

*Tracking European Commission priority initiatives in 2015 – Number 3.*

## A Digital Single Market Strategy for Europe

### SUMMARY

The European Commission has proposed a new strategy to create a fully integrated Digital Single Market (DSM), in order to gradually bring down the remaining obstacles and move from 28 national markets to a single one. The strategy comprises a mix of legislative and non-legislative initiatives to be tabled by the end of 2016. It is centred on three pillars: improving access to digital goods and services for consumers and businesses, creating the conditions for digital networks and services to prosper, and maximising the growth potential of the digital economy.

The European Parliament has been a long-standing advocate of ending the current fragmentation of the European market and utilising the full potential of an integrated digital market which would create jobs and growth in the EU. Implementation of the new strategy will require a number of new pieces of EU legislation to be adopted by the European Parliament and Council under the ordinary legislative procedure.

Experts, digital industry, businesses and consumers have generally welcomed the strategy, but some argued that it needs more clarity and that it does not sufficiently cover all obstacles to the fully integrated DSM. Many stakeholders are also expecting difficult negotiations among the Member States.



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## Background

Information and communication technologies and the digital economy can [increase](#) Europe's productivity and contribute to creating economic growth and employment. A recent [study](#) published by the European Parliamentary Research Service argues that 'a fully functioning digital single market within the European Union would bring significant gains over time, promoting:

- higher productivity, due to the faster flow of information, benefitting in particular knowledge-service industries which depend on information for their services;
- structural changes in the EU economy, with activity moving away from manufacturing and traditional service sectors towards knowledge services;
- greater efficiency and reduced transaction costs in traditional sectors, such as the free movement of goods and services;
- welfare improvements to consumers from a higher level of e-commerce.'

The study concludes that the potential GDP gain stemming from achieving the Digital Single Market could be around €415 billion per annum (or 3% of EU GDP). Other estimates indicate that full integration of the digital market, accompanied by global growth, [could](#) at least double the EU's annual GDP growth from the average rate of 1.3% over the decade 2002-12 in the subsequent ten-year period.

The European Union has been making efforts to help create a more integrated European digital economy since the mid-1990s through numerous legislative initiatives<sup>1</sup> and with the launch of the [Digital Agenda](#), this is established as one of seven flagship initiatives of the Europe 2020 strategy. Despite these accomplishments,<sup>2</sup> the Digital Single Market remains [fragmented](#) into 28 national markets, and the EU continues to lag behind its main international competitors in the digital economy.<sup>3</sup>

A [study](#) commissioned by EPRS identified gaps such as inconsistency of transnational laws and regulations, significant heterogeneity of commercial practices between the Member States, high costs of making cross-border payments and shortage of information on availability of delivery options and services in the area of postal and parcel delivery.<sup>4</sup>

## Commission proposal

### Importance of the DSM

The European Commission has acknowledged that the Digital Single Market has not been completed yet, and that the potential of the internet economy to help Europe recover from the crisis is significant. It has consequently made completion of the Digital Single Market one of its main priorities since 2010. Furthermore, the structure of the Juncker Commission reflects the prominence given to the Digital Single Market, with one of the

### Digital Economy and Society Index

The DESI is a composite index that contains various indicators on the EU's digital performance and marks the progress of the Member States in digital competitiveness.

The 2015 DESI [data](#) show that the EU as a whole is improving on an annual basis and performs best in 'connectivity' (broadband infrastructure and quality) and 'human capital' (skills necessary to benefit from the possibilities offered by a digital society), but needs to make progress in the 'use of internet by its citizens' and – to an even greater extent – in 'integration of digital technology by businesses' (indicated e.g. by using the online sales channels).

The report also revealed an uneven picture across the Member States, with countries such as Denmark, Sweden, Finland and the Netherlands being world leaders in digital development; Belgium, the UK, Estonia, Luxembourg, Ireland, Germany, Lithuania, Spain, Austria, France, Malta and Portugal recording mixed progress; and the Czech Republic, Latvia, Slovenia, Hungary, Slovakia, Cyprus, Poland, Croatia, Italy, Greece, Bulgaria and Romania lagging behind the rest of the EU.

six Vice-Presidents (Andrus Ansip) directly responsible for DSM and steering and coordinating the work of 12 other Commissioners<sup>5</sup> involved in a project-oriented approach. This was done to achieve some tangible results in this policy cross-cutting field which is [both](#) promising and challenging. Some observers however see the involvement of multiple Commissioners as possibly leading to disagreements over certain issues in the DSM strategy, such as geo-blocking.

