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*Plenary sitting*

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**A8-0371/2015**

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# REPORT

on Towards a Digital Single Market Act  
(2015/2147(INI))

Committee on Industry, Research and Energy  
Committee on the Internal Market and Consumer Protection

Rapporteurs: Kaja Kallas, Evelyne Gebhardt

(Joint Committee meetings – Rule 55 of the Rules of Procedure)

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Jutta Steinruck, Committee on Employment and Social Affairs  
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Angel Dzhambazki, Committee on Legal Affairs  
Michał Boni, Committee on Civil Liberties, Justice and Home Affairs

(\*) Associated committees – Rule 54 of the Rules of Procedure

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(\*) Associated committee – Rule 54 of the Rules of Procedure

## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on Towards a Digital Market Act (2015/2147(INI))

*The European Parliament,*

- having regard to the Commission communication entitled ‘A Digital Single Market Strategy for Europe’ (COM(2015)0192) and the accompanying Commission staff working document (SWD(2015)100 final),
- having regard to the Commission communication of 2 July 2014 entitled ‘Towards a thriving data-driven economy’ (COM(2014)0442),
- having regard to the Commission communication entitled ‘Establishing a programme on interoperability solutions for European public administrations, businesses and citizens (ISA) – Interoperability as a means for modernising the public sector’ (COM(2014)0367),
- having regard to the Commission communication entitled ‘Unleashing the potential of crowdfunding in the European Union’ (COM(2014)0172),
- having regard to the Commission Annex to the communication entitled ‘Regulatory Fitness and Performance (REFIT): results and next steps’ (COM(2013)0685),
- having regard to the Commission communication of 11 September 2011 entitled ‘Laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent’, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (COM(2013)0627),
- having regard to the Commission staff working document of 23 April 2013 entitled ‘E-commerce action plan 2012-2015 – State of play 2013’ (SWD(2013)0153),
- having regard to the Commission communication of 26 March 2013 on measures to reduce the cost of deploying high-speed electronic communications networks (COM(2013)0147),
- having regard to the Commission communication of 7 February 2013 concerning measures to ensure a high common level of network and information security across the Union (COM(2013)0048),
- having regard to the Commission communication of 18 December 2012 entitled ‘On Content in the Digital Single Market’ (COM(2012)0789),
- having regard to the Commission communication of 3 December 2012 on the accessibility of public sector bodies’ websites (COM(2012)0721),
- having regard to the Commission communication of 10 October 2012 entitled ‘A stronger European industry for growth and economic recovery’ (COM (2012)0582),
- having regard to the Commission communication of 3 October 2012 entitled ‘Single Market Act II – Together for new growth’ (COM(2012)0573),
- having regard to the Commission communication of 13 April 2011 to the European Parliament, the Council, the Economic and Social Committee and the Committee of the

Regions entitled ‘Single Market Act: Twelve levers to boost growth and strengthen confidence’ (COM(2011)0206),

- having regard to the Commission communication of 27 October 2010 to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled ‘Towards a Single Market Act: For a highly competitive social market economy – 50 proposals for improving our work, business and exchanges with one another’ (COM(2010)0608),
- having regard to the European Commission’s proposal on intellectual property: term of protection of copyright and related rights (COM(2008)0464),
- having regard to Regulation (EU) 2015/758 of the European Parliament and of the Council of 29 April 2015 concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC<sup>1</sup>,
- having regard to Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC<sup>2</sup>,
- having regard to Regulation (EU) No 283/2014 of the European Parliament and of the Council of 11 March 2014 on guidelines for trans-European networks in the area of telecommunications infrastructure and repealing Decision No 1336/97/EC<sup>3</sup>,
- having regard to Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market<sup>4</sup>,
- having regard to Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010<sup>5</sup>,
- having regard to Directive 2013/37/EU of the European Parliament and of the Council of 27 June 2013 on re-use of public sector information (PSI Directive)<sup>6</sup>,
- having regard to Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR)<sup>7</sup>,
- having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual

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<sup>1</sup> OJ L 123, 19.5.2015, p. 77

<sup>2</sup> OJ L 257, 28.8.2014, p. 73.

<sup>3</sup> OJ L 86, 21.3.2014, p. 14.

<sup>4</sup> OJ L 84, 20.3.2014, p. 72.

<sup>5</sup> OJ L 348 20.12.2013, p. 129.

<sup>6</sup> OJ L 175, 27.6.2013 p. 1.

<sup>7</sup> OJ L 165, 18.6.2013 p. 1.

media services<sup>1</sup>,

- having regard to Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme<sup>2</sup>,
- having regard to Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council<sup>3</sup>,
- having regard to Regulation (EU) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications and the Office<sup>4</sup>,
- having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market<sup>5</sup>,
- having regard to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector<sup>6</sup>,
- having regard to Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases<sup>7</sup>,
- having regard to the First evaluation of Directive 96/9/EC on the legal protection of databases,
- having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, including the amendments brought by Regulation (EC) 1882/2003<sup>8</sup>,
- having regard to the agreement of 28 September 2015 on 5G partnership between China and the European Union and related agreements,
- having regard to its resolution of 9 July 2015 on the implementation of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society<sup>9</sup>,
- having regard to its resolution of 9 June 2015 on ‘Towards a renewed consensus on the enforcement of Intellectual Property Rights: An EU Action Plan’<sup>10</sup>,
- having regard to its resolution of 10 March 2015 on the Annual Report on EU

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<sup>1</sup> OJ L 95, 15.4.2010, p. 1.

<sup>2</sup> OJ L 81, 21.3.2012, p. 7.

<sup>3</sup> OJ L 304, 22.11.2011, p. 64.

<sup>4</sup> OJ L 337, 18.12.2009, p. 1.

<sup>5</sup> OJ L 376, 27.12.2006, p. 36.

<sup>6</sup> OJ L 201, 31.7.2002, p. 37.

<sup>7</sup> OJ L 77, 27.3.1996, p. 20.

<sup>8</sup> OJ L 281, 23.11.1995, p. 31.

<sup>9</sup> OJ L 167, 22.6.2001, p. 10.

<sup>10</sup> Texts adopted, P8\_TA(2015)0220.

## Competition Policy<sup>1</sup>,

- having regard to its resolution of 27 November 2014 on supporting consumer rights in the digital single market<sup>2</sup>,
- having regard to its resolution of 27 February 2014 on private copying levies,<sup>3</sup>,
- having regard to its resolution of 4 February 2014 on an integrated parcel delivery market for the growth of e-commerce in the EU<sup>4</sup>,
- having regard to its resolution of 15 January 2014 on reindustrialising Europe to promote competitiveness and sustainability<sup>5</sup>,
- having regard to its resolution of 10 December 2013 on unleashing the potential of cloud computing in Europe<sup>6</sup>,
- having regard to its resolution of 10 December 2013 on the evaluation report regarding BEREC and the Office<sup>7</sup>,
- having regard to its resolution of 24 October 2013 on the implementation report on the regulatory framework for electronic communications<sup>8</sup>,
- having regard to its resolution of 22 October 2013 on misleading advertisement practices<sup>9</sup>,
- having regard to its resolution of 12 September 2013 on the Digital Agenda for Growth, Mobility and Employment: time to move up a gear<sup>10</sup>,
- having regard to its resolution of 4 July 2013 on completing the digital single market<sup>11</sup>,
- having regard to its resolution of 11 June 2013 on a new agenda for European Consumer Policy<sup>12</sup>,
- having regard to its resolution of 22 May 2013 on the implementation of the Audiovisual Media Services Directive<sup>13</sup>,
- having regard to its resolution of 11 December 2012 on completing the Digital Single Market<sup>14</sup>,
- having regard to its resolution of 11 September 2012 on the online distribution of audiovisual works in the European Union<sup>15</sup>,
- having regard to its resolution of 12 June 2012 on critical information infrastructure

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<sup>1</sup> Texts adopted, P8\_TA(2015)0051

<sup>2</sup> Texts adopted, P8\_TA(2014)0071.

<sup>3</sup> Texts adopted, P7\_TA(2014)0179.

<sup>4</sup> Texts adopted, P7\_TA(2014)0067.

<sup>5</sup> Texts adopted, P7\_TA(2014)0032.

<sup>6</sup> Texts adopted, P7\_TA(2013)0535.

<sup>7</sup> Texts adopted, P7\_TA(2013)0536.

<sup>8</sup> Texts adopted, P7\_TA(2013)0454.

<sup>9</sup> Texts adopted, P7\_TA(2013)0436.

<sup>10</sup> Texts adopted, P7\_TA(2013)0377.

<sup>11</sup> Texts adopted, P7\_TA(2013)0327.

<sup>12</sup> Texts adopted, P7\_TA(2013)0239.

<sup>13</sup> Texts adopted, P7\_TA(2013)0215.

<sup>14</sup> Texts adopted, P7\_TA(2012)0468.

<sup>15</sup> OJ C 353E, 3.12.2013, p. 64.

- protection – achievements and next steps: towards global cyber-security<sup>1</sup>,
- having regard to its resolution of 20 April 2012 on a competitive digital single market - eGovernment as a spearhead<sup>2</sup>,
  - having regard to its resolution of 21 September 2010 on completing the internal market for e-commerce<sup>3</sup>,
  - having regard to its resolution of 15 June 2010 on internet governance: the next steps<sup>4</sup>,
  - having regard to its resolution of 5 May 2010 on a new Digital Agenda for Europe: 2015.eu<sup>5</sup>,
  - having regard its resolution of 15 June 2010 on the Internet of Things<sup>6</sup>,
  - having regard to the Charter of Fundamental Rights of the European Union, as incorporated into the Treaties by Article 6 of the EU Treaty,
  - having regard to Article 9 of the United Nations Convention on the Rights of People with Disabilities (UN CRPD), ratified by the EU on 23 December 2010 (2010/48/EC),
  - having regard to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on 20 October 2005,
  - having regard to Articles 9, 12, 14, 16 and 26 of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the joint deliberations of the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection under Rule 55 of the Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Employment and Social Affairs, the Committee on Culture and Education, the Committee on Legal Affairs, the Committee on Civil Liberties, Justice and Home Affairs, the Committee on Economic and Monetary Affairs and the Committee on Transport and Tourism (A8-0371/2015),
- A. whereas the rapidly evolving use of the internet and mobile communications has changed the way citizens, companies and their employees communicate, access information and knowledge, invent, consume, share, participate and work; whereas this has expanded and changed the economy, facilitating access by small and medium-sized companies to a potential customer base of 500 million customers within the EU, as well as to global markets, and allowing individuals the opportunity to develop new, entrepreneurial ideas and business models;
- B. whereas all Union policies and legislation in the area of the Digital Single Market

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<sup>1</sup> Texts adopted, P7\_TA(2012)0237.

<sup>2</sup> Texts adopted, P7\_TA(2012)0140.

<sup>3</sup> OJ C 50E, 21.2.2012, p. 1.

<sup>4</sup> OJ C 236E, 12.8.2011, p. 33.

<sup>5</sup> OJ C 81E, 15.3.2011, p. 45.

<sup>6</sup> OJ C 236E, 12.8.2011, p. 24.

should allow new opportunities for users and businesses and new innovative cross-border online services at competitive prices to emerge and grow, remove barriers between Member States and facilitate access for European businesses, in particular SMEs and start-ups, to cross-border market, as key for growth and employment in the EU, while recognising that these opportunities will inevitably involve structural changes and taking a holistic approach, including the social dimension, and the need for the digital skills gap to be quickly filled;

- C. whereas while 75 % of the value added by the digital economy comes from traditional industry, the digital transformation of traditional industry remains weak, with only 1.7 % of EU enterprises making full use of advanced digital technologies and only 14 % of SMEs using the internet as a sales channel; whereas Europe must use the great potential of the ICT sector to digitise the industry and maintain global competitiveness;
- D. whereas building a data economy depends heavily on a legal framework that encourages the development, curation, maintenance and augmentation of databases, and is therefore dependent on a legal framework that is innovation-friendly and practical;
- E. whereas in 2013 the market size of the sharing economy was around 3.5 billion worldwide, and today the Commission is forecasting a growth potential that goes over 100 billion;
- F. whereas a high and consistent level of consumer protection, empowerment and satisfaction necessarily entails choice, quality, flexibility, transparency, information, interoperability and an accessible, secure online environment with a high level of data protection;
- G. whereas creativity and innovation are the drivers of the digital economy, and whereas it is therefore essential to ensure a high level of protection of intellectual property rights;
- H. whereas 44.8 % of households in the EU<sup>1</sup> do not have access to fast internet, and current policies and incentives have failed to deliver adequate digital infrastructure, particularly in rural areas;
- I. whereas the regions in the EU are on very different levels when it comes to their digital connectivity, human capital, use of internet, integration of digital technology by businesses, and digital public services as shown by the Digital Agenda Scoreboard; whereas the regions which score low on these five indicators run the risk of missing out on the benefits of the digital era;

## **1. INTRODUCTION: WHY WE NEED A DIGITAL SINGLE MARKET**

1. Welcomes the Communication on ‘A Digital Single Market Strategy for Europe’; considers that achieving a Digital Single Market, based on a common set of rules, could foster EU competitiveness, have positive effects on growth and jobs, relaunch the Single Market and make society more inclusive, offering new opportunities to citizens and businesses, especially by exchanging and sharing innovation, believes that the

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<sup>1</sup> Eurostat 2014: [http://ec.europa.eu/eurostat/statistics-explained/index.php/Information\\_society\\_statistics\\_at\\_regional\\_level#People\\_who\\_never\\_used\\_the\\_internet](http://ec.europa.eu/eurostat/statistics-explained/index.php/Information_society_statistics_at_regional_level#People_who_never_used_the_internet)



horizontal approach taken needs now to be strengthened in its implementation, including the timely adoption of the 16 initiatives, as the digital drivers affect each and every citizen and dimension of society and the economy;

2. Agrees with the Commission that the governance and timely delivery of the Digital Single Market is a shared responsibility of the European Parliament, the Council and the Commission; encourages the Commission to engage with societal and social stakeholders and to involve them in the decision-making process to the widest extent possible;
3. Believes that better regulation requires taking an approach to legislation that is digital by default, principle-based, and technologically neutral; in order to provide room for innovation, it requires an assessment of whether existing legislation, complementary non-regulatory actions and enforcement frameworks, following necessary consultations and impact assessments, are fit for purpose in the digital age, in light of new technologies and new business models, with the aim of overcoming legal fragmentation of the single market, reducing administrative burden, and boosting growth and innovation;
4. Considers that the trust of citizens and businesses in the digital environment is vital to fully unlocking innovation and growth in the digital economy; is convinced that reinforcing their trust, through data protection and security standards and a high level of consumer protection and empowerment, as well as up-to-date legislation for businesses, should be at the basis of public policy, while recognising that the business models of digital businesses are built on the trust of their users;
5. Points out that e-commerce generates EUR 500 billion per year in the European Union and is an important complement to offline trade, while providing consumers with greater choice, especially in remote areas, and SMEs with new opportunities; calls on the Commission to identify and dismantle barriers affecting e-commerce in order to build a genuine cross-border e-commerce market; believes that these barriers include lack of interoperability and common standards, lack of adequate information allowing consumers to make informed decisions, and inadequate access to enhanced cross-border payments;
6. Supports the Commission's plan to ensure that EU competition policy applies fully to the digital single market, as competition gives consumers more choice but will also provide a level playing field, and regrets that the current lack of a European digital framework has highlighted the failure to reconcile the interests of large and small providers;
7. Stresses the urgent need for the Commission and the Member States to promote a more dynamic economy that allows innovation to flourish and removes barriers for businesses, in particular innovative ones, SMEs, start-ups and scale-ups, so that they can access markets in a level playing field, through the development of e-government, a future-proof and integrated regulatory and non-regulatory framework, access to finance, including new funding models for EU start-ups, SMEs and civil society initiatives, and a long-term investment strategy in digital infrastructure, skills, digital inclusion, research and innovation; recalls that the basis of innovation-friendly policy that fosters competition and innovation should include the possibility for projects to access financing possibilities; calls upon the Commission, therefore, to ensure that crowdfunding can be done seamlessly across borders, and encourages the Member

States to introduce incentives for crowdfunding;

8. Believes that the effects of digitalisation on health and safety at work need to be assessed and existing health and safety measures adapted accordingly; notes the possibility of accidents to which persons teleworking or crowdworking from home may be exposed; emphasises that work-related mental health problems such as burnout caused by constant accessibility and the erosion of traditional working time arrangements represents a serious risk for workers; calls on the Commission to arrange for a study to be produced on the spillover effects of digitalisation, such as greater labour intensity, on workers' psychological wellbeing and family life and on the development of cognitive abilities in children;
9. Calls on the Commission, in cooperation with the Member States, to further develop initiatives to boost entrepreneurship, particularly innovative business models that will help change the mind-set on how success is defined and promote an entrepreneurial and innovation culture; believes, in addition, that the diversity and specific attributes of the different national innovation hubs can be turned into a real competitive advantage for the EU on the global market, so they should be interconnected and innovative ecosystems where different sectors and businesses cooperate should be strengthened;
10. Is concerned about the different national approaches taken so far by the Member States on regulating the internet and the sharing economy; urges the Commission to take initiatives, in line with EU competences, to support innovation and fair competition, remove barriers to digital trade, and preserve economic and social cohesion and the integrity of the single market: calls on the Commission also to preserve the internet as an open, neutral, secured, inclusive, global platform for communication, production, participation, creation, cultural diversity and innovation, in the interest of citizens, consumers and the success of European companies globally;
11. Notes that the digital revolution affects every aspect of our societies, bringing about challenges and opportunities; believes that it has the potential to further empower citizens, consumers and entrepreneurs in ways not possible before; calls on the Commission to develop a policy that fosters active participation of citizens and allows them to benefit from the digital shift; calls further on the Commission to continue to assess how the digital revolution shapes European society;
12. Calls on the Commission to fight legal fragmentation by significantly increasing the coordination of its various DGs while drafting new regulation and strongly encouraging the Member States to ensure that the way they are implementing the regulation remains coherent;
13. Stresses the need for compliance with fundamental rights, in particular data protection legislation, by all initiatives developed under the Digital Single Market Strategy, while recognising the strategy's added value for the EU economy; recalls the importance of swift adoption of both the General Data Protection Regulation and the Data Protection Directive, in the interest of both data subjects and businesses; calls for a revision of the ePrivacy Directive to ensure the consistency of its provisions with the data protection package by the time the package enters into force;

