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## THE UBIQUITOUS DIGITAL SINGLE MARKET

The digital single market is one of the most promising and challenging areas of progress, creating potential efficiency gains of EUR 415 billion. It opens up new opportunities to boost the economy through e-commerce, while at the same time facilitating administrative and financial compliance for businesses and empowering customers through e-government. Market and government services developed within the digital single market are evolving from fixed to mobile platforms and becoming increasingly ubiquitous, offering access to information and content anytime, anywhere and on any device (ubiquitous commerce and ubiquitous government). These advances call for a regulatory framework that is conducive to the development of cloud computing, borderless mobile data connectivity and simplified access to information and content, while safeguarding privacy, personal data, cybersecurity and net neutrality.

### LEGAL BASIS

Articles 4(2)(a), 26, 27, 114 and 115 of the Treaty on the Functioning of the European Union (TFEU).

### OBJECTIVES

The digital single market is essentially about removing national barriers to transactions that take place online. It builds on the concept of the common market, intended to eliminate trade barriers between Member States with the aim of increasing economic prosperity and contributing to ‘an ever closer union among the peoples of Europe’ and further developed into the concept of the internal market, defined as ‘an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured’. Following on from the Lisbon Strategy<sup>[1]</sup>, the Europe 2020 strategy introduced the Digital Agenda for Europe<sup>[2]</sup> as one of seven flagship initiatives, recognising the key enabling role that the use of information and communication technologies (ICT) will have to play if the EU wants to succeed in its ambitions for 2020 (2.3.3). The digital single market has been recognised as a priority by the Commission in its Digital Single Market (DSM) Strategy<sup>[3]</sup>.

The digital single market has the potential to improve access to information, to bring efficiency gains in terms of reduced transaction costs, dematerialised consumption and reduced environmental footprint, and to introduce improved business and administrative models<sup>[4]</sup>. More

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[1]The Lisbon Strategy aimed to make the EU ‘the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion’.

[2]<http://ec.europa.eu/digital-agenda/>

[3]Commission communication ‘A Digital Single Market Strategy for Europe’ (COM(2015) 0192). See also additional documents published with the press release at: [http://europa.eu/rapid/press-release\\_IP-15-4919\\_en.htm](http://europa.eu/rapid/press-release_IP-15-4919_en.htm). Information about the relevant public consultations (open, planned and closed) can be found at: <https://ec.europa.eu/digital-agenda/en/consultations>

[4]See Streaming and Online Access to Content and Services, study prepared for Parliament’s Committee on the Internal Market and Consumer Protection, 2014:

e-commerce generates tangible benefits for consumers, such as rapidly evolving new products, lower prices, more choice and better quality of goods and services, as a result of cross-border trade and easier comparison of offers<sup>[5]</sup>. More e-government facilitates online compliance and access to jobs and business opportunities for both citizens and businesses<sup>[6]</sup>.

Mapping of the costs of non-Europe and the study by Parliament's Committee on the Internal Market and Consumer Protection (IMCO) entitled 'Contribution of the Internal Market and Consumer Protection to Growth' have indicated that the digital single market could contribute around EUR 415 billion to the GDP of the EU-28<sup>[7]</sup>. In specific policy areas, e.g. as a result of the adoption of cloud computing, 80% of organisations could reduce costs by 10% to 20%. Other benefits include enhanced mobile working (46%), productivity (41%) and standardisation (35%), as well as new business opportunities (33%) and new markets (32%)<sup>[8]</sup>. Vulnerable people (the elderly, those with reduced mobility, those isolated in rural areas, those with low purchasing power) can derive particular benefit from the digital single market, and the EU will thus be better placed to meet the demographic challenges of today<sup>[9]</sup>.

## ACHIEVEMENTS

Re-launching the European economy through the digital single market: given that the full potential of the internal market remains unexploited, Parliament, the Council and the Commission have made efforts to re-launch it and to put the public, consumers and small and medium-sized enterprises (SMEs) at the centre of the single market policy<sup>[10]</sup>. The digital single market has a central role to play in these efforts.

In its communication entitled 'Europe 2020 — A strategy for smart, sustainable and inclusive growth' ([COM\(2010\) 2020](#)), the Commission presented seven flagship initiatives — including the Digital Agenda — intended to 'turn Europe into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion'.