### A Digital Single Market Strategy

On 6 May 2015, the Commission adopted the new [DSM strategy](#), based on three pillars involving 16 actions to be delivered by the end of 2016. The aim of the Strategy is to gradually remove the regulatory obstacles, and move from 28 national markets to a single one.

#### Roadmap to achieving the Digital Single Market

Actions	Timetable
<b>I. Improving access for consumers and businesses to digital goods and services across the EU</b>	
New contract rules to facilitate cross-border e-commerce (L)*	2015
Review of the Regulation on Consumer Protection Cooperation (L)	2016
Improving price transparency and regulatory oversight of parcel delivery in the EU (L)	2016
Review to prepare legislative proposal aimed at ending unjustified geo-blocking (L)	2015
Identifying competition concerns affecting e-commerce	2015
Copyright law reform (L)	2015
Review of the Satellite and Cable Directive (L)	2015/2016
Legislative proposals to simplify varying VAT regimes (L)	2016
<b>II. Creating the right conditions for digital networks and services to prosper</b>	
Overhaul of EU telecoms rules (L)	2016
Review of the Audiovisual Media Services Directive (L)	2016
Analysis of the role of online platforms and ways to combat illegal content	2015
Review of the e-Privacy Directive (L)	2016
Initiating a public-private cybersecurity partnership	2016
<b>III. Maximising the growth potential of the digital economy</b>	
Launching 'Free Flow of Data' and 'European Cloud' initiatives	2016
Defining key priorities for standards and a revision of the European Interoperability Framework	2015
Making digital skills and expertise key components of the Commission's future initiatives on skills and training, and presenting a 2016-20 e-Government Action Plan	2016

\* Actions marked (L) are either legislative or are likely to have a legislative outcome

The Commission [states](#) that delivering the DSM would benefit a wide range of stakeholders in various ways. It argues for example that consumers would be better protected when purchasing online – with wider choice and greater access to content, goods and services from other EU countries. Goods bought online would be delivered at lower cost with the reform of parcel delivery across the EU. SMEs, start-ups and web entrepreneurs will benefit from clearer EU-wide rules rather than have to continue adapting to national laws. They will also be able to use a VAT system better suited to smaller e-commerce businesses. The protection of the creative sector from piracy will be boosted, while new business opportunities and audiences would open across Europe

with, for example, copyright reform. Furthermore, the Commission sees the industry benefitting from clearer rules, a more level playing field, public investment, common standards, fewer administrative burdens and greater interoperability.

However, as underlined by Vice-President Ansip in a recent [speech](#), despite the potential to bring about substantial economic growth and create hundreds of thousands of jobs, achieving the DSM will be challenging, since vested interests will aim to defend the current fragmentation of the DSM and fight what he described as 'healthy disruption' of the current status quo.

#### Antitrust inquiry into the e-commerce sector

On the same day as the DSM strategy was announced, the Commission [launched](#) a complementary antitrust inquiry seeking to identify competition concerns which may negatively affect the e-commerce sector in the EU. The inquiry will focus in particular on detecting potential barriers to cross-border online trade in goods and services. The Commission aims to identify barriers erected by companies operating in sectors where e-commerce is most common, such as electronics, clothing, shoes and digital content. A preliminary report is expected in the middle of 2016 (followed by a public consultation) and the final report is now expected in the first quarter of 2017.

Proponents of stronger competition on e-commerce markets [argue](#) that the results of the inquiry could mean the review of the legislative framework on vertical restraints (competition-restricting agreements on different levels of the production or distribution chains). Current rules are thought by some to prevent EU actions against online marketplace bans. Indeed, some national authorities have already taken [measures](#) to end bans on sales via online market places. Other observers however [envisage](#) that the Commission will issue explanatory documents and step up enforcement rather than propose legislative changes.