## **2. BETTER ACCESS FOR CONSUMERS AND BUSINESSES ACROSS EUROPE TO THE DIGITAL SINGLE MARKET**

## **2.1 Cross-border e-commerce rules that consumers and business can trust**

14. Welcomes the Commission's undertaking to adopt a strong proposal on online contracts covering digital content purchased online and to improve consumers' legal protection in this sphere; believes that any such improvements must be targeted and that differences between content, on the one hand, and tangible goods on the other should be carefully analysed; points out that while consumers who buy content on a tangible medium are protected by consumer protection laws, consumer rights when buying digital content online remain largely unregulated and unclear, particularly with regard to legal guarantees, defective content and specific unfair terms regarding digital content; highlights that the current classification of all digital content as services may raise concerns, as it may not conform to consumer expectations, since streaming service subscriptions are not distinguished from downloadable content purchases; agrees that consumers should enjoy an equivalent and future-proof level of protection regardless of whether they purchase digital content online or offline;
15. Believes that further harmonisation of the legal framework governing business-to-consumer online sales of digital content and tangible goods, irrespective of whether they are cross-border or domestic transactions, while maintaining the coherence of online and offline rules, avoiding a race to the regulatory bottom, closing legislative gaps and building upon existing consumer legislation, constitutes a practical and proportionate approach; emphasises that this should be done in a technology-neutral manner and not impose unreasonable costs for business;
16. Considers that the Commission's proposals for cross-border contract rules for consumers and businesses should avoid the risk of a growing disparity between the applicable legal standards for offline and online purchases, and believes that online and offline sales should be dealt with coherently and treated equally on the basis of the existing high level of consumer protection, as different legal standards might be perceived by consumers as a denial of their rights; insists that any new proposal should observe Article 6 of the Rome I Regulation, and points out that the Commission is planning a REFIT of the whole consumers acquis for 2016; calls on the Commission in this context to consider whether the Commission's planned proposal for tangible goods ought not to be launched at the same time as the REFIT;
17. Believes that contractual rules for digital content need to be principle-based in order to be technologically neutral and future-proof; stresses, furthermore, with regard to the Commission proposal in this area, the importance of avoiding inconsistency and overlap with existing legislation, as well as any risk of creating an unjustified legal divide in the long run between online and offline contracts and different distribution channels, also bearing in mind the consumer acquis REFIT;
18. Requests an 'Active Consumers' strategy to assess in particular whether consumer switching is facilitated in the online world, and whether action is needed to make consumer switching easier, in order to boost competition in online markets; points further to the need to ensure accessible e-commerce services through the whole value chain, including accessible information, accessible payment mechanisms and customer service;
19. Calls on the Commission to assess, together with stakeholders, the feasibility, usefulness and potential opportunities and weaknesses created by the introduction of

sector-specific EU trustmarks for online sales, drawing on best practices of existing trustmark schemes in the Member States in order to engender consumer trust and quality, particularly in relation to cross-border online sales, and to end the possibly confusing large numbers of existing trustmarks, in parallel with assessing other options such as self-regulation or the setting-up of stakeholder groups to define common principles of customer service;

20. Welcomes the Commission's overall efforts in establishing the EU-wide online dispute resolution (ODR) platform, and calls on the Commission to work towards the timely and correct implementation of the ODR Regulation, especially concerning translation facilities, as well as the ADR directive, together with the Member States; calls on the Commission and the relevant stakeholders to consider how access to information on common consumer complaints could be further improved;
21. Calls for an ambitious enforcement framework of the consumer acquis and of the Services Directive; encourages the Commission to make use of all the means at its disposal to ensure the full and correct implementation of existing rules, and infringement procedures whenever incorrect or insufficient implementation of the legislation is identified;
22. Calls on the Commission and the Member States to adopt the necessary measures against the sales of illicit content and goods online by increasing cooperation and exchange of information and best practices to combat illegal activity on the internet; stresses in this context that digital content supplied to consumers should be free of any third-party rights, which could prevent the consumer from enjoying the digital content in accordance with the contract;
23. Calls for a thorough, targeted and evidence-based analysis of whether all actors in the value chain, including online intermediaries, online platforms, content and service providers, and also offline intermediaries such as resellers and retailers, should take reasonable and adequate measures against illegal content, counterfeit goods and intellectual property rights infringements on a commercial scale, while safeguarding the ability of end-users to access and distribute information or run applications and services of their choice;
24. Stresses that the zero-tolerance principle as regards the transposition of EU regulations must be a fundamental rule for the Member States and the European Union; takes the view, nevertheless, that infringement proceedings should always be the last resort and should be opened only after several attempts at coordination and rectification have been made; emphasises that it is vital to shorten the duration of these proceedings;
25. Welcomes a review of the Consumer Protection Cooperation Regulation announced by the Commission; considers that extension of competencies of supervisory authorities and strengthening of their mutual cooperation is a prerequisite for the effective enforcement of consumer rules for online shopping;

## **2.2. Affordable high-quality cross-border parcel delivery**

26. Highlights the fact that while parcel delivery services work well for consumers in some Member States, inefficient delivery services, especially as regards the final mile delivery, are one of the main barriers to cross-border e-commerce in some Member States and one of the most reported reasons for withdrawing from online transactions

for both consumers and businesses; believes that the inadequacies of cross-border parcel delivery can be solved only from a European single market perspective, and underlines the importance of competition in this sector as well the need for the parcel industry to adapt to modern living patterns and offer flexible delivery options, such as networks of collection points , parcel points and price comparators;

27. Stresses that accessible, affordable, efficient and high-quality delivery services are an essential prerequisite for thriving cross-border e-commerce, and therefore supports the proposed measures to improve price transparency in order to increase consumer awareness of the price structure, information on liabilities in case of loss or damage, interoperability and the regulatory oversight that should be directed at the smooth functioning of cross-border parcel delivery markets, including promoting cross-border track-and-trace systems, allowing enough flexibility for the delivery market to evolve and adapt to technological innovations;
28. Calls on the Commission and the Member States to actively share best practices in the parcel delivery sector, and on the Commission to report to the European Parliament on the public consultation on cross-border parcel delivery, as well as presenting the results of the self-regulation exercise; welcomes the creation of an ad hoc working group on cross-border parcel delivery;
29. Calls on the Commission in addition to propose a comprehensive action plan, including guidelines for best practices, in cooperation with operators, to find innovative solutions to improve services, lower costs and the environmental impact, to further integrate the single market for parcel delivery and postal services, to dismantle barriers postal operators encounter in cross-border delivery, to strengthen the cooperation between BEREC and ERGP, and to propose if necessary a revision of the relevant legislation;
30. Stresses that the further harmonisation of parcel delivery by the Commission should not lead to lower social protection and working conditions for parcel deliverers, irrespective of their employment status; calls on the Commission and the Member States to ensure that workers' rights in this sector concerning access to social security systems and the right to exercise collective actions are respected; highlights the fact that the provision of social security is a Member State competence;

### **2.3. Preventing unjustified geo-blocking**

31. Considers that ambitious, targeted actions are needed to improve access to goods and services, in particular by ending unjustified geo-blocking practices and unfair price discrimination based on geographical location or nationality which often have the effect of building monopolies and of consumers resorting to illegal content;
32. Supports the Commission's commitment to address unjustified geoblocking in an effective manner by complementing the existing e-commerce framework and enforcing the relevant provisions of existing legislation; considers it vital to focus on business-to-business relations that lead to geo-blocking practices, such as selective distribution where that is not in accordance with competition law and market segmentation, as well as on technological measures and technical practices (such as IP tracking or the deliberate non-interoperability of systems) resulting in unjustified limitations on access to information society services provided across borders, on the conclusion of cross-border contracts to buy goods and services, and also on adjacent activities, such as payment and delivery of goods, taking into account the principle of proportionality, in

particular for small and micro businesses;

33. Stresses the need for all consumers within the Union to be treated equally by online merchants selling in one or more Member States, including their access to discounts or other promotions;
34. Supports in particular the Commission's planned scrutiny of the practical enforcement of Article 20(2) of Directive 2006/123/EC on services in the internal market in order to analyse possible patterns of unjustified discrimination against consumers and other recipients of services based on their nationality or their country of residence; calls on the Commission to identify and define concise case groups of justified discrimination under Article 20(2) of the Services Directive in order to clarify what is unjustified discriminatory behaviour by private entities and in order to provide interpretative assistance to authorities responsible for applying Article 20(2) in practice, as referred to in Article 16 of the Services Directive; calls on the Commission to make concerted efforts to add the provision of Article 20(2) to the Annex of Regulation (EC) No 2006/2004 in order to utilise the Consumer Protection Cooperation Network's investigation and enforcement powers;
35. Stresses that a ban on geo-blocking should never oblige retailers to deliver goods from their web shops to a certain Member State when they have no interest in selling their products to all Member States and prefer to stay small or only sell to consumers close to their shops;
36. Further points out the importance of the ongoing competition sector inquiry into the e-commerce sector in order to investigate, inter alia, whether unjustified geo-blocking restrictions, such as discrimination on the basis of IP address, postal address or the country of issue of credit cards, infringe the rules of EU competition law; stresses the importance of increasing consumer and business confidence by taking into account the sector enquiry results and assessing whether targeted changes to the Block Exemption Regulation are necessary, including Article 4a and Article 4b, in order to limit undesirable re-routing and territorial restrictions;
37. Welcomes the Commission's proposal to enhance portability and interoperability in order to stimulate the free circulation of legally acquired, and legally available, content or services, as a first step towards bringing an end to unjustified geoblocking, as well as the accessibility and cross-border functionality of subscriptions; stresses that there is no contradiction between the principle of territoriality and measures to remove barriers to portability of content;
38. Cautions against indiscriminately promoting the issuing of mandatory pan-European licences since this could lead to a decrease in the content made available to users: highlights that the principle of territoriality is an essential element of the copyright system given the importance of territorial licensing in the EU;

#### **2.4. Better access to digital content - a modern, more European copyright framework**

39. Welcomes the Commission's commitment to modernise the current copyright framework to adapt it to the digital age; underlines that any modification should be targeted and focus on fair and appropriate remuneration for creators and other right holders, economic growth, competitiveness and enhanced consumer experience, but also on the need to ensure the protection of fundamental rights;

40. Stresses that professional activities or business models based on the violation of copyrights are a serious threat to the functioning of the Digital Single Market;
41. Believes that the reform should strike the right balance between all the interests involved; points out that the creative sector has specificities and different challenges, notably arising from the different types of content and creative works and from the business models used; whereas the ‘Territoriality and its impact on the financing of audiovisual works’ study underlines the important role of territorial licensing regarding the refinancing of European films; calls therefore on the Commission to better identify and take into account these specificities;
42. Calls on the Commission to make sure that any reform of the copyright directive should take into account the results of the ex-post impact assessment and the European Parliament resolution of 9 July 2015 on Directive 2001/29/EC, and be based on solid evidence, including an assessment of the possible impact of any modification on growth and jobs, on cultural diversity and in particular on the production, financing and distribution of audiovisual works;
43. Highlights the crucial role of targeted exceptions and limitations to copyright in contributing to economic growth, innovation, job creation, encouraging future creativity and enhancing Europe's innovation and creative and cultural diversity; recalls Parliament's support for examining the application of minimum standards across the exceptions and limitations to copyright and the proper application of those exceptions and limitations set out in Directive 2001/29/EC;
44. Underlines that the approach to copyright exceptions and limitations should be balanced, targeted and format-neutral and should only be based on demonstrated needs, and should be without prejudice to European cultural diversity, its financing and the fair compensation of authors;
45. Emphasises that while the use of text and data mining needs greater legal certainty to enable researchers and educational institutions to make wider use of copyright-protected material, including across borders, any European-wide exception for text and data mining should apply only when the user has lawful access, and should be developed in consultation with all stakeholders following an evidence-based impact assessment;
46. Stresses the importance of improving the clarity and transparency of the copyright regime, in particular with regard to user-generated content and to private copying levies in those Member States which choose to apply them; notes, in this regard, that citizens should be informed of the actual amount of the copyright levy, its purpose and how it will be used;

## **2.5. Reducing VAT-related burdens and obstacles when selling across borders**

47. Considers that, with due respect to national competences, in order to prevent market distortion, tax avoidance and tax evasion and to create a true European Digital Single Market, more coordination on taxation is needed, requiring inter alia the establishment of an EU-wide Common Consolidated Corporate Tax Base;
48. Considers as a priority the development of a simplified, uniform and consistent online VAT system to reduce compliance costs for small and innovative companies operating across Europe; welcomes the introduction of the VAT Mini One-Stop Shop, which is a

step towards ending the temporary EU VAT regime; is nevertheless concerned that the absence of a threshold makes it difficult for certain SMEs to comply with the current regime; calls therefore on the Commission to review this regime in order to make it more business-friendly;

49. Calls, furthermore, for the tax neutrality principle to be fully respected for similar goods and services, regardless of whether they are digital or physical; calls on the Commission to submit a proposal, in accordance with the commitments given and as soon as possible, to allow Member States to reduce rates of VAT for the press, digital publishing, e-books and on-line publications in order to avoid discrimination in the single market;
50. Invites the Commission to facilitate the exchange of best practices between tax authorities and stakeholders to develop appropriate solutions for payment of taxes in the sharing economy;
51. Welcomes the adoption of the review of the payment services directive; stresses that if the Union is to enhance EU-wide e-commerce, pan-EU instant e-/m-payments under a common standard and the appropriate implementation of the review of the payment services directive must be achieved without delay;

### **3. CREATING THE RIGHT CONDITIONS AND A LEVEL PLAYING FIELD FOR ADVANCED DIGITAL NETWORKS AND INNOVATIVE SERVICES**

#### **3.1. Making the telecoms rules fit for purpose**

52. Emphasises that private investments in fast and ultra-fast communication networks are a requirement for any digital progress that must be incentivised by a stable EU regulatory framework enabling all players to make investments, including in rural and remote areas; considers that increased competition has been associated with higher levels of infrastructure investment, innovation, choices and lower prices for consumers and businesses; considers that little evidence exists of a link between consolidation of operators and increased investment and output in networks; considers that this should be carefully assessed, and competition rules enforced, to avoid excessive market concentration, the creation of oligopolies at European level and a negative impact for consumers;
53. Highlights the importance of a successful implementation of EFSI to maximise investments by targeting projects with higher-risk profiles, boosting economic recovery, stimulating growth, and incentivising private investments, inter alia microfinancing and venture capital to support innovative companies at different funding stages of their development; stresses, in cases of market failure, the importance of fully exploiting the public funds already available for digital investments, of enabling synergies between EU programmes such as Horizon 2020, CEF, other relevant structural funds and other instruments, including community-based projects and state aid in compliance with state aid guidelines, in order to promote public WLAN networks in larger and smaller municipalities, as this has proven to be indispensable for regional, social and cultural integration as well as education;
54. Reminds the Member States of their commitment to reach by 2020 full deployment of at least minimum target speeds of 30 Mbps; calls on the Commission to evaluate whether the current broadband strategy for mobile and fixed networks, including targets, is



future-proofed, and to meet the conditions for high connectivity for all to avoid the digital divide for the needs of the data-driven economy and the rapid deployment of 5G and ultra-fast broadband;