Further to the Europe 2020 strategy, the Commission published, in May 2010, a report entitled 'A new strategy for the single market at the service of Europe's economy and society', with the aim of developing a comprehensive strategy for the single market covering all the policies concerned, including digital policy. It also set out several initiatives aimed at shoring up the single market by removing barriers. These Commission communications, and Parliament's resolution of 20 May 2010 on delivering a single market to consumers and citizens<sup>[11]</sup>, prepared the ground for a communication entitled 'Towards a Single Market Act' ([COM\(2010\) 0608](#)) in which the Commission presented a series of measures designed to boost the EU economy

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[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/492435/IPOL-IMCO\\_ET\(2014\)492435\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/492435/IPOL-IMCO_ET(2014)492435_EN.pdf)

[5]For a calculation of the benefits of recent initiatives, see: 'Roadmap to Digital Single Market', briefing note prepared for Parliament's Committee on the Internal Market and Consumer Protection (2012), <http://www.europarl.europa.eu/document/activities/cont/201209/20120914ATT51402/20120914ATT51402EN.pdf>

[6]See European Single Point of Contact, study prepared for Parliament's Committee on the Internal Market and Consumer Protection, 2013, [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/507453/IPOL-IMCO\\_ET\(2013\)507453\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/507453/IPOL-IMCO_ET(2013)507453_EN.pdf)

[7]See study entitled 'Contribution of the Internal Market and Consumer Protection to Growth', prepared for Parliament's Committee on the Internal Market and Consumer Protection, Policy Department A, 2014 [http://www.europarl.europa.eu/RegData/etudes/STUD/2014/518762/IPOL\\_STU\(2014\)518762\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/518762/IPOL_STU(2014)518762_EN.pdf) and [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536364/EPRS\\_STU\(2015\)536364\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536364/EPRS_STU(2015)536364_EN.pdf)

[8]Commission communication on 'Unleashing the Potential of Cloud Computing in Europe' ([COM\(2012\) 0529](#)).

[9]Commission communication on 'A coherent framework for building trust in the Digital Single Market for e-commerce and online services' ([COM\(2011\) 0942](#)).

[10]Earlier efforts sought to improve the operation of the internal market and ensure consumer protection through, e.g.: the Data Protection Directive (95/46/EC; a 2012 proposal for a General Data Protection Regulation is currently being discussed by Parliament), the e-Commerce Directive (2000/31/EC), the Telecommunication Package including the e-Privacy Directive (2002/58/EC), the Payment Services Directive (2007/64/EC), the Consumer Rights Directive (2011/83/EU) and the Roaming Regulation (531/2012).

[11]OJ C 161 E, 31.5.2011, p. 84.

and create jobs. Following on from its communication of 11 January 2012 entitled ‘A coherent framework for building trust in the Digital Single Market for e-commerce and online services’ ([COM\(2011\) 0942](#)), in June 2012 the Commission published a communication entitled ‘Better Governance for the Single Market’ ([COM\(2012\) 0259](#)). It proposed that the focus be placed on those sectors with the highest growth potential, including network industries (e.g. energy and telecommunications).

In September 2012 the Commission published a communication on ‘Unleashing the Potential of Cloud Computing in Europe’, proposing as key actions: (1) cutting through the jungle of standards, (2) guaranteeing safe and fair contract terms and conditions, and (3) establishing a European cloud partnership to drive innovation and growth from the public sector; it thereby sought to address issues such as fragmentation of the digital single market and complicated contractual environments ([COM\(2012\) 0529](#)).

In October 2012 the Commission came forward with a second set of proposals — the Single Market Act II ([COM\(2012\) 0573](#)) — comprising 12 key actions focused on four main drivers for growth, employment and confidence: integrated networks, cross-border mobility of citizens and businesses, the digital economy, and actions that strengthen cohesion and consumer benefits.

On 6 May 2015, the Commission adopted the Digital Single Market (DSM) Strategy, composed of three pillars: (1) better access for consumers and businesses to digital goods and services across Europe; (2) creating the right conditions and a level playing field for digital networks and innovative services to flourish; (3) maximising the growth potential of the digital economy. The Commission set up a roadmap with 16 key actions under these pillars to be initiated by the end of 2016<sup>[12]</sup>. To measure Europe’s progress towards a digital economy and society, the Commission created an online tool called ‘The Digital Economy and Society Index’<sup>[13]</sup> (DESI). It brings together a set of five relevant indicators on Europe’s current digital policy mix, which enables an overview of each Member State’s performance. Since the publication of the strategy, the Commission has tabled a number of legislative proposals aimed at achieving a digital single market. New legislative proposals are aimed at addressing issues such as unjustified geo-blocking<sup>[14]</sup>, cross-border parcel delivery<sup>[15]</sup>, cross-border portability of online content services<sup>[16]</sup>, a revision of the Consumer Protection Cooperation Regulation<sup>[17]</sup>, audiovisual media services<sup>[18]</sup>, contracts for online and other distance sales of goods<sup>[19]</sup> and contracts for the