## European Parliament

### Role and position of the EP

A Digital Single Market is not specifically covered by the EU Treaties. Digital issues are by nature cross-cutting and affect a wide range of areas and policies. The legal basis is mainly found in Articles 4(2)(a), 26, 27 114 and 115 TFEU, with the ordinary legislative procedure being applied. For instance, the Parliament is currently involved in co-legislating on a number of important proposals concerning the DSM such as the [Connected Continent package](#) (telecoms single market), the [data protection rules](#), [payment services directive](#) and the [cyber security directive](#). It has also issued a number of own-initiative reports<sup>6</sup> to help shape the DSM agenda and policy.

The EP has been a long-standing advocate<sup>7</sup> of removal of all the barriers that are hindering the creation of a fully integrated DSM, which could [boost](#) growth and employment in the EU. The Parliament sees the existing fragmentation, lack of legal certainty and inconsistent enforcement of rules and transposition of legislation in Member States as the [primary concerns](#). Recognising that the DSM has not yet been [completed](#), it has called in the past for an [effective policy](#) which would enable the creation of a competitive, accessible, cross-border and transparent online services market and to put an end to territorial discrimination. MEPs have also been supportive of measures needed to facilitate cross-border e-commerce for SMEs, start-ups and micro-enterprises (such as [establishing](#) one-stop shop schemes and e-government solutions).

The Parliament has also backed steps towards achieving a high level of [consumer protection](#) in the DSM, equal [internet access](#) for service providers, the end of [roaming fees](#), the simplification of [contract rules](#) for distance/online sales, easier [electronic deals and cross-border electronic identification](#) and improvements in the existing [electronic payments](#) systems. The EP has also [highlighted](#) the need to prevent online companies abusing their dominant positions by enforcing EU competition rules, called on the Commission to consider proposals for unbundling search engines from other commercial services and develop common standards for cloud computing.

MEPs will [draft](#) an own-initiative report on the Commission's proposed DSM Strategy with the participation of several parliamentary committees. The Chairs of the Internal Market and Consumer Protection Committee, Industry, Research and Energy Committee and the Legal Affairs Committee [welcomed](#) the proposal as 'needed to build trust in the online world, boost growth and protect the rights of citizens, creators and companies'. The DSM Strategy was [debated](#) by MEPs and Vice-President Ansip on 19 May 2015. During the debate, some underlined the need to increase Europe's participation in global digital markets, to work further on the proposals and to strengthen the measures specifically supporting SMEs. Some commentators however argued that the political groups expressed [mixed reaction](#) to the DSM Strategy which may create difficulties in establishing a clear timeline for further work.

#### European Council summit in June 2015

The [conclusions](#) of the meeting which took place on 25-26 June stipulated that the DSM should be used as a vehicle for inclusive growth for all regions in the EU.

The leaders endorsed the Strategy and highlighted some key actions to be focused on, such as removing the remaining barriers to the free circulation of goods and services sold online, providing effective investment instruments, further standardising ICT, tackling unjustified geo-blocking, guaranteeing portability and ensuring cross-border access to online copyrighted material, protecting intellectual rights, ensuring the free flow of data, improving e-Government and analysing the role of online platforms.

## Other views

### EU bodies

In a draft opinion, the Commission for Social Policy, Education, Employment, Research and Culture (SEDEC) of the Committee of the Regions generally welcomed the proposal but [underlined](#) the need to ensure broadband access and services in all regions and cities of the EU and ensuring a geographical balance in the allocation of funds.

The Body of European Regulators for Electronic Communications [appreciated](#) the holistic approach taken by the Commission to promoting cross-sectoral measures necessary to achieve the DSM. It strongly supported the planned revision of telecoms rules and the promotion of competition. BEREC sees a competitive telecoms sector as the driver of the investment in infrastructure needed to satisfy the long-term connectivity needs of the EU, and to exploit innovations such as cloud computing, Big Data tools and the Internet of Things.