55. Stresses that the development of digital, including over the top (OTT) services, has increased demand and competition to the benefit of consumers and the need for investments in digital infrastructure; considers that the modernisation of the telecommunications framework should not lead to unnecessary regulatory burdens, but guarantee non-discriminatory access to networks and implement future-proof solutions, based where possible on similar rules for similar services that foster innovation and fair competition, and ensure consumer protection;
56. Stresses the need to ensure that end-user rights laid down in the telecommunications framework are coherent, proportionate and future-proofed, and, following the adoption of the Connected Continent package, include easier switching and transparency of contracts for end-users; welcomes the upcoming review of the Universal Services Directive alongside the review of the telecommunications framework to ensure the requirements on high-speed broadband internet access are fit for purpose to reduce the digital divide and examine the availability of the 112 service;
57. Stresses that the European Digital Single Market should make daily life easier for the end consumer; calls, therefore, on the Commission to solve the problem of the cross-border handover of telephone calls so that consumers will be able to make uninterrupted telephone calls when crossing borders in the Union;
58. Welcomes the various ongoing public consultations launched by DG Connect recently on the digital agenda for Europe, notably on the review of EU telecoms rules, on the need for internet speed and quality beyond 2020 and on Online platforms, cloud and data, liability of intermediaries, and the collaborative economy, but urges the Commission to ensure consistency among all these parallel initiatives;
59. Highlights that radio spectrum is a critical resource for the internal market for mobile, wireless broadband communications, as well as broadcasting, and is essential for the future competitiveness of the European Union; calls as a priority for a harmonised and pro-competitive framework for spectrum allocation and effective management to prevent delays in spectrum allocation, and for a level playing field for all market players, and in light of the Lamy report<sup>1</sup>, for a long-term strategy on the future uses of the various bands of spectrum, which are necessary in particular for 5G deployment;
60. Stresses that the timely implementation and uniform, transparent enforcement across Member States of EU telecommunication rules such as the 'Connected Continent package' is a crucial pillar for establishing a Digital single market, to ensure the rigorous application of the net neutrality principle and, particularly with a timely wholesale review, to deliver the end of roaming charges for all European consumers by 15 June 2017;
61. Calls on the Commission, in order to further integrate the Digital single market, to ensure that a more efficient institutional framework is in place by strengthening the role, capacity and decisions of BEREC in order to achieve consistent application of the

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<sup>1</sup> Report on the results of the work of the High Level Group on the future use of the UHF band.

regulatory framework, ensure oversight in the development of the single market and resolve cross-border disputes; stresses, in this regard, the need to improve the financial and human resources and further enhance the governance structure of BEREC accordingly;

### **3.2. A media framework for the 21st century**

62. Stresses the dual character of audiovisual media as a social, cultural and economic asset; observes that the need for future European media regulation arises from the need to ensure and to promote diversity of audiovisual media and to set high standards for the protection of minors and consumers and personal data, fair conditions for competition and more flexibility regarding quantitative and commercial communication rules;
63. Stresses that the ‘country of origin’ principle enshrined in the AVMS Directive is a necessary prerequisite for the provision of audiovisual content across borders on the way to a common market in services; underlines, at the same time, that this principle does not prevent the achievement of social and cultural objectives and that it does not preclude the need to adapt EU law outside the AVMS Directive; stresses that in order to fight the practice of ‘forum shopping’, the country of origin of the advertising profit, the language of the service and the targeted public of the advertisement and content should be part of the criteria to determine or contest the ‘country of origin’ of an audiovisual media service;
64. Believes that everyone, including providers of online audiovisual media platforms and user interfaces, should be subject to the AVMS Directive as far as it concerns an audiovisual media service; underlines the importance of rules aimed at enhancing the findability of legal content and information in order to strengthen media freedom, pluralism and independent research, and to guarantee the non-discrimination principle, safeguarding linguistic and cultural diversity; stresses that to ensure the idea of findability of audiovisual content of public interest, the Member States can introduce specific rules that aim to preserve cultural and linguistic diversity and the variety of information, opinions and media, the protection of children, young people or minorities and the protection of consumers in general; calls for measures to ensure that audiovisual media services are made accessible to vulnerable people; urges the Commission to stimulate the legal offer of audiovisual media content by favouring independent European works;
65. Urges the Commission to take into account changing viewing patterns and new ways of accessing audiovisual content by aligning linear and non-linear services and by setting out European-level minimum requirements for all audiovisual media services, with a view to ensuring their consistent application, except where such content is an indispensable completion of other than audiovisual content or services; calls on the Commission and the Member States to develop the concept of media services defined in Article 1 of the AVMS Directive in such a way that, while the Member States retain an appropriate degree of flexibility, more account is taken of the potential socio-political impact of services and of specific features of that impact, particularly their relevance to opinion-forming and to diversity of opinion, as well as the question of editorial responsibility;
66. Calls on the Commission and the Member States to implement equally, and to treat

efficiently, the prohibition of any audiovisual media service in the EU in the case of a violation of human dignity, incitement to hatred or racism;

67. Underlines that an adaptation of the AVMS Directive should reduce regulation and strengthen co- and self-regulation by bringing into balance the rights and obligations of broadcasters, through a horizontal and cross-media regulatory approach, with those of other participants in the market; considers priority should be given to the principle of clear recognisability and differentiation between advertising and programme content over the principle of separation of advertising and programme content across all media forms; calls on the Commission to check whether it is still useful and pertinent to adhere to section 6.7 of its communication on the application of state aid rules to public service broadcasting;
68. Considers that the legal concept set out in Directive 93/83/EEC could, after a further assessment has been conducted, improve cross-border access to legal online content and services in the Digital Single Market without questioning the principles of freedom of contract, appropriate remuneration of authors and artists and the territorial nature of exclusive rights;

### **3.3. A fit-for-purpose regulatory environment for platforms and intermediaries**

#### ***3.3.1. Role of online platforms***

69. Urges the Commission to examine whether potential issues related to online platforms could be resolved by proper and full implementation of existing legislation and effective enforcement of EU competition law in order, to ensure a level playing field and fair and effective competition between online platforms and to avoid the creation of monopolies; calls on the Commission to maintain an innovation-friendly policy towards online platforms that facilitates market entry and fosters innovation; considers that transparency, non-discrimination, facilitation of switching between platforms or online services enabling consumer choice, access to platforms, and identifying and addressing barriers to the emergence and scale-up of platforms should be priorities;
70. Notes in addition that the provisions of the E-Commerce Directive have been subsequently enhanced by the Unfair Commercial Practices Directive, the Consumer Rights Directive and other components of the consumer acquis, and that these directives need to be properly enforced and apply as much to traders using online platforms as to traders in traditional markets; calls on the Commission to work with all stakeholders and Parliament to introduce clear guidance on the applicability of the consumer acquis to traders using online platforms and, where necessary, assistance to Member State consumer protection authorities to properly enforce consumer law;
71. Appreciates the Commission's initiative to analyse the role of online platforms in the Digital Economy as part of the Digital Single Market Strategy, as it will affect several upcoming legislative proposals; believes that the analysis should serve to identify confirmed and well-defined problems within specific business areas and possible gaps in terms of consumer protection, and to distinguish between online services and online service providers; emphasises that platforms dealing with cultural goods, especially audiovisual media, have to be treated in a specific manner that respects the UNESCO convention on the protection and promotion of the diversity of cultural expressions;

72. Asks the Commission to report to Parliament in the first quarter of 2016 on the results of the relevant consultations and to ensure a consistent approach in upcoming legislative revisions; cautions against creating market distortions or barriers to market entry for online services by introducing new obligations to cross-subsidise particular legacy business models;
73. Stresses that the limited liability of intermediaries is essential to the protection of the openness of the internet, fundamental rights, legal certainty and innovation; recognises in this respect that the provisions on intermediary liability in the e-Commerce Directive are future-proof and technologically neutral;
74. Draws attention to the fact that to benefit from a limitation of liability the provider of an information society service, upon obtaining actual knowledge or awareness of illegal activities, has to act expeditiously to remove or to disable access to the information concerned; asks the Commission to ensure uniform implementation of this provision in compliance with the Charter of Fundamental Rights in order to avoid any privatisation of law enforcement and to ensure that adequate and reasonable measures are taken against the sale of illicit content and goods;
75. Considers that, in view of the rapidly evolving markets and the diversity of platforms ranging from non-profit platforms to B2B platforms and encompassing different services, sectors and a vast variety of actors, there is no clear definition of platforms, and a 'one-size-fits-all' approach could seriously impede innovation and put European companies at a competitive disadvantage in the global economy;
76. Takes the view that some online intermediaries and online platforms generate income from cultural works and content, but this income may not always be shared with the creators; calls on the Commission to consider evidence-based options to address any transfer of value from content to services that will make it possible for authors, performers and right holders to be fairly remunerated for the use of their work on the internet without hampering innovation;

### ***3.3.2 New opportunities offered by the sharing economy***

77. Welcomes the increased competition and consumer choice arising from the sharing economy, as well as opportunities for job creation, economic growth, competitiveness, a more inclusive job market and a more circular EU economy through the more efficient use of resources, skills and other assets; urges the Commission and Member States to support the further development of the sharing economy by identifying artificial barriers and relevant legislation hindering its growth;
78. Encourages the Commission to analyse, in the framework of the sharing economy, how to strike a balance between empowering and protecting consumers and, where clarification is needed, to ensure the adequacy of the consumer-related legislation framework in the digital sphere, including in cases of possible abuses, and to also determine where ex-post remedies are sufficient or more effective;
79. Notes that it is in the self-interest of companies utilising these new business models based on reputation and trust to adopt measures to discourage illegal activities while providing new consumer safety features;
80. Encourages the Commission to set up a stakeholder group in charge of promoting best

practices in the sharing economy sector;

81. Calls on the Member States to ensure that employment and social policies are fit for purpose for digital innovation, entrepreneurship, and the growth of the sharing economy and its potential for more flexible forms of employment, by identifying new forms of employment and assessing the need for the modernisation of social and employment legislation so that existing employment rights and social welfare schemes can also be maintained in the digital world of work; highlights that the provision of social security is a Member State competence; asks the Commission to identify and facilitate exchanges of best practices in the EU in these areas and at international level;

### ***3.3.3. Combatting illegal content on the internet***

82. Calls on the Commission to advance policies and a legal framework to tackle cybercrime and illegal content and materials on the internet, including hate speech, that will be in full compliance with fundamental rights as set out in the Charter of Fundamental Rights of the European Union, in particular the right to freedom of expression and information, with existing EU or Member State legislation and with the principles of necessity, proportionality, due legal process and the rule of law; considers that, in order to achieve that goal, it is necessary to:
- provide consistent and efficient law enforcement tools for European and national police agencies and law enforcement authorities;
  - provide clear guidelines on how to tackle illegal content online, including hate speech;
  - support public-private partnerships and dialogue between public and private entities, in compliance with existing EU legislation;
  - clarify the role of intermediaries and online platforms with respect to the Charter of Fundamental Rights of the European Union;
  - ensure that the creation within Europol of the European Union Internet Referral Unit (EU IRU) is founded on a legal basis that is appropriate for its activities;
  - ensure special measures to combat the sexual exploitation of children online and effective cooperation between all stakeholders to guarantee the rights and protection of children on the internet and encourage initiatives that strive to make the internet safe for children, and
  - cooperate with the relevant stakeholders in promoting education and awareness-raising campaigns;
83. Welcomes the Commission's action plan to modernise the enforcement of intellectual property rights online with regard to commercial-scale infringement; considers that copyright enforcement as laid down in Directive 2004/48/EC is extremely important and that copyright and related rights are only as effective as the enforcement measures in place to protect them;
84. Highlights that the EU faces a significant number of IPR infringements; emphasises the role of the European Observatory on Infringements of Intellectual Property Rights to provide reliable data and objective analysis of the impacts of infringements on economic actors; calls for an effective, sustainable, proportionate and modernised approach to the enforcement, implementation and protection of intellectual property rights online, particularly with regard to commercial-scale infringement;

85. Notes that in some cases copyright infringements may result from difficulty in finding legally available desired content; calls, therefore, for a wider range of user-friendly legal offers to be developed and promoted to the public;
86. Welcomes the ‘follow the money’ approach and encourages the actors in the supply chain to take coordinated and proportionate actions to fight infringements of intellectual property rights on a commercial scale, building on the practice of voluntary agreements; emphasises that the Commission, together with Member States, should promote awareness and due diligence along the supply chain and encourage the exchange of information and best practices, as well as enhanced public and private sector cooperation; insists that any measures should be justified, coordinated and proportionate and include the possibility of effective and user-friendly remedies for adversely affected parties; considers it necessary to raise consumer awareness of the consequences of infringement of copyright and related rights;

### **3.4. Reinforcing trust and security in digital networks, industries, services and infrastructures and in the handling of personal data**

87. Considers, in order to ensure trust and security in digital services, data-driven technologies, IT and payment systems, critical infrastructure and online networks, that increased resources are required as well as cooperation between the European cybersecurity industry, the public and private sector, in particular via research cooperation including Horizon 2020, and public-private partnerships; supports the sharing of Member States’ best practices in PPPs in this area;
88. Calls for efforts to improve resilience against cyber-attacks, with an increased role for ENISA in particular, to increase risk awareness and knowledge of basic security processes among users, particularly SMEs, to ensure that companies have basic levels of security, such as end-to-end encryption of data and communications and software updates, and to encourage the use of the security-by-design concept;
89. Considers that software providers should better promote the security advantages of open source software and security-related software upgrades to users; calls on the Commission to explore an EU-wide coordinated vulnerability disclosure programme, including the repair of known software vulnerabilities, as a remedy against the abuse of software vulnerabilities and security and personal data breaches;
90. Believes that the swift adoption of a fit-for-purpose NIS directive is needed to provide an EU coordinated approach on cybersecurity; considers that a more ambitious level of cooperation among Member States and relevant institutions and bodies in the EU, and the exchange of best practices, is essential for further digitalisation of the industry, while ensuring the protection of EU fundamental rights, particularly data protection;
91. Highlights the fact that the fast-growing number of attacks on networks and acts of cybercrime calls for a harmonised response from the EU and its Member States with a view to ensuring a high level of network and information security; believes that providing security on the internet entails the protection of networks and critical infrastructure, ensuring the ability of law enforcement agencies to fight crime, including terrorism, violent radicalisation and sexual abuse and sexual exploitation of children online, and use of data that are strictly necessary to fight crime online and offline; stresses that security, thus defined, together with protection of fundamental

rights in cyberspace, is crucial to reinforcing trust in digital services and is therefore a necessary basis for establishing a competitive digital single market;

92. Recalls that tools such as encryption are useful to citizens and businesses as a means of ensuring privacy and at least a basic level of communications security; condemns the fact that it can also be used for criminal purposes;
93. Welcomes the European Cybercrime Centre (EC3) within Europol which contributes to faster reactions in the event of cyber-attacks; calls for a legislative proposal to reinforce EC3's its mandate, and calls for swift transposition of Directive 2013/40/EU of 12 August 2013 on attacks against information systems;
94. Notes that the revelations of electronic mass surveillance have shown the need to regain citizens' trust in the privacy, safety and security of digital services, and underlines, in this connection, the need for strict compliance with existing data protection legislation and respect for fundamental rights when processing personal data for commercial or law enforcement purposes; recalls, in this context, the importance of existing tools such as mutual legal assistance treaties (MLATs), which respect the rule of law and decrease the risk of improper access to data that are stored in foreign territory;
95. Reiterates that, under Article 15(1) of the Directive on electronic commerce (2000/31/EC), 'Member States shall not impose a general obligation on providers' of transmission, storage and hosting services 'to monitor the information which they transmit or store, nor a general obligation actively to seek facts or circumstances indicating illegal activity'; reiterates, in particular, that the Court of Justice of the European Union, in its Judgments C-360/10 and C-70/10, rejected measures for the 'active monitoring' of almost all users of the services concerned (internet access providers in one case, a social network in the other) and specified that any injunction requiring a hosting services provider to undertake general monitoring should be precluded;

#### **4. MAXIMISING THE GROWTH POTENTIAL OF THE DIGITAL ECONOMY**

96. Believes that, in light of the central importance of European industry and of the digital economy growing much faster than the rest of the economy, the digital transformation of industry is essential for the competitiveness of the European economy and its energy transition, but can only be successful if European companies understand its significance in terms of increased efficiency and access to untapped potential, with more integrated and connected value chains able to respond quickly and flexibly to consumer demands;
97. Calls on the Commission to develop a digital transformation plan without delay, including the modernisation of legislation and the use of relevant instruments for investment in R&D and infrastructure, to support the digitalisation of industry in all sectors, such as the manufacturing, energy, transport and retail sectors, by encouraging the adoption of digital technologies and end-to-end connectivity in value chains, as well as innovative services and business models;
98. Considers that the regulatory framework should enable industries to embrace and anticipate those changes in order to contribute to job creation, growth and regional convergence;
99. Calls, in addition, for a special focus on SMEs, including in particular a possible review

of the Small Business Act, as their digital transformation is imperative for competitiveness and job creation in the economy and for closer cooperation between established companies and start-ups that could lead to a more sustainable and competitive industrial model and the emergence of global leaders;

100. Reiterates the importance of the European Satellite Navigation Systems, in particular Galileo and Egnos, for the development of the Digital Single Market with regard to the data position and time stamping for Big Data and Internet of Things applications;

#### **4.1. Building a data economy**

101. Considers that a data-driven economy is key to economic growth; emphasises the opportunities that new ICT technologies such as Big Data, cloud computing, the Internet of Things, 3D-printing and other technologies can bring to the economy and society, especially if integrated with other sectors such as energy, transport and logistics, financial services, education, retail, manufacturing, research or health and emergency services, and if used by public authorities to develop smart cities, better manage resources and improve environmental protection; highlights in particular the opportunities offered by energy sector digitalisation, with smart meters, smart grids and data hubs for more efficient and flexible energy production; underlines the importance of public-private partnerships and welcomes Commission initiatives in this respect;
102. Calls on the Commission to investigate the possibility of making every scientific research project which is at least 50% funded by public funding accessible and free in digital form within a reasonable timeframe which will not jeopardise economic and social gains, including the use of publishing houses in this matter;
103. Calls on the Commission to carry out, by March 2016, a broad and transparent review on Big Data involving all relevant experts, including researchers, civil society and the public and private sectors, aimed at anticipating the needs of big data technologies and for computing infrastructure, in particular European supercomputers, including better conditions under the non-regulatory and existing regulatory framework for growth and innovation in this sector, and at maximising opportunities and addressing potential risks and challenges to build trust relating, for example, to access to data, security and data protection;
104. Calls for the development of a future-proof and technologically neutral European approach and further integration of the single market related to the Internet of Things and the industrial internet, with a transparent standard-setting and interoperability strategy, and the reinforcement of trust in these technologies through security, transparency and privacy by design and by default; welcomes the ‘free flow of data’ initiative that should, following a comprehensive assessment, clarify rules on the use, access to and ownership of data, taking into account concerns about the impact of data localisation requirements on the functioning of the single market, and facilitate switching between data service providers to prevent lock-in and market distortions;

