to telecom regulation, to modernise copyright rules and to simplify consumer regulation for online purchases. He also proposes action to increase digital skills and facilitate the creation of innovative start-ups.

A number of issues are expected to be prominent in future discussions.

Digital infrastructure and telecommunications regulation

The EU has lagged behind the US in deployment of ultra-fast broadband (in 2013 available to 85% of Americans and 30% of Europeans); broadband investment (US operators have invested almost twice as much as Europeans in recent years); and rollout of new generation mobile technologies (in early 2012, 64% of worldwide fourth generation long-term evolution (LTE) subscriptions were in North America, only 3% in Europe). This lag is blamed on fragmented telecommunication markets with incompatible technical systems, differences in infrastructure and national legislation, uncertainties created by different levels of regulation and inconsistencies in the application of regulation by national regulators. There are over 200 operators in the EU, as opposed to a handful in the comparable US market. For some observers, consolidation of operators and the encouragement of pan-European firms are needed to lower costs and to achieve the size and scale to be able to compete globally. At the same time, however, authorities must ensure healthy competition and avoid abuse of dominant positions in the market.

One of the European Commission's main priorities is encouraging more investment in ultra-fast broadband. Additional investments of €110 to €170 billion appear to be needed if the EU is to reach its 2020 connectivity goals. Proposals in 2013 for better coordination of spectrum management were welcomed by telecoms firms, but caps or bans on roaming and international calls have been seen as discouraging investment in New Generation infrastructure. Independently of the Connected Continent package under consideration, a review of the telecommunications regulatory framework for telecommunications is planned early in this legislative term.

Cloud computing, big data, data protection and security

Cloud computing delivers computing services over the internet; the EAVU estimates that it could potentially deliver benefits of €160 billion per year. Big data refers to the use of extremely large data sets generated from a wide range of regular activities. Both cloud computing and big data are new approaches that offer the potential to reduce business costs, increase efficiency, encourage innovation, reduce energy consumption and offer tailored products and services to consumers. However, both technologies (as well as more traditional ICT services) require a clear regulatory framework that ensures security, guarantees data protection and deters cybercrime without saddling companies (especially SMEs) with excessively high compliance costs. Although data protection standards have been ruled out of the scope of the Transatlantic Trade and Investment Partnership (TTIP) currently being negotiated between the EU and the US, negotiations offer an opportunity for finding some common understanding of these issues, to

facilitate cross-border business practices. As well, the Safe Harbour agreement with the US should be reviewed.

Culture, digital content and copyright

To support Europe's creative industries and rich cultural diversity, cultural and audiovisual sectors need support to adapt to the digital era. Content producers and providers require assurances of adequate protection for their intellectual property (IP) in digital form, but copyright laws are poorly adapted for a digital world, and differences in IP protection across Member States can discourage firms from competing in other parts of the EU. On the other hand, European consumers may be restricted from accessing digital content that is available elsewhere in the EU, due to the complexities of territory-based licensing and copyright, and may be tempted to use unauthorised sources. BEUC, the European consumers' organisation, has called for a legal framework which takes into account both licensing and technology, and which accounts both for fair compensation for creators and fair access to content by consumers. The Commission has promised to release in 2014 a White Paper on updating copyright protection provisions to encourage use of digital content.

e-Commerce

European firms that operate cross-border must conform to a patchwork of 28 different contract laws and value-added tax systems (a particular burden for SMEs). Digital business could benefit from harmonised regimes and a lighter regulatory framework. Consumers lack information about products available in other Member States, and this prevents the formation of efficient EU-wide markets, which could bring benefits such as wider choice and reduced prices. Consumers also need assurances that they can trust in the security of online transactions and online payments and in dispute resolution mechanisms that are reliable, clear and fair for all. Outgoing Commissioner Neelie Kroes spoke out against local regulations that can block innovative internet services, such as the controversial online hailing of taxis through applications such as Uber.

Public administration and e-government

In 2012, the European Commission estimated that public administrations using e-procurement procedures could save about €100 billion per year and that e-government (online communication between citizens and governments) could reduce costs by 15 to 20%. Nevertheless, take-up of these technologies is well behind the Digital Agenda goals.

European Added Value

According to the analysis of the EP's European Added Value Unit set out in 'Mapping the Cost of Non-Europe, 2014-19', a digital single market would increase the efficiency of traditional enterprises, reduce business transaction costs, facilitate the transmission of information on which knowledge-based and service industries depend, and help shift the EU economy towards the growing sector of knowledge-based services. A fully-functional digital single market would also bring welfare improvements to consumers from a higher level of e-commerce.

Economists have estimated the gain in EU GDP due to an ambitious and fully realised Digital Single Market to be between €340 and €656 billion per year. Taking into account the regulatory complexity of 'decompartmentalising' existing national markets, the full potential may not be achieved in the coming years; hence the best estimate of the European Added Value Units is that of the more cautious, lower figure. (President-elect Juncker's political guidelines mention €250 billion of additional growth over five years). Major pieces of the digital single market that are missing include e-payments and invoicing; clarifying VAT regulations; generating consumer trust in e-commerce (including through consumer protection); protecting intellectual property while eliminating geographic restrictions; and ensuring data protection and privacy.

Further reading

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