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[12]Commission communication ‘A Digital Single Market Strategy for Europe’, ([COM\(2015\) 0192](#)). See also additional documents published with the press release at: [http://europa.eu/rapid/press-release\\_IP-15-4919\\_en.htm](http://europa.eu/rapid/press-release_IP-15-4919_en.htm). Information about the relevant public consultations (open, planned and closed) can be found at <https://ec.europa.eu/digital-agenda/en/consultations>

[13][http://europa.eu/rapid/press-release\\_MEMO-16-385\\_en.htm](http://europa.eu/rapid/press-release_MEMO-16-385_en.htm)

[14]Proposal for a Regulation on addressing geo-blocking and other forms of discrimination based on customers’ nationality, place of residence or place of establishment within the internal market, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016PC0289>

[15]Proposal for a Regulation on cross-border parcel delivery services, <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-285-EN-F1-1.PDF>

[16]Proposal for a regulation on ensuring the cross-border portability of online content services in the internal market, <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-627-EN-F1-1.PDF>

[17]Proposal for a regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws (2016/0148(COD)), [http://ec.europa.eu/consumers/consumer\\_rights/unfair-trade/docs/cpc-revision-proposal\\_en.pdf](http://ec.europa.eu/consumers/consumer_rights/unfair-trade/docs/cpc-revision-proposal_en.pdf)

[18]Proposal for a directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities (COM(2016) 0287).

[19]Proposal for a directive of the European Parliament and of the Council on certain aspects concerning contracts for the online and other distance sales of goods (COM(2015) 0635 — 2015/0288(COD), <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1450431933547&uri=CELEX:52015PC0635>

supply of digital content<sup>[20]</sup>. The Commission has also published communications explaining future policy approach, e.g. to online platforms<sup>[21]</sup>.

## ROLE OF THE EUROPEAN PARLIAMENT

Parliament has played a leading role in the relaunch of the internal market and is a keen promoter and agenda setter for the digital single market<sup>[22]</sup>.

Its resolution of 20 April 2012 on ‘a competitive digital single market — e-government as a spearhead’<sup>[23]</sup> pointed out the need for a clear and coherent legal framework for the mutual recognition of electronic authentication, identification and signatures, which is necessary in order to enable cross-border administrative services to operate throughout the EU.

On 11 December 2012, Parliament adopted two non-legislative resolutions relating to the internal market, one on completing the Digital Single Market<sup>[24]</sup> and the other on a Digital Freedom Strategy in EU Foreign Policy<sup>[25]</sup>. The aim of the resolutions was to develop policy and practice with a view to establishing a real digital single market in the EU in order to cope with 27 different sets of rules in key areas including VAT, postal services and intellectual property rights. Connecting SMEs to the digital revolution through genuine, well-developed and pan-European e-commerce is one of the recommendations made to the Commission and the Council with a view to breaking down digital barriers between Member States.

On 4 July 2013 Parliament adopted a further resolution on completing the digital single market<sup>[26]</sup>, focusing on tapping the full potential of the digital single market, addressing the skills gap, building trust, security and consumer confidence, creating an attractive and legal supply of digital content, and building mobility services and the international dimension. This resolution set out policy guidelines which were subsequently followed by the Commission in its Digital Single Market (DSM) Strategy. The achievements of Parliament in the digital area are built on preparatory work done by the e-commerce and Digital Single Market Working Group, chaired by MEP Róża Gräfin von Thun und Hohenstein.

In response to the DSM Strategy, on 19 January 2016, Parliament adopted a resolution entitled ‘Towards a Digital Single Market Act’<sup>[27]</sup> which calls on the Commission to end unjustified geo-blocking practices, to improve EU consumers’ access to goods and services, to ensure equivalent and future-proof consumer protection, regardless of whether digital content is purchased online or offline, to identify innovative solutions to cross-border parcel delivery in order to improve services and lower costs, to remove barriers to SMEs, start-ups and scale-ups, and to seize the opportunities arising from new ICT technologies, such as big data, cloud computing, the Internet of Things and 3D printing. Parliament argued that an innovation-friendly policy towards online platforms (e.g. search engines, app stores) that facilitates market entry should be maintained,

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[20] Proposal for a directive of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content, (COM(2015) 0634 — [2015/0287\(COD\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1450431933547&uri=CELEX:52015PC0634), <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1450431933547&uri=CELEX:52015PC0634>).

[21] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Online Platforms and the Digital Single Market, Opportunities and Challenges for Europe (COM(2016) 0288), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:%3A52016DC0288>

[22] For an interactive overview of Parliament’s legislative activities in the area of the digital single market see: [http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/542204/IPOL\\_ATA\(2015\)542204\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/542204/IPOL_ATA(2015)542204_EN.pdf)

[23] Texts adopted, [P7\\_TA\(2012\)0140](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012TA0140).