Internet105. Believes public administrations should have open government data by default; urges that progress be made on the degree and pace of releasing information as open data, on identifying key datasets to be made available and on promoting the re-use of open data in an open form, on account of their value for the development of innovative services, including



cross-border solutions, transparency, and benefits for the economy and society;

106. Acknowledges the growing concern of EU consumers about the use and protection of personal data by online service providers, as this is key in building consumers' trust in the digital economy; underlines the important role active consumers play in fostering competition; stresses thereby the importance for consumers to be better informed of the use of their data, in particular in the case of services supplied in exchange for data, and of their right to data portability; urges the Commission to clarify data control and data portability rules in accordance with the key principle that citizens should be in control of their data;
107. Believes that compliance with data protection legislation and effective privacy and security safeguards as set in the General Data Protection Regulation, including special provisions regarding children as vulnerable consumers, are crucial for building the trust of citizens and consumers in the data-driven economy sector; stresses the need to raise awareness of the role of data and the meaning of data-sharing for consumers as regards their fundamental rights within the economy, and to lay down rules on data ownership and citizens' control over their personal data; underlines the role of personalisation of services and products that should be developed in compliance with data protection requirements; calls for the promotion of privacy by default and by design, which could also have a positive impact on innovation and economic growth; stresses the need to ensure a non-discriminatory approach to all data processing; underlines the importance of a risk-based approach, which helps avoid any unnecessary administrative burden and provides legal certainty, especially for SMEs and start-ups, as well as democratic oversight and constant monitoring by public authorities; stresses that personal data need special protection and recognises that putting in place additional safeguards, such as pseudonymisation or anonymisation, can enhance protection where personal data are used by Big Data applications and online service providers;
108. Notes that the Commission's evaluation of the Directive on Databases considers this directive an impediment to the development of a European data-driven economy; calls on the Commission to follow-up on policy options to abolish Directive 96/9/EC;

#### **4.2. Boosting competitiveness through interoperability and standardisation**

109. Considers that the European ICT standardisation plan and revision of the interoperability framework, including the Commission's mandates to European standardisation organisations, should be part of a European digital strategy to create economies of scale, budget savings and improved competitiveness for European companies, and to increase cross-sectoral and cross-border interoperability of goods and services through the faster definition, in an open and competitive way, of voluntary, market-driven and global standards that are easily implemented by SMEs; encourages the Commission to ensure that standardisation processes include all relevant stakeholders, attract the best technologies and avoid the risk of creating monopolies or closed value chains, especially for SMEs and start-ups, and to actively promote European standards internationally in light of the global nature of ICT standardisation initiatives;
110. Urges the Commission and the Council to increase the share of free and open source software and its reuse in and between public administrations as a solution to increase

interoperability;

111. Notes that the Commission is currently consulting with relevant stakeholders on the establishment of an in-vehicle interoperable, standardised, secure and open-access platform for possible future applications or services, as requested by the Parliament in the e-Call Regulation; calls on the Commission to ensure that this platform will not restrict innovation, free competition and consumer choice;
112. Calls on the Commission, taking into account rapid innovation in the transport sector, to develop a coordinated strategy on connectivity in the transport sector and, in particular, to establish a regulatory framework for connected vehicles to ensure interoperability with different services, including remote diagnostics and maintenance, and applications in order to uphold fair competition and to satisfy a strong need for products which comply with cyber-security and data protection requirements, but also to ensure the physical security of passengers; believes that partnerships between the automotive and telecom industries are needed to ensure that connected vehicles and connected vehicle infrastructure are developed on the basis of common standards across Europe;

#### **4.3. An inclusive e-society**

113. Notes that the internet and ICT have an enormous impact on the emancipation of women and girls; acknowledges that female participation in the EU digital sector has a positive impact on European GDP; recognises the significant potential of female innovators and entrepreneurs and the role they can play in digital transformation; underlines the need to overcome gender stereotypes, and fully supports and encourages a digital entrepreneurial culture for women, as well as their integration and participation in information society;
114. Recognises the potential of the Digital Single Market to ensure accessibility and participation for all citizens, including people with special needs, elderly people, minorities and other citizens belonging to vulnerable groups, regarding all aspects of the digital economy, including products and services protected by copyright and related rights, especially by the development of an inclusive e-society and ensuring that all e-government and e-administration programmes are fully accessible; is deeply concerned by the lack of progress in ratification of the Marrakesh Treaty and urges its ratification as soon as possible; underlines, in this context, the urgency of swift adoption of the proposal for a directive on the accessibility of public sector bodies' websites;

##### ***4.3.1. Digital skills and expertise***

115. Draws attention to the fact that the mismatch between supply and demand with regard to skills is a problem for the development of the digital economy, the creation of jobs and the competitiveness of the Union, and calls on the Commission, as a matter of urgency, to develop a skills strategy which can tackle this shortage; calls on the Commission to use appropriations from the Youth Employment Initiative to support associations (grassroots movements) which teach disadvantaged young people digital skills; calls on Member States to provide support by making premises available;
116. Calls on the Commission and the Member States to promote media literacy and internet literacy for all EU citizens, in particular vulnerable people, through initiatives and

coordinated action and investment in the creation of European networks for the teaching of media literacy; stresses that the ability to use media independently and critically, and the handling of information overload, represents a lifelong learning task across generations that is subject to constant change to enable all generations to manage the appropriate and autonomous handling of information overload; points out that as job and skills profiles become more complex, new demands – especially regarding information and communications technology (ICT) skills – are being placed on training, as well as on further education and life-long learning;

117. Encourages the Member States to integrate the acquisition of digital skills into school curricula, to improve the necessary technical equipment and to promote cooperation between universities and technical colleges with the aim of developing common e-Learning curricula that are, recognised in the ECTS system; stresses that education and training curricula must aim at developing a critical thinking approach to the use and thorough understanding of new media, digital and information devices and interfaces, so that people can be active users of these new technologies and not simply end users; underlines the importance of proper training for teachers in digital skills, in how to teach these skills efficiently, including the success of play-based digital learning, and in how to use them to support the learning process in general by making mathematics, IT, science and technology more attractive; calls on the Commission and the Member States to step up research into the effects of digital media on cognitive skills;
118. Notes that public and private investment, and new funding opportunities in vocational education and lifelong learning, is necessary to ensure that workers, especially less qualified workers, are equipped with the right skills for the digital economy; calls on the Commission and Member States, together with private industry, to develop easily accessible, standardised and certified on-line training courses and innovative and accessible e-skills training programmes in order to teach participants a minimum of digital skills; encourages Member States to make these on-line courses an integral part of the Youth Guarantee; encourages the Commission and the Member States to create the basis for mutual recognition of digital skills and qualifications by establishing a European certificate or grading system, following the example of the European common framework of reference for language learning and teaching; stresses that cultural diversity in Europe, as well as multilingualism, benefits from cross-border access to content;
119. Welcomes the establishment of the Europe-wide grand coalition for digital jobs, encourages businesses to join and urges the Commission and Member states to facilitate the active participation of SMEs; welcomes the Commission's thoughts on constructing new knowledge storage systems for the public sector by means of cloud technologies and text and data mining that are certified and secured under data protection law; takes the view that using such technologies calls for special training efforts in the library, archiving and documentation professions; calls for digital forms of collaborative work and communication – using and developing CC licences – to be taught and applied across national and linguistic borders in education and training, and in public research establishments, and to be promoted in public procurement procedures; notes the vital role of dual training;
120. Notes that public and private investment in vocational education and lifelong learning is

necessary in order to ensure that the EU workforce, including the ‘digital workforce’ working in non-standard forms of employment, is equipped with the right skills for the digital economy; notes that some Member States have introduced rights which guarantee workers minimum entitlements to paid educational leave as a measure to improve workers’ access to education and training;

#### **4.3.2. e-government**

121. Believes that the development of e-administration is a priority for innovation, as it has a leverage effect on all sectors of the economy and enhances efficiency, interoperability and transparency, reduces costs and the administrative burden, allows for better cooperation between public administrations, and provides better, more user-friendly and personalised services for all citizens and businesses in view of the opportunities offered by digital social innovations; urges the Commission to lead by example in the field of e-government and to develop, together with the Member States, an ambitious and comprehensive e-government action plan; believes that this action plan should be based on users’ needs and best practices, including benchmarks for progress, a step-by-step sectoral approach to apply the ‘once only principle’ in public administrations according to which citizens and businesses should not be asked for information already provided to a public authority, whilst ensuring citizens’ privacy and a high level of data protection in compliance with the requirements and principles of the EU Data Protection Reform package and fully in line with the Charter of Fundamental Rights, as well as a high level of security regarding these initiatives; considers that it should also ensure the full cross-border deployment of highly encrypted e-ID and e-signatures, in particular with the swift implementation of the eIDAS regulation and the increased online availability of public services; stresses the importance for citizens and businesses to have access to interconnected commercial registers;
122. Calls for the development of a comprehensive and fully accessible single digital gateway, building upon already existing initiatives and networks, as a single end-to-end digital process for businesses, to set up and operate across the EU, including the online set-up of the business as well as domain names, the exchange of compliance information, recognition of e-invoices, filing taxes, a simplified online VAT scheme, online information on product compliance, the hiring of resources and posting of workers, consumer rights, access to consumer and business networks, notification procedures and dispute settlement mechanisms;
123. Further calls on the Commission and Member States to ensure the full implementation of the Points of Single Contact, as established by the Service Directive, and to take all necessary measures to guarantee their efficient functioning, thus unlocking their full potential;
124. Is concerned that cloud infrastructures for researchers and universities are fragmented; calls on the Commission, in cooperation with all relevant stakeholders, to set up an action plan to lead to the establishment of the European Open Science Cloud by the end of 2016, which should seamlessly integrate existing networks, data and high-performance computing systems and e-infrastructure services across scientific fields, within a framework of shared policies, standards and investments; believes that it should serve as a stimulus to the development of clouds beyond science, to better interconnected innovation centres, start-up ecosystems, and improved cooperation

between universities and industry in commercialising technology, in compliance with relevant confidentiality rules, and to facilitating international coordination and cooperation in this field;

125. Calls on the Commission and Member States to renew their commitment to the EU 2020 strategy's research and innovation targets as building blocks of a competitive Digital Single Market, economic growth and job creation, with a comprehensive approach to Open Science, Open innovation, Open data and knowledge transfer; considers that this should include a revised legal framework for text and data mining for scientific research purposes, the increased use of free and open source software, particularly in educational establishments and public administrations, and easier access for SMEs and start-ups to Horizon 2020 funding adapted to the short innovation cycles of the ICT sector; stresses in this respect the importance of all relevant initiatives, from public-private partnerships and innovation clusters to European technology and science parks, notably in less industrialised European regions, and accelerator programmes for start-ups and joint technology platforms, as well as the ability to obtain licences for standard-essential patents, within the restraints of EU competition law, under FRAND licensing terms, in order to preserve R&D and standardisation incentives and foster innovation;
126. Urges the Commission to focus on the implementation of the e-procurement provisions, as well as the European Procurement Single Document (PP passport), in order to facilitate overall economic benefits as well as EU market access for all economic operators in compliance with all selection, exclusion and award criteria; stresses the obligation on procuring authorities to provide an indication of the main reasons for their decision not to subdivide contracts into lots in accordance with existing legislation to improve the access of innovative companies and SMEs to procurement markets;

#### **4.4. International dimension**

127. Stresses the importance of a fully independent internet governance structure to maintain the internet as a transparent and inclusive model of multi-stakeholder governance, based on the principle of the internet as a unique, open, free and stable platform; considers it essential to use the delay in the transition of stewardship of ICANN to serve this purpose; strongly believes that the global dimension of the internet needs to be taken into account in all relevant EU policies and calls on the EEAS to make full use of the opportunities offered by digitalisation in the development of a coherent external policy, to ensure that the EU is represented in internet governance platforms and to be more vocal in global fora, in particular on standard-setting, data flows, the preparations for 5G deployment and cybersecurity;
128. Recognises the global nature of the data economy; recalls that the creation of the digital single market is dependent on the free flow of data within and outside the European Union; calls, therefore, for steps to be taken by the EU and its Member States in cooperation with third countries to ensure high standards of data protection and safe international data transfers, in compliance with the General Data Protection Regulation and the existing EU case law, when pursuing cooperation with third countries within the Digital Single Market Strategy;
129. Instructs its President to forward this resolution to the Council and the Commission.

## EXPLANATORY STATEMENT

On 6th May 2015, the Commission adopted a communication proposal “A Digital Strategy for Europe” which includes 16 initiatives to be delivered by the end of 2016. Juxtaposing the Digital Single Market with the Single Market has made EU legislators aware of the immense opportunities for EU entrepreneurs and businesses to prosper and for the EU employment market to wholly recover from the aftermath of the economic crisis and subsequent measures. Innovation in the digital sector is constantly changing the way citizens communicate, share, consume and even behave and therefore brings about new opportunities for businesses and users alike. Enhanced use of digital technologies can furthermore improve citizens’ access to information and culture, improve their job opportunities and provide them with a wider choice of products. It also has the potential to modernise and improve governance and administration in the EU and its Member States. Promoting a dynamic economy is necessary for innovation to flourish and innovative companies to scale up; this should therefore be the focus of the European Commission together with Member States. More also needs to be done to promote entrepreneurial culture, including innovative business models and to better interconnect the many successful innovation hubs in Europe.

The Digital Single Market Strategy is structured in three parts: (1) Access: better access for consumers and businesses to digital goods and services across Europe; (2) Environment: creating the right conditions and a level playing field for digital networks and innovative services to flourish; (3) Economy & Society: maximising the growth potential of the digital economy. This report responds to the 16 proposals put forward by the European Commission, elaborates further on actions to be taken to complete the digital single market and the consequences the implementation of the digital single market will have on society and the economy as a whole.

### Online Sales Law

The Commission identifies the lack of a common set of rules for online cross-border sales as one of the major obstacles for SMEs and consumers to sell or buy online and across the EU. Further the Commission states that important aspects of online and offline sales law have already been either fully harmonised or partially harmonised through the Consumer Sales and Late Payment Directive, while online sales of digital content remains largely unregulated irrespective of EU or national legislation. Regarding the latter regulatory field it has to be taken into consideration that the online digital content market is continuously growing. Until now, a consumer buying tangible digital content has access to a range of rights, while a consumer buying the same digital content delivered by electronic means does not.

With regard to tangible goods, the European Commission suggests that the most practical remedy against the reluctance of European traders and consumers to engage in cross-border trade is to afford supremacy to the law of the residence of the vendor while establishing a “common set of rules”.

This approach holds the danger of proposing a Common European Sales Law “Light” and thus an optional legal regime. A European Standard Contract entailing “the main rights and obligations of the parties of a sales contract” for cross-border and domestic online sales does not comply with the making of EU secondary law – in principle constituted by regulations, directives, decisions, recommendations and opinions (Article 288 of the TFEU). This suggests

at least on the outset a complementary and thus optional regime. Taking into account the already far reaching level of harmonisation of EU sales laws, a full harmonisation of EU Sales laws appears preferable particularly in view of the Communication's declared aim of improved condition for cross-border online sales.

### **Improved enforcement of related secondary law**

The European Commission has made the prevention of unjustified geo-blocking and further discrimination against consumers in cross-border scenarios one of its primary objectives. Discrimination against consumers based on the country of residence is primarily achieved through refusals to conclude contracts and re-routing to domestic websites. Despite the frequent occurrence of such discriminatory measures that divide the single market and hinder trade across national borders the case law of the ECJ is relatively insignificant.

The Commission announces action namely regarding the framework set out by Article 20(2) of the Services Directive. The enforcement measures taken by the Commission should however not lead to an over-burdening of micro and small businesses in this particular area. Thus, the Commission would do well by identifying and defining case groups of justified discrimination under Article 20 II of the Services Directive. Another promising measure would be to involve the Consumer Protection Cooperation (CPC) Network in order to make the still very divergent enforcement more stringent. Furthermore a clarification of existing EU competition law seems advisable.

### **Ecommerce related competition law**

Importantly, the existing block exemption regulation, in the realm of internet sales (Article 4a) and territorial restrictions (Article 4b) has to be reviewed in order and made more precise and thus easier applicable by retailers and consumer protection organisations. Although the territorial protection permitted under this regulation is limited to "active" sales and restrictions on passive sales are never permitted, the respective guidelines on how "passive" sales can be defined leave too much room for interpretation and thus encourage territorial protection and thus violations of Articles 101 and 102 TFEU.