### Digital industry

Digital Europe, which represents the digital technology industry in Europe, [commended](#) the Commission for making DSM one of its key priorities. The association emphasised that implementing and enforcing existing consumer-protection law should take precedence over creating any new rules. It also supported modernising copyright law, reducing VAT-related burdens in cross-border trade, coordinated spectrum management, the application of competition rules to internet platforms when infractions are detected, and removing restrictions to free flows of data and data localisation measures.

The European Telecommunications Network Operators' Association supported the Strategy, saying that it [sends](#) a strong signal that network deployment and investment will be prioritised in future policy on DSM. The Association stressed the need for a pro-investment review of the current telecoms framework, stronger spectrum-harmonisation efforts and rapid measures to stimulate broadband deployment before a more in-depth review of the current framework is carried out.

The GSM Association welcomed the Commission communication but [called for](#) bringing forward the launch of the review of the telecoms framework, with a view to encouraging significant digital network investment by the mobile network operators and to rapidly address regulatory imbalances.

Ecommerce Europe declared its support for the Strategy, saying that many issues addressed by it [reflect](#) existing barriers to cross-border e-commerce identified in surveys carried out by the organisation. It also recommended full harmonisation of rules covering the cross-border online sale of digital content, tangible goods and services. Ecommerce Europe stressed that the launch of an interoperable EU-wide parcel delivery system is essential and called for harmonisation of VAT rules to the greatest extent possible. It has also asked for more evidence on the rationale behind preventing geo-blocking.

Cable Europe, an association of broadband cable TV operators and national cable associations, welcomed the strategy, and [highlighted](#) that creating a legal framework supporting the portability of content out of home and abroad whilst protecting the creative industry's revenue model will be a crucial challenge.

Fibre to the Home Council Europe, which represents the views of the high-speed fibre broadband industry, welcomed the Strategy and argued that strong competition among networks is necessary to boost digital innovation and services in the EU. The Council added that the Digital Agenda broadband target speeds<sup>8</sup> look outdated already.

The Computer and Communications Industry Association argued that the Strategy tries to marry two [opposing visions](#): de-regulation and re-regulation. It indicated that 'these differing visions are supported by different groups of EU Member States with Germany and France in one corner and the more market-oriented Scandinavians and Baltic countries, the British, Irish, Dutch and Luxembourgers in the other'.

### **Consumers and business**

The European Consumer Organisation [commended](#) the proposal as being ambitious, and argued that geo-blocking and territorial discrimination must be removed from the single market. It also stressed that lowering cross-border parcel delivery charges and harmonisation of both the copyright laws and consumer rights are urgent matters and that the overhauled telecoms legal framework should set measures increasing competition among network providers.

Business Europe [stressed](#) that time is of the essence, and that in a digital world one cannot afford a period of years to see the proposals agreed on and implemented. It also called for avoiding unnecessary burdens for companies (introducing 'digital economy proofing' of all proposals); more support to manufacturing SMEs and non-tech industries in digitalising; facilitation of private investment in broadband; and focusing research, development and innovation on areas such as 5G networks and the Internet of Things.

Eurochambres had [mixed views](#) on the DSM, saying that even though it recognises some key issues such as VAT simplification, it fails to adequately address established legislative and administrative barriers which restrict the ability of smaller businesses to capitalise on technological advances (such as the shortcomings in the Services Directive).

### Think-tanks and experts

Oxford Analytica argued that [despite](#) numerous benefits, the DSM 'will run into opposition on multiple fronts, from powerful telecoms and internet firms to content providers, privacy campaigners and artists' lobbies'. Strengthening anti-trust policies may lead to weakened investment in telecoms. The analysts consider that in the face of these obstacles, the Strategy will need strong support from Member States, which is not guaranteed since some actions touch on sensitive policy areas. The Centre for European Policy also sees the biggest [hurdle](#) to be negotiations in the Council.

Netopia, a web publication and idea forum, is convinced that negotiations with the Member States will be particularly difficult since they will possibly encroach on some of their revenues, such as those coming from assigning spectrum and VAT. It also added that the DSM Strategy omits the crucial issue of investment by [venture capital](#), which was fundamental in creating the digital world leaders in Silicon Valley, and without which the EU will not be able to emulate the US digital market.