[24] Texts adopted, [P7\\_TA\(2012\)0468](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012TA0468).

[25] Texts adopted, [P7\\_TA\(2012\)0470](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012TA0470).

[26] Texts adopted, [P7\\_TA\(2013\)0327](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52013TA0327).

[27] Texts adopted, [P8\\_TA\(2016\)0009](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016TA0009).

and favoured a review of the e-Privacy Directive to ensure the consistency of its provisions with the new EU data protection rules.

Parliament is building the digital single market through intensive legislative activity. The most recent legislation covers: the introduction of net neutrality guarantees; the lowering of roaming tariffs, which led to the elimination of data roaming charges on 15 June 2017<sup>[28]</sup>; and adoption of the directive on measures to reduce the cost of deploying high-speed electronic communications networks<sup>[29]</sup>, the regulation on electronic identification and trust services for electronic transactions in the internal market<sup>[30]</sup>, and the directive on European cybersecurity rules<sup>[31]</sup>. As for the data protection package<sup>[32]</sup>, Regulation (EU) 2016/679 and Directive (EU) 2016/680 were published in the Official Journal of the European Union on 4 May 2016<sup>[33]</sup>. These texts guarantee easier access for citizens to their own data and information on how the data is processed, a right to data portability, a clarified ‘right to be forgotten’, and the right to know when one’s data has been hacked<sup>[34]</sup>. The Regulation will apply from 25 May 2018. Member States are required to transpose the Directive into their national law by 6 May 2018<sup>[35]</sup>. Parliament is currently doing extensive legislative work on proposals presented as a follow-up to the DSM Strategy and the Parliament resolution entitled ‘Towards a Digital Single Market Act’<sup>[36]</sup>.

Research carried out for Parliament shows the significant potential of the digital single market in reducing costs and barriers in Europe for citizens and businesses<sup>[37]</sup>, and making the European economy greener<sup>[38]</sup> and more social<sup>[39]</sup>. In Europe, a significant part of this potential can be achieved through the development of e-government and related services such as e-health<sup>[40]</sup>.

Recent research indicates that the ongoing Brexit process will generate significant uncertainties and negative impacts on the Single Market and on the rights of European citizens in the digital single market<sup>[41]</sup>. Parliament will need to play a significant role in ascertaining that democratic legitimacy and respect for citizens’ rights are present in this process<sup>[42]</sup>.

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[28]OJ L 310, 26.11.2015, p. 1; OJ C 261 E, 10.9.2013, p. 54.

[29]OJ L 155, 23.5.2014, p. 1.

[30]OJ L 257, 28.8.2014, p. 73.

[31]Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union.

[32][http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2012/0011\(COD\)&l=en](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2012/0011(COD)&l=en)

[33]<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2016:119:FULL&from=EN>

[34][http://europa.eu/rapid/press-release\\_IP-15-6321\\_en.pdf](http://europa.eu/rapid/press-release_IP-15-6321_en.pdf)

[35]<http://ec.europa.eu/justice/data-protection/>

[36]Texts adopted, [P8\\_TA\(2016\)0009](#).

[37]Study on ‘Reducing costs and barriers for businesses in the Single Market’ (2016), prepared by Policy Department A and London Economics for the IMCO Committee, [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578966/IPOL\\_STU\(2016\)578966\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578966/IPOL_STU(2016)578966_EN.pdf)

[38]Study on ‘Longer lifetime for products’ (2016), prepared by Policy Department A and TNO for the IMCO Committee.

[39]Study on ‘Social economy’ (2016), prepared by Policy Department A and Optimity Advisors for the IMCO Committee, [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578969/IPOL\\_STU\(2016\)578969\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578969/IPOL_STU(2016)578969_EN.pdf)

[40]Study on ‘Ubiquitous developments of the Digital Single Market’ (2013), prepared by Policy Department A and a consortium of WIK, RAND and TNO for the IMCO Committee, [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/507481/IPOL-IMCO\\_ET\(2013\)507481\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/507481/IPOL-IMCO_ET(2013)507481_EN.pdf)

[41]Repasi R., Proceedings of the Workshop on the consequences of Brexit, 2017, [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/602052/IPOL\\_STU\(2017\)602052\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/602052/IPOL_STU(2017)602052_EN.pdf) and Eeckhout P., The Consequences of Brexit for the Customs Union and the Internal Market Acquis for Goods, 2017, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/602053/IPOL\\_BRI\(2017\)602053\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/602053/IPOL_BRI(2017)602053_EN.pdf)

[42]Stoll P.T., The Role and Powers of the European Parliament in the Brexit Process, 2017, [http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/602054/IPOL\\_IDA\(2017\)602054\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/602054/IPOL_IDA(2017)602054_EN.pdf)