### **E-Government**

Public administrations play a vital role in innovation in digital services but also in their take up by citizens and businesses. The digital shift is an opportunity to be seized by European public administration at all levels with a view to modernise public administrations' organisation by improving efficiency benefiting both citizens and economic operators and a new e-government action plan is necessary to achieve this goal. Investing in the digitalisation of public administration with interoperable solutions represents a way to move towards better public spending and to further integrate and connect territories, people and businesses at EU.

At the same time, all e-government technology systems must intend to move control over decisions closer to citizens, thus increasing service access and transparency. Availability of open data should be furthered and key datasets to be released should be identified. The Commission should together with the Member States look into the application of the "once only" principle in public administrations, as it both saves time and costs. Setting up a company and compliance with legal requirements across the EU should be possible via a

comprehensive single digital gateway, e.g. enabling the use of e-signatures, e-ids, e-invoicing, access to public procurement and VAT compliance. This should simplify procedures especially for small and micro businesses which want to operate and scale up across the borders.

### **Creating the right conditions and a level playing field for advanced digital networks and innovative services**

Digital infrastructure is the backbone of the Digital Single Market. The European Commission should ensure that the regulatory framework drives competition and thereby private investments in networks. It does not require the weakening of competition rules as there is little evidence of a link between consolidation of companies and an increase in investments. The revision of the telecommunication framework should aim at ensuring the rules are fit for the digital age and drive competition and innovation for over-the-top services and telecom operators, to the benefit of consumers. Incentivising private investments in networks also requires for the European Union to have a harmonised framework for spectrum allocation, to give legal certainty to investors. The European Commission should urgently build momentum with Member states to move forward with such proposal. Last but not least, the European Commission should propose a single telecom regulator to ensure a uniform application of rules.

As far as online platforms are concerned, the Commission should look at the main drivers of competition and innovation between and within platforms and develop a forward looking, innovation friendly policy related to online platforms. The multiplication of online platforms has created economic growth in Europe and has opened up new opportunities for citizens, consumers, small or even microbusinesses given the variety and diversity of platforms. The Commission should also consider ways to empower users of these platforms through more transparency, data portability and the ability to switch from one platform to another, but also identify and address barriers to growth and scale up of those companies. The Commission should in addition analyse the need to protect consumers in the sharing economy, and where appropriate and if necessary to come forward with proposals which ensure the adequacy of the consumers related legislation framework in the digital sphere.

### **Maximising the growth potential of the digital economy**

One main criticism of the Digital Single Market strategy is the lack of a vision for the digital transformation of the industry, since 75% of the value added by the Digital economy comes from the traditional industry but its integration of digital technology remains very weak. Therefore the Commission should develop a digital transformation plan for the industry to increase the competitiveness of the European economy, to enhance efficiency and to access untapped potential. This requires a European approach, including a standard setting strategy, and the integration of the single market in data driven technologies such as clouds, the Internet of Things and big data, removing restrictions to the free flow of data in Europe and increasing the availability of open data.

Reinforcing trust in digital technologies is also essential to the development of the data driven economy. In this respect the Commission should clarify rules on data ownership and data portability, ensuring that citizens are in control of their own data. Furthermore, increased public and private resources are needed to strengthen IT and online security, the encryption of



communication, cyber-attack prevention and increased knowledge of basic IT security among users of digital services.

16.11.2015

## **OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS (\*)**

for the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection

on Towards a Digital Single Market Act  
(2015/2147(INI))

Rapporteur(\*): Jutta Steinruck

(\*) Associated committee – Rule 54 of the Rules of Procedure

### **SUGGESTIONS**

The Committee on Employment and Social Affairs calls on the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

- having regard to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 6 May 2015 entitled ‘A Digital Single Market Strategy for Europe’ (COM(2015)0192),
  - having regard to the own-initiative procedure entitled ‘Social protection for all, including self-employed workers’ (2013/2111(INI)),
  - having regard to the Opinion of its Committee on Employment and Social Affairs for its Committee on the Internal Market and Consumer Protection on an integrated parcel delivery market for the growth of e-commerce in the EU (2013/2043(INI)),
- A. whereas 35% of the EU population is at risk of exclusion from the Digital Single Market, in particular those aged over 50 and people with disabilities;
- B. whereas the demand for digitally skilled employees is growing by around 4% per year, 47 % of the EU workforce lacks sufficient digital skills, the shortages of ICT professionals in the EU could exceed 800 000 by 2020 and the shortage of ICT skills might cause up to

900 000 unfilled vacancies by 2020 if no decisive action is taken;

- C. whereas only 1.7% of EU enterprises make full use of advanced digital technologies, while 41% do not use them at all; whereas the digitalisation of all sectors is crucial to maintain and improve the EU's competitiveness;
  - D. whereas promoting social justice and protection, as defined in Article 3 TEU and Article 9 TFEU, are also objectives of the EU internal market;
  - E. whereas the integration of persons with disabilities is a fundamental right of the European Union, as set out in Article 26 of the Charter of Fundamental Rights of the European Union;
1. Welcomes the Commission's Digital Single Market Strategy, which offers opportunities for innovation, growth and employment; stresses that the digital revolution will significantly change the European labour market with the emergence of new jobs requiring digital skills; emphasises therefore that it is necessary to shape its course in a socially just and sustainable way;
  2. Regrets, however, that Commission's Digital Single Market Strategy is primarily limited to technical considerations; calls for taking into account the digital revolution as a key driver in shaping new forms of life and work; stresses the need for social considerations to be taken on board in the Digital Single Market Strategy in order to take full advantage of the related employment and growth potential;
  3. Points out that the digital revolution has already changed the labour market to a great extent in some segments and this trend will further intensify over the next few years; highlights that, on the one hand, digitalisation generates new business models and new jobs, especially for high-skilled but also for low-skilled workers, but on the other hand, it also induces the outsourcing of jobs or parts of a job to countries with low labour costs; points out, that due to automation, some jobs even disappear completely, especially medium-skilled labour;
  4. Recognises that the Digital Single Market can only become a reality when there is access to high-performance broadband infrastructure throughout the regions of the EU in both urban and rural areas;
  5. Believes that barriers to doing business digitally and across borders are barriers to growth and job creation;
  6. Sees the deliberate, targeted digitalisation of the world of work as a great opportunity to create a new working culture in Europe;
  7. Notes that start-ups are important drivers of net job creation across the EU and that at times of high unemployment in many Member States the Digital Single Market offers a unique opportunity for SMEs, micro-enterprises and start-ups to drive growth and job creation;
  8. Highlights the need to create a robust and thriving Digital Single Market, within which unnecessary barriers are removed so that consumers and businesses are given the

opportunities and confidence to operate across the EU, which in turn will generate new long-term sustainable employment opportunities;

9. Highlights the recent trend of companies returning production and services to Europe and the opportunities this brings for job creation; believes that the completion of the Digital Single Market can help accelerate this trend of reshoring jobs;
10. Calls on the Commission and the Member States to ensure that employment and social policies keep pace with the full extent of what is possible for digital innovation and entrepreneurship in order to profit from the opportunities and manage potential risks which could be associated with it; acknowledges that adjustments in labour and social policy might be needed; points out that measures aimed at addressing specific challenges of the labour market e.g. the integration of people with disabilities, youth and long-term unemployment, social dumping and demographic changes – should also be addressed by the Digital Single Market strategy; considers that a digital infrastructure, such as high-performance broadband networks, is needed to remove barriers to doing business digitally and across borders;
11. Demands a regular exchange of best practices among all relevant stakeholders, including social partners, to discuss how such a European digital vision can be developed, how to shape the future digital Europe, and how to design industry 4.0, workplaces 4.0 and smart digital services on the basis of a clear roadmap;
12. Stresses the importance of ensuring that all new policy initiatives are innovation-friendly and are subject to a digital stress test as part of their impact assessment, and that the existing legislation, including in the area of employment and social policy, should be reviewed to ensure it is still fit for purpose for the digital age;
13. Calls on the Commission and the Member States, in cooperation with social partners and regional and local authorities where appropriate, to regularly assess the impact of digitalisation on the number and types of job opportunities available and to identify information on new forms of employment, such as crowdsourcing and crowdworking, as well as their effects on work and private life, including family life, and the skill sets required to fulfil these opportunities;
14. Points out that as job and skills profiles become more complex, new demands – especially regarding information and communications technology (ICT) skills – are being placed on training as well as on further education and life-long learning to promote digital literacy and to tackle the existing gender and generational gaps, especially for disadvantaged persons in this context; emphasises the importance of stronger synergies involving the social partners and various educational training institutions in order to bring course contents up to date and develop skills strategies linking the world of education with the world of work;
15. Draws attention to the fact that, according to the Commission, there are significant shortages in skills acquisition; points out that the mismatch between supply and demand with regard to skills is a problem for the development of the digital economy, the creation of jobs and the competitiveness of the Union; calls on the Commission, as a matter of urgency, to develop a skills strategy which can tackle this skills shortage;

16. Acknowledges that digitalisation will lead to structural change; points out that structural change is a continuous process and that digital skills are more flexible with regard to diverse industry needs and are less affected by structural change;
17. Calls on the Member States to adapt educational systems, where necessary, with a view to promoting teaching and interest in mathematics, IT, science and technology in educational institutions, and to provide incentives for women to work in the field of ICT; encourages the Member States to develop the digital skills of teachers as part of their training;
18. Recalls that women are underrepresented in the field of information and communication technologies; points out that women in Europe studying rare ICT-based subjects rarely find employment in this sector and rarely hold leadership positions in technology companies; calls on Member States to address the gender gap in the ICT sector by creating more incentives for women to work in this field;
19. Notes further that public and private investment in vocational education and lifelong learning is necessary in order to ensure that the EU workforce, including the 'digital workforce' working in non-standard forms of employment, is equipped with the right skills for the digital economy; stresses that education and training must be accessible for all workers; believes that new funding opportunities for lifelong learning and training are needed, especially for micro and small enterprises;
20. Stresses that education and training curricula must aim at developing a critical thinking approach to the use and thorough understanding of new media, digital and information devices and interfaces, so that people can be active users of these new technologies and not simply end users;
21. Notes that to ensure a successful transition from education or training to employment, it is of great importance to equip people with transferrable skills that will enable them to take informed decisions and develop a sense of initiative and self-awareness, which is also essential in order to profit from the opportunities offered by the Digital Single Market; calls therefore on Member States to consider the benefits of an overall re-design of educational systems, training curricula and work methods in a holistic and ambitious way in order to address the challenges and opportunities of the digital revolution;
22. Calls on Member States to make appropriations from all possible funds available to employers so that they can invest more in the digital training of their less qualified staff or recruit low-qualified staff with the promise of further training financed from these sources; notes that some Member States have introduced rights which guarantee workers minimum entitlements to paid educational leave as a measure to improve workers' access to education and training; calls therefore on Member States to consider, in close cooperation with social partners, whether such rights could also be introduced in their countries;
23. Calls on the Commission, inter alia, to use appropriations from the Youth Employment Initiative to support associations (grassroots movements) which teach disadvantaged young people digital skills; calls on Member States to provide support by making premises available;
24. Stresses that lifelong learning for workers of all ages must be a standard in the digitalised

area;

25. Calls on the Commission and Member States, together with private industry, to develop universal, freely accessible, standardised and certified on-line training courses in order to teach participants a minimum of digital skills; calls on the Member States to develop innovative and accessible e-skills training programmes, in which the needs of those who are most excluded from the labour market are fully taken into consideration;
26. Encourages Member States to make these on-line courses an integral part of the Youth Guarantee;
27. Encourages Member States to promote cooperation between universities and technical colleges with the aim of developing common eLearning curricula, in order to award ECTS points for study programmes, courses or completed modules to successful learners;
28. Welcomes the establishment of the Europe-wide grand coalition for digital jobs, and encourages businesses to join; calls on the Commission and Member States to facilitate the active participation of SMEs in this coalition; draws attention to the necessary role of private industry in overcoming the shortage of education in digital skills, and notes the vital role of dual training in this context; welcomes the Commission's e-skills campaign and calls on all participants to further develop these jointly with education institutions and undertakings; encourages the Europe-wide grand coalition for digital jobs to develop recommendations for new forms of learning, i.e. online learning, employer-designed short courses, etc., to keep pace with evolving digital technology and changes;
29. Reminds the Commission that the long-promised, long-awaited European Accessibility Act would only be feasible in an inclusive digital society which takes into account the need for equal access to platforms for users with disabilities; stresses, in addition, that digital diversity must not be accompanied by the exclusion of people with disabilities;
30. Is convinced that accessibility is best achieved and most cost-effective when incorporated from the outset using a universal design approach, and that it also represents a potential business opportunity;
31. Calls on the Commission to adopt an Accessibility Act that guarantees the accessibility of online goods and services for people with disabilities;
32. Deplores the fact that the Digital Single Market Strategy for Europe published by the Commission takes no account of the need to ensure full, equal and unrestricted access for all to new digital technologies, markets and telecommunications, in particular with regard to people with disabilities;
33. Stresses the importance of Work 4.0 and the digital future it presents in creating a family-friendly work environment and achieving a better work-life balance;
34. Emphasises the potential of digitalisation for the implementation of flexible forms of employment, and particularly for facilitating the return to the labour market of women who have completed a period of maternity leave;
35. Points out that the digital revolution is changing the ways of working, which leads to an

increase in atypical and flexible employment relationships: calls on the Commission and the Member States to assess the need for the modernisation of social and employment legislation to stay abreast of such changes and to encourage social partners to update collective agreements accordingly so that existing protection standards in the workplace can also be maintained in the digital world of work;

36. Recognises that there are positive effects in relation to flexible working arrangements for some people, allowing them to achieve a better work-life balance; points out the advantages for people from rural and economically less developed areas in joining the digital labour market; draws attention to the fact, however, that the digitalisation-driven trend towards more flexible working practices may also give rise to unstable forms of employment; stresses the need to ensure that current standards as regards social security, minimum wages, where applicable, worker participation and occupational health and safety are maintained;
37. Calls on the Commission, the Member States and the social partners to develop strategies to ensure that persons performing work as if they are workers – regardless of whether their official status is self-employed or other – have appropriate rights under labour law, including the right of collective bargaining;
38. Stresses the need to define ‘self-employment’ in order to prevent bogus self-employment; calls on the Commission to promote an exchange between Member States on the various forms of self-employment, taking into account the mobility and delocalisation of digital work; believes that this issue should be taken up by the platform on undeclared work as a task;
39. Underlines the potential of the platform economy to generate jobs and complementary income;
40. Emphasises the need to protect the continuity of cultural and creative jobs in the digital era by ensuring that artists and creators receive fair value for cultural and creative works disseminated on internet platforms;
41. Stresses that the sharing economy requires a rethinking of the working world; stresses that Member States need to adjust their legal framework to the digital economy, and to the sharing economy in particular; calls on the Commission, the Member States and the social partners to develop strategies to ensure that all relevant information is available to national authorities and that all contributions are paid for all forms of work;
42. Stresses that the intended harmonisation of parcel delivery by the Commission should not lead to lower social protection and working conditions for parcel deliverers, irrespective of their employment status; calls on the Commission and the Member States to ensure that workers’ rights in this sector concerning access to social security systems and the right to exercise collective actions are respected;
43. Stresses that freedom of association, which is a fundamental right, must also apply in the context of new forms of employment in all sectors; stresses that this also applies for the right to conclude collective agreements and the right to organise workers;
44. Calls on the social partners to provide adequate information to workers on working

conditions and workers' rights throughout crowdworking platforms;

45. Stresses that the digitalisation of work poses new challenges for both employers and employees and that this must be reflected in clear provisions on employee data protection; calls on the Commission to set high minimum standards under the basic EU Data Protection Regulation; points out that Member States must be allowed to introduce more stringent measures that go beyond the high EU minimum standards;
46. Stresses the need to develop employee data protection measures which cover new forms of data collection; stresses that new relations between humans and robots also provide opportunities for removing burdens and providing backing for the inclusion of older and physically or mentally impaired workers; draws attention to the health and safety at work aspect of relations between humans and robots;
47. Believes that the effects of digitalisation on health and safety at work need to be assessed and existing health and safety measures adapted accordingly; notes the possibility of accidents to which persons teleworking or crowdworking from home may be exposed; emphasises that work-related mental health problems such as burnout caused by constant accessibility and the erosion of traditional working time arrangements represents a serious risk for workers; calls on the Commission to arrange for a study to be produced on the spillover effects of digitalisation, such as greater labour intensity, on workers' psychological wellbeing and family life and on the development of cognitive abilities in children;
48. Calls on the Member States to ensure adequate social security for self-employed and freelance workers, who are key players with regard to new forms of employment;
49. Highlights that the provision of social security is a Member State competence;
50. Recognises that there are very different forms of social protection for self-employed persons in the Member States; calls on the Member States to develop social security systems, together with the social partners and in accordance with national law and practice, in order to provide better social protection, particularly with regard to pensions, disability, maternity/paternity, sickness and unemployment.



## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	10.11.2015
<b>Result of final vote</b>	+: 48 -: 4 0: 0
<b>Members present for the final vote</b>	Laura Agea, Guillaume Balas, Tiziana Beghin, Mara Bizzotto, Vilija Blinkevičiūtė, Enrique Calvet Chambon, David Casa, Ole Christensen, Lampros Fountoulis, Elena Gentile, Arne Gericke, Thomas Händel, Danuta Jazłowiecka, Agnes Jongerius, Jan Keller, Ádám Kósa, Agnieszka Kozłowska-Rajewicz, Zdzisław Krasnodębski, Kostadinka Kuneva, Jérôme Lavrilleux, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Dominique Martin, Elisabeth Morin-Chartier, Marek Plura, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Yana Toom, Ulrike Trebesius, Ulla Tørnæs, Marita Ulvskog, Renate Weber, Tatjana Ždanoka, Jana Žitňanská, Inês Cristina Zuber
<b>Substitutes present for the final vote</b>	Tim Aker, Georges Bach, Amjad Bashir, Lynn Boylan, Tania González Peñas, Dieter-Lebrecht Koch, António Marinho e Pinto, Edouard Martin, Joachim Schuster, Michaela Šojdrová, Ivo Vajgl, Flavio Zanonato
<b>Substitutes under Rule 200(2) present for the final vote</b>	Sorin Moisă

16.11.2015

## **OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION (\*)**

for the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection

on Towards a Digital Single Market Act  
(2015/2147(INI))

Rapporteur (\*): Petra Kammerevert

(\*) Associated committee – Rule 54 of the Rules of Procedure

### **SUGGESTIONS**

The Committee on Culture and Education calls on the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

- having regard to Article 167 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to the Protocol on the system of public broadcasting in the Member States annexed to the Amsterdam Treaty amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts,
- having regard to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on 20 October 2005,
- having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media

services (Audiovisual Media Services Directive))<sup>1</sup>,

- having regard to its resolution of 4 July 2013 on Connected TV<sup>2</sup>,
  - having regard to its resolution of 12 March 2014 on Preparing for a Fully Converged Audiovisual World<sup>3</sup>,
- A. whereas digitisation affects all aspects of the lives of European citizens; whereas the cultural and creative industries, especially the audiovisual industry with its increasing offers of attractive and complementary online services creates an important cultural and economic value, employment, growth and innovation in the EU; whereas one should support this industry more amply in its efforts to take advantage of digital opportunities, to expand its public and to promote growth; and whereas copyright-intensive activities account for a significant part of the cultural and creative sector;
- B. whereas, by acceding to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, the EU, in addition to all of its Member States, has committed itself to ensuring by effective means that media diversity does not only depend on economic market opportunities;
- C. whereas technical media convergence has now become a reality – particularly for broadcasting, the press and the internet – and whereas European policies concerning media, culture and networks urgently need to adapt the regulatory framework to the new conditions and ensure that a uniform level of regulation can be established and enforced, including as regards new entrants to the market from the EU and third countries;
- D. whereas the Audiovisual Media Services (AVMS) Directive is important in terms of EU media regulation and for the promotion of European works; whereas it should be based on the principle of technological neutrality and should ensure a level playing field as well as better access to, and improved findability of, digital content and digital services;
- E. whereas in some Member States the implementation of Article 13 of the AVMS Directive on the promotion of European works by on-demand services is not prescriptive enough to meet the cultural diversity objective spelled out in the Directive;
- F. whereas the cultural and creative industries depend on copyright that requires a consolidated regulatory framework to ensure the vitality, distribution and diversity of European culture: whereas the increasing power and sometimes dominant position and limited liability of internet intermediaries can jeopardise a sustainable value creation for authors and artists, and has a negative impact on their creative potential; whereas the study ‘Territoriality and its impact on the financing of audiovisual works’ underlines the important role of territorial licensing regarding to refinancing European films;
1. Welcomes the Commission’s proposals to accelerate digitisation in the EU and its initiatives to simplify cross-border access to digital content; stresses the important role that public broadcasters and digital services play for the population, in particular to people

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<sup>1</sup> OJ L 95, 15.4.2010, p. 1.

<sup>2</sup> Texts adopted, P7\_TA(2013)0329.

<sup>3</sup> Texts adopted, P7\_TA(2014)0232.

in peripheral regions and to vulnerable<sup>1</sup> people; calls on the Commission to identify in a better way the specific needs of the creative sector with regard to different types of content, creative works and business models used, and to take these into account when proposing modifications and solutions;

2. Stresses the dual character of audiovisual media as a cultural and economic asset; observes that the need for future European media regulation arises not from a shortage of avenues of communication, but primarily from the need to ensure diversity, and insists that access to diverse, high-quality media and cultural and linguistic diversity and quality should not depend on the economic means of the individual;
3. Urges the Commission, in the upcoming review of AVMS Directive, to take into account technological changes and new business models in the digital world, as well as changing viewing patterns and new ways of accessing audiovisual content, by aligning linear and non-linear services and by setting out European-level minimum requirements for all audiovisual media services, with a view to ensuring their consistent application in the EU by all players operating with audiovisual media services, except where such content is an indispensable completion of other than audiovisual content or services; believes that this review should focus on social, cultural and economic objectives as well as on high standards for the protection of minors and consumers and personal data, as well as for the promotion of cultural diversity; believes that it should also aim at incentivising investments in audiovisual content and platforms in the EU and at disseminating that content, thereby promoting accessibility of European works, in line with current copyright legislation or potential future reforms of the same;
4. Stresses that the ‘country of origin’ principle enshrined in the AVMS Directive is a necessary prerequisite for the provision of audiovisual content across borders and a milestone on the way to a common market in services; emphasises that it does not prevent the achievement of social and cultural objectives and that it does not preclude the need to adapt EU law outside the AVMS Directive to the realities of the internet and the digital environment, nor the need to pay special attention to companies offering audiovisual content on line or on demand that try to evade taxation and audiovisual regulation in certain Member States by basing themselves in countries with a very low tax rate or weak audiovisual regulation;
5. Calls once again on the Commission and the Member States to develop the concept of media services defined in Article 1 of the AVMS Directive in such a way that, while the Member States retain an appropriate degree of discretion, more account is taken of the potential socio-political impact of services and of specific features of that impact, particularly their relevance to opinion-forming and to diversity of opinion, as well as the question of editorial responsibility;
6. Calls on the Commission and the Member States to implement equally, and to treat efficiently, the prohibition of any audiovisual media service in the EU in the case of violation of human dignity, incitement to hatred or racism; calls for measures to be taken to ensure that audiovisual media services are made accessible to vulnerable people, that any form of discrimination, as set out in Article 21 of the Charter of Fundamental Rights

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<sup>1</sup> As defined in the Tunis Agenda and the Geneva Declaration of Principles of the World Summit on the Information Society.

of the European Union, across all types of audiovisual media services are avoided, and that a right of reply is guaranteed by all audiovisual media services under editorial responsibility;

7. Notes that intermediaries, online platforms and user interfaces, while facilitating access to content, increasingly have the means to influence diversity; concludes, therefore, that, alongside competition policy and regulatory aspects, the democratic political objective of securing diversity requires special consideration; calls on the Commission to define the terms 'online platform' and 'user interface', as well as to adjust the role of other intermediaries, without undermining their innovative potential and taking into account their active or passive role; believes that everyone, including providers of online platforms and user interfaces, should be subject to the AVMS Directive as far as it concerns an audiovisual media service; underlines, in this regard, the importance of applying rules aimed at enhancing the findability of legal content and information in order to strengthen media freedom, pluralism and independent research, and to guaranteeing the non-discrimination principle, which is essential to safeguard linguistic and cultural diversity;
8. Calls for measures to ensure that audiovisual media services are made accessible for people with disabilities and that any form of discrimination as set by Article 21 of the Charter of Fundamental Rights of the European Union is avoided;
9. Emphasises, in this regard, that the Commission should be guided by the overarching objectives of non-discrimination, freedom of contract, accessibility, findability, technology and net neutrality, transparency and the establishment of a level playing field;
10. Demands that audiovisual media services of public interest or impact on the public opinion-forming process be easily accessible and findable for all users, especially if they are confronted with content predefined by device manufacturers, network operators, content providers or other aggregators in a manner that does not respect the users autonomy to set / install their own order and priorities; stresses that to ensure the idea of findability of audiovisual content of public interest, the Member States can introduce specific rules that aim to preserve cultural and linguistic diversity and the variety of information, opinions and media, the protection of children, young people or minorities and the protection of consumers in general;
11. Underlines that an adaptation of the AVMS Directive should create a decrease of regulation, fair conditions for competition, more flexibility regarding quantitative and commercial communication rules, and a strengthening of co- and self-regulation by bringing into balance the rights and obligations of broadcasters, through a horizontal and cross-media regulatory approach, with those of other participants of the market; considers that one should give the principle of clear recognisability and differentiation between advertising and programme-content priority over the principle of separation of advertising and programme across all media forms;
12. Stresses that in order to fight the 'forum shopping' practice, the country of origin of the advertising profit, the language of the service and the targeted public of the advertisement and content should be considered part of the criteria to determine the audiovisual regulation to be applied to audiovisual media services or to contest the initial determination of the competent Member State;

13. Regrets that the requirements of Article 13 on the promotion of European works by on-demand services have been implemented in different manners by many Member States, which has resulted in the absence of clear obligations and monitoring, thereby encouraging a forum shopping for on-demand services; calls, therefore, on the Commission to strengthen Article 13 by introducing a combination of clear requirements, including a financial contribution, and monitoring tools for the promotion of European works by on-demand services; urges the Commission to stimulate the legal offer of audiovisual media content by favouring independent European works;
14. Believes that the Member States should be obliged to introduce lists of major events, including sports and entertainment events, that are of general interest, and recalls that it is mandatory to notify these lists to the Commission; listed events should be accessible and in line with prevailing quality standards;
15. Calls on the Commission to check, when the AVMS Directive is being revised, whether it is still useful and pertinent to adhere to section 6.7 of its communication on the application of state aid rules to public service broadcasting;
16. Underlines that the legal audiovisual online offer should be developed further in order to enhance consumers' accessibility to a wide and diverse content, with various language and subtitle options;
17. Calls on the Body of European Regulators for Electronic Communications (BEREC) to examine more closely the distribution channels and types of marketing used by content delivery and/or distribution networks in the EU and how they affect media diversity;
18. Supports, from a cultural perspective, the Commission's aim of hastening the roll-out of broadband, particularly in rural areas, and calls for the promotion of public WLAN networks in both large and small municipalities, as this approach provides an indispensable infrastructure for their future operation in the interests of social and cultural integration, modern educational and information processes, and tourism and the regional cultural economy;
19. Notes the conclusion of the Marrakesh Treaty, which will facilitate access for the visually impaired to books, and encourages swift ratification thereof;
20. Calls on the Commission, in order to improve access to information and cultural goods, to present without delay a proposal to reduce VAT rates for the press, digital publishing, books and publications online in accordance with the commitments made;
21. Calls on the Commission and the Member States to safeguard by law the integrity of digital content, and in particular to prohibit the overlaying or scaling of these services by third parties with content or other services, unless the latter have explicitly been initiated by the user and, in the case of content which is not covered by the definition of individual communication, have been authorised by the content provider; points out that unauthorised interference by third parties with the content or broadcast signals of a provider, and the unauthorised decryption, use or dissemination of such content or signals must likewise be prevented;
22. Stresses that copyright is an important economic basis for creativity, employment and

innovation, as well as the guarantor of cultural diversity, and that it is essential to enable Europe's creative and cultural industries to compete on a global scale; stresses that further efforts are needed in the field of copyright to strike a balance between all key actors, and that any revision of copyright law should ensure adequate protection that fosters investment and growth in the creative and cultural sector, whilst removing legal uncertainties and inconsistencies that adversely affect the functioning of the Digital Single Market (DSM); urges the Commission to review, where necessary, the regulatory framework for copyright in order to achieve a better access to creative content for European citizens, and to stimulate European researchers, educational establishments, cultural heritage institutions and the creative sector to adapt their activities to the digital world; underlines that appropriate remuneration must be paid by those who profit from the exploitation of copyright-protected works, and that any solutions in this regard should not discourage the use of legal providers; recalls that digital technologies have redefined the value chain in the cultural sector, mostly to the benefit of intermediaries and often to the detriment of creators; asks the Commission to investigate the extent and impact of such changes and to propose measures to improve the remuneration of authors and artists at European level; stresses that any revised provisions should be future-proof and technologically neutral, evidence based and carefully assessed in line with the Commission's objective of better regulation, while taking into account the differences between the digital and analogical environments;

23. Welcomes the Commission's ambition to improve cross-border access to digital content by facilitating the easier clearing of rights, taking into account new possibilities of remuneration because of digitisation and creating more legal certainty; emphasises that minimum standards for exceptions and limitations and, where appropriate, further harmonisation are key aspects to improve legal certainty, and should, whenever possible, take cultural specificities into account; stresses that cross-border accessibility should not hinder the financing process for content or services, and that it should respect cultural and linguistic diversity as an asset; stresses that the audio-visual industry needs to be encouraged to develop innovative licensing solutions to adapt their financing models to the digital age;
24. Stresses that professional activities or business models based on the violation of copyrights are a serious threat to the functioning of the Digital Single Market, and calls for an EU-wide approach to ensure that no one benefits from an intentional breach of copyright;
25. Calls on the Commission to encourage portability and interoperability in order to stimulate the free circulation of legally acquired, and legally made available, content or services throughout the whole EU, as well as the accessibility and cross-border functionality of subscriptions, while respecting that some economic models are based on the territoriality of rights in Europe, particularly regarding the financing of audiovisual productions and especially pre-funded film productions, which allows for strong cultural diversity; stresses that there is no contradiction between the principle of territoriality and measures to promote portability of content; believes that pan-European licenses should remain an option, should be introduced on a voluntary basis and preceded by an impact evaluation; stresses that such licenses cannot replace territoriality and that funding models for audio-visual works are based on national licensing models tailored for the national markets' characteristics; calls, with regard to Article 118 TFEU, for EU-wide rights

management to be developed further and made more attractive;

26. Considers that a clarification is needed on what constitutes ‘unjustified geo-blocking’, taking into account the consultation; recalls that there are configurations which make geo-blocking necessary, especially with the aspect of cultural diversity in view, in regard to which it is often a tool for preventing monopolisation of the market; notes that a territorial limitation seems necessary where the costs for offering content or services across borders are not covered and where refinancing is not available;
27. Calls on the Commission to optimise, through consultation with stakeholders, media release windows to accelerate the availability of audiovisual content, while maintaining a sustainable first and second window of diffusion deriving from the financing schemes of audiovisual content;
28. Calls on the Member States to extend the scope of the quotation exception, without prejudice to authors’ moral rights, to short audiovisual quotations for non-advertisement and non-political uses, provided that the work used is clearly credited, that the quotation does not conflict with a normal exploitation of the work and that it does not prejudice the legitimate interests of the authors;
29. Calls for further dialogue between creators, right holders and intermediaries in order to foster mutually beneficial cooperation whereby copyrights are protected while enabling, allowing and encouraging innovative ways of creating content; calls on the Commission to take further steps towards the modernisation of copyright law with a view to providing and developing innovative new licensing forms that are more efficient with regard to the use of creative content online and, therefore, also take possibilities of collective licensing into account;
30. Considers that the legal concept set out in Directive 93/83/EEC, after a further assessment is conducted, could improve cross-border access to legal online content and services in the Digital Single Market without questioning the principles of freedom of contract, an appropriate remuneration of authors and artists and the territorial character of exclusive rights, and welcomes the initiative of the Commission to conduct a public consultation on Directive 93/83/EEC;
31. Stresses the need to address the problematic boundaries that exist between the right of reproduction of works and the right of communication to the public; underlines the need to clarify the concept of ‘communication to the public’ in light of the recent case law of the Court of Justice of the European Union; highlights the need for a common definition of ‘public domain’ so as to ensure the widespread dissemination of cultural content across the EU;
32. Urges the establishment of mandatory limitations and exceptions provided for in existing copyright legislation, such as those in the field of education, research, libraries and museums, to allow for the more widespread dissemination of content across the EU, while taking into account the freedom of expression and information, freedom of the arts and sciences, religious and linguistic diversity;
33. Stresses that, in order to achieve a true Digital Single Market in Europe, and to enable citizens – including vulnerable people – to make full use of new digital technologies,



further efforts to improve media literacy are needed; encourages, therefore, the Member States to recognise the importance of media education, to integrate the acquisition of digital skills into school curricula and to improve the necessary technical equipment; underlines, in this context, the importance of proper training for teachers on digital skills, on the way to teach these skills efficiently, and on how to use them to support the learning process in general;

34. Stresses that the ability to use media independently and critically represents a lifelong learning task across generations, which is subject to constant change, in parallel with the development of the media and understood as a key qualification; stresses that the adaptation of education and training systems is vital to improve the level of ICT professionalism in Europe and to meet the increasing demand for digitally skilled professionals in the EU; encourages, in this regard, the Commission and the Member States to create the basis for mutual recognition of digital skills and qualifications by setting up a European certificate or grading system, following the example of the European common framework of reference for language learning and teaching; stresses that further efforts are needed in the field of improving media literacy among citizens, and calls on the Commission and the Member States to promote media literacy for all EU citizens, in particular vulnerable people, through initiatives and coordinated actions; suggests that internet literacy be added permanently to the scope of efforts to increase media literacy;
35. Considers it necessary for the Commission and the Member States to adopt a two-way approach to the issue of competence and digital skills by investing in digital education and digital infrastructures, as well as in the integration of digital content and methods in existing scholar programmes; recommends a continued focus on improving how children are protected online, through transparent self-regulatory measures in accordance with existing national and EU legislation, where appropriate; calls on the Commission and the Member States to make offers for all generations in order to mediate an appropriate and autonomous handling of information overload, as well as to invest more in the creation of European networks for the teaching of media literacy, to promote the exchange of best practice and to ensure the European visibility of national, regional or even local initiatives;
36. Calls on the Commission and the Member States to step up research into the effects of digital media on cognitive skills, effective methods of self-control, and the success of play-based digital learning;
37. Stresses that the living diversity of languages and growing multilingualism form a crucial cultural basis of the European Digital Single Market; takes the view that digitally supporting linguistic diversity, increasing its accessibility and promoting and securing the relevant skills will be an essential precondition for enabling a DSM to develop in a socially sustainable way; expects, in terms of a productive handling of multilingualism, that the Commission steps up its efforts towards a productive interaction with multilingualism, so as to permit speedier implementation of the technological basis for the active support and productive application of European multilingualism in education, film, cultural heritage, research and public administration, as well as in everyday working and business life;