The Bruegel think-tank welcomed the principles of the DSM Strategy but [criticised](#) its lack of clarity on implementation and prioritisation of the goals when possible trade-offs will have to be considered. This, according to Bruegel, does not allow market players to accurately anticipate the evolution of the regulatory framework needed in an environment which requires long-term heavy investment in infrastructure. Bruegel also argued that the Commission should affirm that the main goal of the DSM strategy is pursuing the interest of users and protecting competition.

An expert of the Centre for European Policy Studies [welcomed](#) the aims and ambition of the Strategy. However, he argued that while deregulating, simplifying and harmonising rules across the EU are commendable goals, possible re-regulation signalled by the proposed analysis of the role of online platforms is unfeasible in a global digital economy, and sends the wrong, protectionist signal to the rest of the world. He also stated that, given the watered down outcome of the Connected Continent package negotiations, it is hard to see that the more ambitious new telecoms rules overhaul is going to fare well with Member States, or that they will be able to unite around the DSM idea in times of weaker appetite for European integration.

### Further reading

[The ubiquitous digital single market](#), European Parliament Fact Sheet, March 2015.

[The Cost of Non-Europe in the Single Market, Part III – Digital Single Market](#), European Added Value Unit, EPRS, September 2014.

[Digital Single Market and Geo-blocking](#), Member Research Service, EPRS, May 2015.

[Be careful what you wish for: why Europe should avoid the mistakes of US Internet access policy](#), S. Crawford, B. Scott, Stiftung Neue Verantwortung Policy Brief, June 2015.

[Telecommunications and Internet Services: The digital side of the TTIP](#), A. Renda, C. Yoo, Centre for European Policy Studies, July 2015.

## Endnotes

- <sup>1</sup> Before 2010, EU Directives had been adopted in the fields of e-money, e-commerce, e-invoicing, e-privacy, data protection, distance selling, copyright and digital music rights. For a more detailed overview of the 1995-2010 period refer to a [study](#) by Copenhagen Economics entitled, 'The economic impact of the European Digital Single Market'.
- <sup>2</sup> A 2015 assessment by the European Commission for example [shows](#) that as many as 124 of a total of 132 actions of the Digital Agenda have either been achieved or are on course to be achieved. Furthermore, the Commission estimates that out of 13 Digital Agenda targets, 7 have either been [achieved](#) or could still be achieved in 2015, while 3 have 'too early to tell' status and 3 are 'likely to be missed' (one of this group, ending roaming charges, will finally be [achieved](#) in 2017 with a delay of 2 years).
- <sup>3</sup> For evidence see for example the [Staff Working Document](#) accompanying the DSM Strategy which states that the EU 'invests only 0.21% of its GDP in Information and Communication Technologies, compared to 0.57% in Japan, 0.58% in the US and 1.47% in South Korea. The EU only represents 6% of the total number of patents related to "connected-everything" technologies, far behind the US, South Korea or Japan.'
- <sup>4</sup> The study mentions the existence of other gaps such as differences in standard contract forms or the application of commercial guarantees to digital products but does not quantify their costs.
- <sup>5</sup> The Commissioners for Digital Economy and Society (Oettinger); Internal Market, Industry, Entrepreneurship and SMEs (Bieńkowska); Competition (Vestager); Employment, Social Affairs, Skills and Labour Mobility (Thyssen); Justice, Consumers and Gender Equality (Jourová); Economic and Financial Affairs, Taxation and Customs (Moscovici); Financial Stability, Financial Services and Capital Markets Union (Hill); Education, Culture Youth & Sport (Navracsics); Research, Science and Innovation (Moedas); Regional Policy (Crețu); Health and Food Safety (Andriukaitis); and Agriculture and Rural Development (Hogan).
- <sup>6</sup> For details please refer to the EP Fact Sheet on: '[The ubiquitous digital single market](#)', March 2015.
- <sup>7</sup> See for example the [Resolution](#) of 5 May 2010 on the Digital Agenda for Europe or the [Resolution](#) of 27 November 2014 on consumer rights in the Digital Market.
- <sup>8</sup> The targets specify download rates of 30 Mbps for all EU citizens and at least 50% of European households subscribing to internet connections above 100 Mbps by 2020.

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