38. Underlines the importance of the territoriality principle for Europe's film culture, for example, and calls for financing models for audiovisual works based on national licensing models not to be destroyed by binding, pan-European licences; stresses that the cross-border portability of legally-acquired content should instead be promoted;
39. Calls on the Commission to ensure compliance with the principles of internet neutrality, which is vital where media convergence is concerned;
40. Stresses that as extensively ensuring net neutrality is a key part of a socially-just DSM strategy, this should not be partially sacrificed for the goal – necessary in the short term – of abolishing roaming fees;
41. Recalls that a fair balance of rights and interests between the different categories of rights holders and users of copyright-protected subject-matters must be safeguarded;
42. Welcomes the initiative of the Commission to conduct a public consultation on Directive 93/83/EEC on satellite broadcasting and cable retransmission, with a view to exploring the possibility to extend the directive's scope to online communication of audio-visual works via streaming and video-on-demand, which would significantly benefit the ability of public broadcasting services to fulfil their public interest mission in the digital age and contribute to the completion of the DSM;
43. Looks to the Commission, in the DSM strategy as elsewhere, to step up its efforts towards a productive interaction with multilingualism, so as to permit speedier implementation of the technological basis for the active protection and productive application of European multilingualism in education, film, cultural heritage, research and public administration, as well as in everyday working and business life;
44. Welcomes the Commission's thoughts on constructing new knowledge storage systems for the public sector by means of cloud technologies and text and data mining that are certified and secured under data protection law; takes the view that using such technologies in educational establishments, public libraries and archives calls for special training efforts in the library, archiving and documentation professions, and for corresponding multilingual accessibility for users;
45. Urges that more efforts be made as part of the DSM strategy to verify the implementation of free and open software in educational establishments and public administration, as the accessibility and visibility of source codes enhances the resource-saving participation of the public authorities in decisions on the use of collaborative innovations; takes the view that more open software may make it possible to certify the digital skills of users, particularly within educational establishments;
46. Calls for digital forms of collaborative work and communication – using and developing CC licences – to be taught and applied across national and linguistic borders in education and training, and in public research establishments, and promoted in public procurement procedures.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	12.11.2015
<b>Result of final vote</b>	+: 19 -: 6 0: 3
<b>Members present for the final vote</b>	Isabella Adinolfi, Dominique Bilde, Andrea Bocskor, Nikolaos Chountis, Silvia Costa, Mircea Diaconu, Damian Drăghici, Angel Dzhambazki, Jill Evans, Giorgos Grammatikakis, Petra Kammerevert, Andrew Lewer, Svetoslav Hristov Malinov, Stefano Maullu, Fernando Maura Barandiarán, Luigi Morgano, Momchil Nekov, Michaela Šojdrová, Bogdan Brunon Wenta, Bogdan Andrzej Zdrojewski, Milan Zver, Krystyna Łybacka
<b>Substitutes present for the final vote</b>	Santiago Fisas Aixelà, Sylvie Guillaume, György Hölvényi, Ilhan Kyuchyuk, Ernest Maragall, Emma McClarkin, Martina Michels, Elisabeth Morin-Chartier, Michel Reimon, Hannu Takkula
<b>Substitutes under Rule 200(2) present for the final vote</b>	Julia Reid

7.12.2015

## **OPINION OF THE COMMITTEE ON LEGAL AFFAIRS (\*)**

for the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection

on Towards a Digital Single Market Act  
(2015/2147(INI))

Rapporteur (\*): Angel Dzhambazki

(\*) Associated committee – Rule 54 of the Rules of Procedure

### **SUGGESTIONS**

The Committee on Legal Affairs calls on the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

1. Stresses that stimulating growth, innovation, citizen and consumer choice, job creation, including high-quality jobs, and competitiveness is of the utmost importance and believes that the digital single market is key to achieving these objectives by removing barriers to trade, increasing productivity, streamlining processes for online businesses, supporting creators, investors and consumers and those who work in the digital economy, with a particular focus on SMEs, and making private investment in creative infrastructure commercially attractive, while minimising red tape and facilitating the creation of new start-ups; notes, in addition, the importance of facilitating legal access to academic and creative works and ensuring a high level of consumer and data protection in the digital single market; calls for future-proof regulation and an assessment of the impact of all new proposals as regards competitiveness, growth, SMEs, innovative potential and job creation, as well as their potential costs and benefits, together with an assessment of their environmental and social impact;
2. Welcomes the Commission communication ‘A Digital Single Market Strategy for Europe’ (COM(2015)0192) and the included commitment to modernise the current copyright framework in order to adapt it to the digital age; underlines that any modification of said framework should be considered in a targeted way and with a focus on fair and appropriate remuneration for creators and other right holders for the use of their works, economic growth, competitiveness and enhanced consumer experience, but also on the

need to ensure the protection of fundamental rights;

3. Points out the role of intellectual property rights (IPRs) and recalls that exceptions and limitations to copyright are one of the aspects of the copyright system; highlights the crucial role of targeted exceptions and limitations to copyright in contributing to economic growth, innovation and job creation, encouraging future creativity and enhancing the EU's innovation and creative and cultural diversity;
4. Highlights, in this regard, that the EU's cultural and creative industries are an engine for economic growth, innovation and competitiveness as they employ, according to industry figures, more than 7 million people and generate more than 4.2 % of EU GDP<sup>1</sup>;
5. Believes that the reform should strike the right balance between all the interests involved; points out that the creative sector has specificities and different challenges, notably arising from the different types of content and creative works and from the business models used; calls, therefore, on the Commission to better identify these specificities and take them into account when proposing modifications and solutions;
6. Emphasises that any reform of the copyright framework should take as a basis a high level of protection, since rights are crucial to intellectual creation and provide a stable, clear and flexible legal base that fosters investment and growth in the creative and cultural sector, whilst removing legal uncertainties and inconsistencies that adversely affect the functioning of the internal market;
7. Calls on the Commission to make sure that any reform of the Copyright Directive takes into account the results of the ex-post impact assessment of the 2001 Copyright Directive and is based on solid evidence, including an assessment of the possible impact of the modifying elements, especially regarding the production, financing and distribution of audiovisual works, and also cultural diversity; takes the view that a proper economic analysis, including the impact on jobs and growth, must be carried out;
8. Calls, furthermore, on the Commission to take into account Parliament's resolution of 9 July 2015 on the implementation of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society<sup>2</sup>;
9. Notes that 56 % of Europeans use the internet for cultural purposes and notes, therefore, the importance of several copyright exceptions; reminds the Commission that the majority of MEPs support the examination of the application of minimum standards across the exceptions and limitations to copyright and the proper application of those exceptions and limitations which are set out in Directive 2001/29/EC; underlines that the approach to copyright exceptions and limitations should be balanced, targeted and format-neutral and should only be based on demonstrated needs, and should be without prejudice to EU cultural diversity, its financing and the fair compensation of authors; emphasises that while the use of text and data mining needs greater legal certainty to enable researchers and educational institutions to make wider use of copyright-protected material, including across borders, any EU-wide exception for text and data mining should apply only when

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<sup>1</sup> EY study entitled 'Creating growth – Measuring cultural and creative markets in the EU'.

<sup>2</sup> Texts adopted, P8\_TA(2015)0273.

the user has lawful access, and should be developed in consultation with all stakeholders following an evidence-based impact assessment;

10. Stresses the importance of improving the clarity and transparency of the copyright regime, in particular with regard to user-generated content and to private copying levies in those Member States which choose to apply them; notes, in this regard, that citizens should be informed of the actual amount of the copyright levy, its purpose and how it will be used;
11. Underlines that the digital single market should give the opportunity to ensure accessibility for all, including people with disabilities, to products and services protected by copyright and related rights; is deeply concerned, in this regard, by the lack of progress regarding ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled and urges that it be ratified as soon as possible; eagerly awaits the ruling of the Court of Justice of the European Union (CJEU) in this regard;
12. Calls for targeted, evidence-based reforms to enhance cross-border access to online content which is legally available or has been legally acquired, but cautions against indiscriminately promoting the issuing of mandatory pan-European licences since this could lead to a decrease in the content made available to users; highlights that the principle of territoriality is an essential element of the copyright system given the importance of territorial licensing in the EU; calls for putting an end to unjustified geo-blocking by prioritising the cross-border portability of legally acquired or legally available content as a first step for greater legal certainty, and for the introduction of new commercial models for flexible and innovative licensing schemes; notes that such models should deliver benefits to consumers to ensure linguistic and cultural diversity, without undermining the principle of territoriality or the freedom to enter into a contract;
13. Welcomes the Commission's ambition to strengthen EU research and innovation by improving cross-border use of copyright-protected material; considers that this effort is central in enhancing access to knowledge and online education, and in improving the global competitiveness of EU educational institutions;
14. Stresses the importance of access to information and content in the public domain; underlines that public domain content in one Member State should be accessible in all Member States; believes that the EU institutions' public content should be placed in the public domain wherever possible;
15. Takes the view that any modification of the Audiovisual Media Services Directive should take into account new ways of accessing audiovisual content and should be consistent with the current reform of legislation relating to copyright;
16. Takes the view that certain online intermediaries and online platforms generate income from cultural works and content, but this income may not always be shared with the creators; calls on the Commission to consider evidence-based options to address any transfer of value from content to services that will make it possible for authors, performers and right holders to be fairly remunerated for the use of their work on the internet without hampering innovation;
17. Points out that the rapid rate of technological development in the digital market calls for a

technologically neutral framework for copyright;

18. Urges the Commission to ensure that the EU strategy for a digital single market is developed in cooperation with countries that are the frontrunners in the field of good digitisation practices so as to easily factor in technological innovations from countries outside the EU, especially with regard to intellectual property, thereby improving interoperability and increasing opportunities for the growth and expansion of European companies on the international market;
19. Calls on distributors to publish all available information concerning the technological measures necessary to ensure interoperability of their content;
20. Encourages the Commission's pursuits in ensuring interoperability between digital components and emphasises the importance of standardisation that can be achieved both via standard-essential patents (SEPs) and open licensing models; welcomes the Commission's efforts in the development of a balanced framework for negotiations between right holders and implementers of SEPs in order to ensure fair licensing conditions; invites the Commission to take note and apply the spirit of CJEU ruling C-170/13 (Huawei v. ZTE), which strikes a balance between the SEP holders and standard implementers, to overcome patent infringements and to ensure the effective conclusion of fair, reasonable and non-discriminatory (FRAND) licensing agreements;
21. Welcomes the Commission's action plan to modernise the enforcement of intellectual property rights online with regard to commercial scale infringement; highlights the importance of copyright law and related rights being respected in the digital age; considers that copyright enforcement as laid down in Directive 2004/48/EC across Member States is extremely important and that copyright and related rights are only as effective as the enforcement measures in place to protect them; highlights that the EU faces a significant number of IPR infringements and that, according to the Commission's data, customs authorities noted more than 95 000 detention cases in 2014, while the value of the 35.5 million articles seized is estimated to be more than EUR 600 million<sup>1</sup>; emphasises the role of the European Observatory on Infringements of Intellectual Property Rights to provide reliable data and objective analyses of the impacts of infringements on economic actors; calls, therefore, for an effective, sustainable, proportionate and modernised approach to the enforcement, implementation and protection of intellectual property rights online, particularly with regard to commercial-scale infringement, to be adopted; notes that in some cases copyright infringements may result from difficulty in finding legally available desired content; calls, therefore, for a wider range of user-friendly legal offers to be developed and promoted to the public;
22. Welcomes the 'follow the money' approach and encourages the actors in the supply chain to take coordinated and proportionate action to combat infringements of intellectual property rights on a commercial scale, building on the practice of voluntary agreements; emphasises that the Commission, together with the Member States, should promote awareness and due diligence along the supply chain and encourage the exchange of information and best practices as well as enhanced public and private sector cooperation; insists that any measures taken by the actors in the supply chain to combat commercial-

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<sup>1</sup> See report on EU customs enforcement of intellectual property rights – Results at the EU border 2014, DG TAXUD, 2015.

scale infringements should be justified, coordinated, proportionate and include the possibility of effective and user-friendly remedies for adversely affected parties; considers it necessary to raise consumer awareness of the consequences of infringement of copyright and related rights;

23. Believes that discussions should be launched by the Commission and evidence-based analyses should be carried out on whether all actors in the value chain, including online intermediaries, online platforms, content and service providers, and also offline intermediaries such as resellers and retailers, should take reasonable and adequate measures against illegal content, counterfeit goods and intellectual property rights infringements on a commercial scale, while safeguarding the ability of end-users to access and distribute information or run applications and services of their choice; stresses the need to give consideration to clarifying the role of intermediaries, in particular regarding the fight against intellectual property infringements, following a thorough, targeted and evidence-based analysis and taking into account all relevant public consultations by the Commission; stresses that internet service providers and online intermediaries should, in any case, have strictly specified obligations and should not play the role assigned to the courts in order to avoid any privatisation of law enforcement; calls on the Commission to conduct an evaluation study on the effectiveness of the judicial blocking of websites and of notice and take-down systems;
24. Recognises the role played by content providers in the development and dissemination of works, including on the internet, and the fact that the growth of online platforms has been driven by consumer demand; recognises that existing intermediary liability principles have enabled the growth of online platforms and warns that the creation of new legal uncertainty in this area could have a negative impact on economic growth; notes the growing role and the potential negative impact of certain internet intermediaries' dominant positions on the creative potential and fair remuneration of authors and the development of the services offered by other distributors of works;
25. Suggests that the forthcoming legislative proposal on online platforms should take as a basis the interests of consumers, creators and the digital workforce, in particular the protection of the vulnerable;
26. Stresses that in order to achieve a meaningful enforcement of copyright, full information as regards the identity of the right holders and, where relevant, the duration of legal protection, should be easily accessible to the public;
27. Recalls that pursuant to Article 5 of Directive 2000/31/EC, providers of online services are obliged to clearly indicate their identity, and that compliance with this requirement is vital to ensuring consumer confidence in e-commerce;
28. Notes the Commission's aim to withdraw the proposal on a Common European Sales Law and recalls, in this context, Parliament's position at first reading of 26 February 2014; insists on the need to gather and analyse as much evidence as possible and to consult with stakeholders before any approach is pursued, in particular regarding the impact it would have on the current protection provided to consumers under national law, especially with regard to remedies for non-conformity with the contract for online sales of tangible goods or digital content and legal certainty regarding the application of the Rome I Regulation;



29. Believes that contractual rules for digital content need to be principles-based in order to be technologically neutral and future proof; stresses, furthermore, with regard to future Commission proposals in this area, the importance of avoiding inconsistency and overlap with existing legislation as well as any risk of creating an unjustified legal divide in the long run between online and offline contracts and different distribution channels, also bearing in mind the REFIT consumer acquis;
30. Considers that the amended proposal by the Commission should also clarify how the existing rules apply in a digital environment when selling cross-border online, including the application of the Services Directive to address unfair online price discrimination based on nationality or location;
31. Encourages the Commission to analyse the protection level of substantive EU consumer protection laws within the so-called 'sharing economy' and any imbalances between parties in 'C2C' contractual relations, which are being fostered by an ever wider use of services provided through sharing economy platforms;
32. Stresses the need to improve the processes for businesses to establish and operate online across all Member States, which should be streamlined and digitalised, and calls on the Commission to consider this further in its internal market strategy;
33. Calls on the Commission to ensure that particular attention will be paid to issues that prevent consumers and businesses from benefiting from the full range of products and services, whether digital or those offered through digital channels in the EU, and that prevent businesses from starting and scaling up, operating across borders and innovating;
34. Calls on the Member States to apply common standards and good practice with regard to digital administration, focusing in particular on judicial bodies and local authorities;
35. Stresses that digital developments also provide for a meaningful change in public administration, establishing much more effective, simplified and user-friendly e-administration; considers, in this regard, that it is very important for citizens and businesses to have interconnected commercial registers;
36. Supports the establishment during 2016 of an EU-wide dispute resolution platform for consumer protection; emphasises that consumer rights cannot be guaranteed without effective legislation and access to legal instruments; takes the view that e-commerce could also flourish if consumers are able to shop online with similar terms applying throughout the EU;
37. Stresses that online security is one of the preconditions for a digital single market, and for this precise reason believes it necessary for network and information security to be ensured on this rapidly expanding market; welcomes, in this respect, the Commission's initiative to establish a public-private partnership on cybersecurity in the field of technologies and solutions for online network security;
38. Calls for a more efficient legal framework for EU funding for ITC training in order to enable an increase in EU competitiveness;
39. Points out that the technological gap existing in the EU has to be tackled through the legal

framework of the digital single market policies; emphasises that a proactive approach is needed to reduce the gap between regions, between rural and urban areas and between generations;

40. Points out that in order to support a strong legal framework on digital single market policy, direct support for development and innovation in EU companies is needed; emphasises, therefore, that SMEs need to be encouraged to use digital technologies and develop ITC skills and services;
41. Points out that digital innovation generates growth and that a strong legal framework on digital market policy must stimulate entrepreneurship; emphasises that stimulation programmes designed for young innovators must be developed in order to take advantage of the potential of young Europeans.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	3.12.2015
<b>Result of final vote</b>	+ :                    21 - :                    3 0 :                    0
<b>Members present for the final vote</b>	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Therese Comodini Cachia, Mady Delvaux, Laura Ferrara, Enrico Gasbarra, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Gilles Lebreton, António Marinho e Pinto, Jiří Maštálka, Emil Radev, Evelyn Regner, Pavel Svoboda, József Szájer, Tadeusz Zwiefka
<b>Substitutes present for the final vote</b>	Angel Dzhambazki, Jytte Guteland, Heidi Hautala, Stefano Maullu, Rainer Wieland, Kosma Złotowski

01.12.2015

## **OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS (\*)**

for the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection

on Towards a Digital Single Market Act  
(2015/2147(INI))

Rapporteur (\*): Michał Boni

(\*) Associated committee – Rule 54 of the Rules of Procedure

### **SUGGESTIONS**

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

1. Stresses the need for compliance with fundamental rights, in particular data protection legislation, of all initiatives developed under the Digital Single Market Strategy, while recognising the strategy's added value to the EU economy; underlines the fact that respect for fundamental rights, in particular privacy and the protection of personal data, are key elements in building citizens' trust and security, which are necessary for the development of the data-driven economy to embrace the potential of the digital sector and should thus be considered as creating opportunities and a competitive advantage; stresses the need for cooperation between technologies, business and public authorities to ensure compliance with the applicable EU legislation; recalls the importance of swift adoption of both the General Data Protection Regulation and the Data Protection Directive, in the interest of both data subjects and businesses; calls for the revision of the ePrivacy Directive to ensure the consistency of provisions with the data protection package by the time of the entry into force of the package;

#### **3.3.2. Combating illegal content on the internet**

2. Calls on the Commission to advance policies and a legal framework to tackle cybercrime and illegal content and materials on the internet, including hate speech, that will be in full compliance with fundamental rights as set out in the Charter of Fundamental Rights of the European Union, in particular the right to freedom of expression and information, with existing EU or Member State legislation and with the principles of necessity, proportionality, due legal process and the rule of law; considers that, in order to achieve that goal, it is necessary to:
  - provide consistent and efficient law enforcement tools for European and national police agencies and law enforcement authorities;
  - provide clear guidelines on how to tackle illegal content online, including hate speech;
  - support public-private partnerships and dialogue between public and private entities, in compliance with existing EU legislation;
  - clarify the role of intermediaries and online platforms with respect to the Charter of Fundamental Rights of the European Union;
  - ensure that the creation within Europol of the European Union Internet Referral Unit (EU IRU) is founded on a legal basis that is appropriate for its activities;
  - ensure special measures to combat the sexual exploitation of children online and effective cooperation between all stakeholders to guarantee the rights and protection of children on the internet and encourage initiatives that strive to make the internet safe for children, and
  - cooperate with the relevant stakeholders in promoting education and awareness-raising campaigns;
3. Recalls that, under Article 12 of the Directive on electronic commerce (2000/31/EC), ‘where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, Member States shall ensure that the service provider is not liable for the information transmitted, on condition that the provider does not initiate the transmission, does not select the receiver of the transmission, and does not select or modify the information contained in the transmission’;

#### **3.4. Reinforcing trust and security in digital services and in the handling of personal data**

4. Highlights the fact that the fast-growing number of attacks on networks and acts of cybercrime calls for a harmonised response from the EU and its Member States with a view to ensuring a high level of network and information security; believes that providing security on the internet entails the protection of networks and critical infrastructure, ensuring the ability of law enforcement agencies to fight crime, including terrorism, violent radicalisation and sexual abuse and the sexual exploitation of children online, and use of data that are strictly necessary to fight crime online and offline; stresses that security, thus defined, together with protection of fundamental rights in cyberspace, is crucial to reinforcing trust in digital services and is therefore a necessary basis for establishing a competitive digital single market;
5. Calls for the final adoption of the Network and Information Security (NIS) Directive with a view to providing a consistent regulatory framework to secure strategic and operational cybersecurity at both EU and national level, which requires closer cooperation with national authorities and EU agencies, while ensuring the protection of EU fundamental

rights, in particular privacy and data protection for businesses, public administrations and data subjects;

6. Recalls that tools such as encryption are useful to citizens and businesses as a means of ensuring privacy and at least a basic level of communications security; condemns the fact that it can also be used for criminal purposes;
7. Welcomes the establishment of a European Cybercrime Centre (EC3) within Europol which contributes to faster reactions in the event of cyber-attacks; calls for a legislative proposal to reinforce EC3's mandate, and calls for swift transposition of Directive 2013/40/EU of 12 August 2013 on attacks against information systems, which is also aimed at improving operational cooperation between Member States' national law enforcement services and the relevant EU agencies (Eurojust, Europol and EC3, and ENISA);
8. Welcomes the Commission's initiative to establish a public-private partnership (PPP) on cybersecurity; underlines the need for the cooperation and involvement of businesses and the introduction of the security-by-design concept; supports the sharing of Member States' good practice in PPPs in this area; regrets, in this connection, the closing of the European Public-Private Partnership for Resilience (EP3R);
9. Notes that the revelations of electronic mass surveillance have shown the need to regain the citizens' trust in the privacy, safety and security of digital services, and underlines, in this connection, the need for strict compliance with existing data protection legislation and respect for fundamental rights, when processing personal data for commercial or law enforcement purposes; recalls, in this context, the importance of existing tools such as mutual legal assistance treaties (MLATs), which respect the rule of law and decrease the risk of improper access to data that is stored in foreign territory;
10. Reiterates that, under Article 15(1) of the Directive on electronic commerce (2000/31/EC), 'Member States shall not impose a general obligation on providers' of transmission, storage and hosting services 'to monitor the information which they transmit or store, nor a general obligation actively to seek facts or circumstances indicating illegal activity'; reiterates, in particular, that the Court of Justice of the European Union, in its Judgments C-360/10 and C-70/10, rejected measures for the 'active monitoring' of almost all users of the services concerned (internet access providers in one case, a social network in the other) and specified that any injunction requiring a hosting services provider to undertake general monitoring should be precluded;

#### **4.1. Building a data economy**

11. Considers that big data, cloud services, the Internet of Things, research and innovation are key to economic development and need a coherent approach throughout EU legislation; believes that compliance with data protection legislation and effective privacy safeguards and security safeguards as set in the General Data Protection Regulation, including special provisions regarding children as vulnerable consumers, are crucial for building trust for citizens and consumers in the data-driven economy sector; stresses the need to raise awareness of the role of data and the meaning of data-sharing for consumers, as regards their fundamental rights and within the economy, and to lay down rules on data ownership and citizens' control over their personal data; underlines the role of personalisation of

services and products that should be developed in compliance with data protection requirements; calls for the promotion of privacy by default and by design, which could also have positive impact on innovation and economic growth; stresses the need to ensure a non-discriminatory approach to all data processing; underlines the importance of a risk-based approach, which helps avoid any unnecessary administrative burden and provides legal certainty, as in the General Data Protection Regulation, especially for SMEs and start-ups, as well as democratic oversight and constant monitoring by public authorities; stresses that personal data need special protection and recognises that putting in place additional safeguards, such as pseudonymisation or anonymisation, can enhance protection where personal data are used by big data applications and online service providers;

#### **4.2. Boosting competitiveness through interoperability and standardisation**

12. Stresses that any processing of personal data through interoperability-based solutions, i.e. operated by the ISA<sup>2</sup> programme, must comply with the requirements of EU data protection laws; calls for improved cooperation in order to establish common, global standards for the data-driven economy, which should prioritise security, respect for privacy and data protection; stresses the importance of citizens' right to data portability;

#### **4.3.2. E-government**

13. Supports the digitalisation of public services in Europe, the development of e-government, e-democracy and open data policies, access to and reuse of public documents based on transparency and the existing EU legal framework, and high data protection standards as proposed in the Data Protection Reform package and fully in line with the Charter of Fundamental Rights; recalls that e-government contributes to genuine participation, consultation, and a more transparent, accountable and efficient public administration; stresses, in this connection, the importance of exchanges of best practice between all the relevant stakeholders;
14. Emphasises, while supporting the development of e-government, including the promotion of the once-only principle, that all e-government initiatives must comply with the requirements and principles of the data protection reform package and that a high level of security must be ensured for these initiatives to protect the citizens' data provided to public institutions;

#### **5.2. International dimension**

15. Recognises the global nature of the data economy; recalls that the creation of the digital single market is dependent on the free flow of data within and outside the European Union; calls, therefore, for steps to be taken by the EU and its Member States in cooperation with third countries to ensure high standards of data protection and safe international data transfers, in compliance with the General Data Protection Regulation and the existing EU case law, when pursuing cooperation with third countries within the Digital Single Market Strategy.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	30.11.2015
<b>Result of final vote</b>	+: 49 -: 1 0: 2
<b>Members present for the final vote</b>	Jan Philipp Albrecht, Michał Boni, Ignazio Corrao, Agustín Díaz de Mera García Consuegra, Frank Engel, Kinga Gál, Ana Gomes, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Brice Hortefeux, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Barbara Kudrycka, Marju Lauristin, Juan Fernando López Aguilar, Roberta Metsola, Louis Michel, Claude Moraes, Alessandra Mussolini, József Nagy, Soraya Post, Judith Sargentini, Birgit Sippel, Branislav Škripek, Csaba Sógor, Helga Stevens, Bodil Valero, Marie-Christine Vergiat, Harald Vilimsky, Udo Voigt, Beatrix von Storch, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský
<b>Substitutes present for the final vote</b>	Carlos Coelho, Anna Hedh, Teresa Jiménez-Becerril Barrio, Marek Jurek, Ska Keller, Miltiadis Kyrkos, Jeroen Lenaers, Nuno Melo, Emilian Pavel, Morten Helveg Petersen, Barbara Spinelli, Axel Voss
<b>Substitutes under Rule 200(2) present for the final vote</b>	Jens Geier, Gabriele Preuß, Marco Zanni



4.12.2015

## **OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS**

for the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection

on Towards a Digital Single Market Act  
(2015/2147(INI))

Rapporteur: Renato Soru

### **SUGGESTIONS**

The Committee on Economic and Monetary Affairs calls on the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Stresses that sustainable economic growth in Europe can only be achieved by developing sectors characterised by high economic added value; encourages, therefore, all the efforts made by the Commission in supporting the transition towards a digital economy; stresses the need to establish global links and to overcome the current fragmentation of national rules on digital services; calls on the Commission to comply with the planned schedule aimed at achieving a true Digital Single Market based on fair competition and a high level of consumer protection;
2. Emphasises that the positive impact of the digitisation of financial services in terms of cost-effectiveness and improved, 'tailor-made' services for customers have the potential to provide friendly financial products and services that simplify consumers' experience;
3. Highlights the importance of the Digital Single Market for the European economy; recalls that, according to Commission estimates, the development of the Digital Single Market could contribute EUR 415 billion a year to the European economy and create 3.8 million new jobs; stresses that not only is the digital sector growing at a sustained rate, but digital technologies also offer new possibilities in traditional sectors of the European economy;
4. Sees the digitisation of the economy as an ineluctable and beneficial development that is spurring progress, growth and innovation among European companies, not least SMES, and believes it should be supported;
5. Invites the Commission to promote the 'digital first' approach in the functioning of public

institutions and the design of legislative acts; considers that the ‘digital first’ strategy could bring benefits in terms of cost savings, environmental sustainability and better services, thus reducing the gap between citizens and the European institutions;

6. Notes that, in order to achieve economic convergence across European regions, the digital divide must be reduced substantially and fair, open and non-discriminatory access to the internet guaranteed for all European citizens and companies, especially SMEs; stresses that internet access should be regarded as a public good which is increasingly important to daily life; encourages further public and private investment in infrastructure to enable the development of the internet to reach the EU’s peripheral regions; calls on the Commission, in this context, to reconsider the current application of State aid rules; welcomes the intended efforts of the European Fund for Strategic Investments in this area;
7. Considers that, for the effective establishment of a Digital Single Market, end-users must be confident that consistent protection standards are safeguarded, and businesses assured that they can rely on a common and fair regulatory framework that enforces similar rules for similar services;
8. Welcomes the adoption of the revised Payment Services Directive; stresses that, if the Union is to enhance EU-wide e-commerce, pan-EU instant e-/m-payments under a common standard and the appropriate implementation of the revised Payment Services Directive must be achieved without delay;
9. Points out that in spite of the high unemployment rates in the EU, many jobs remain vacant owing to the shortage of matching skills; notes that if the economic opportunities offered by the Digital Single Market are to be exploited, it is essential to pursue employment and education policies designed to improve Europeans’ digital skills; calls on the Commission to draw up programmes to help achieve those aims;
10. Considers that pan-European e-/m-payment systems (‘e-SEPA’) spur cross-border e-commerce through more efficient and faster retail payments; notes that valuable lessons can be drawn from the experience gained with schemes such as Faster Payments and PayM;
11. Points out that for the digital economy to flourish, access to capital for both new and existing enterprises, in particular SMEs and micro-enterprises, must be improved; welcomes the Commission’s work on the Capital Markets Union, which provides alternative funding sources for Europe’s businesses and for long-term projects and is thus complementary to the Digital Single Market strategy; encourages further consultation, the evaluation of existing legislation, the dissemination of best practices in areas such as crowd-funding and peer-to-peer lending, and further stimulus for venture capital regimes in the EU;
12. Stresses that it is crucial that the Digital Single Market be underpinned by an efficient and customer-friendly payment system; welcomes the progress made in recent years in enabling access, enhancing competition, improving security and facilitating cross-border activities in the payment services market (for example through SEPA, the new Payment Accounts Directive, the new regulation on interchange fees and the revised Payment Services Directive); emphasises that additional measures should be considered in coming years in order to keep up with innovative developments and to pave the way for further

cross-border integration;

13. Calls for the European Securities and Markets Authority to support innovations in regulated sectors such as post-trade infrastructure and data reporting, so as to ensure that regulation is not used as a barrier to entry by existing market players in order to hinder the development of new technologies which could increase efficiency and reduce costs, such as block chain and distributed ledger technology;
14. Points out that cybersecurity is central to the establishment of the Digital Single Market, especially in the banking and financial sector, payment systems and e-commerce, and therefore calls on the Commission to monitor threats, first and foremost from computerised fraud and cyber-attacks, to strengthen prevention measures, to lay down a framework for a coordinated, Europe-wide response to cybercrime, and to devise Europe-wide awareness campaigns to alert EU citizens to threats to cybersecurity;
15. Calls on the Commission to take full account of the specificities of financial data and the needs of global regulators and supervisors when negotiating data privacy and data sharing agreements;
16. Stresses that it is essential to have simple, efficient and safe payment systems in order to enable the Digital Single Market to develop and grow; welcomes the advances vis-à-vis EU legislation on payment systems; calls on the Commission to take these developments into account when implementing its Digital Single Market strategy;
17. Considers that digital technologies will open up access to credit for many who have traditionally been excluded from the banking and financial system, thus promoting social and economic development; calls on the Commission to devise an inclusion strategy enabling weaker population groups to gain access to the Digital Single Market and hence to new financial and banking services;
18. Believes that the existing tax framework cannot continue to be applied, given the specificities of the digital economy; considers that, with due respect for national competences, more coordination on taxation is needed in order to prevent tax avoidance, tax evasion and aggressive tax planning practices, to prevent market distortion and unfair competition and to create a true European Digital Single Market; calls on the Commission to support extending the country-by-country reporting regime on taxes for multinational companies to all sectors, with the exclusion of SMEs and midcaps, to endorse the Common Consolidated Corporate Tax Base (CCCTB) proposal, and to support the adoption of digital technologies and best practices with a view to facilitating the more efficient and timely capture of tax-related data; asks the Commission to take into account the latest recommendations of the Organisation for Economic Cooperation and Development anti-BEPS (base erosion and profit shifting) project;
19. Considers it a priority to develop a simplified, uniform and consistent online VAT system in order to reduce compliance costs for small and innovative companies operating across Europe; calls, furthermore, for the principle of tax neutrality to be fully respected regardless of form, be it physical or digital; calls on the Commission to submit a proposal, in accordance with the commitments made and as soon as possible, to allow Member States to reduce VAT rates for the press, digital publishing, books and online publications; notes that under the current EU VAT Directive Member States are entitled to apply a

reduced VAT rate to cultural content; invites the Commission to facilitate the exchange of best practices between tax authorities and stakeholders with a view to developing appropriate solutions for the payment of taxes within the sharing economy; welcomes the introduction of the VAT Mini One-Stop Shop, which is a step towards ending the temporary EU VAT regime; is concerned, however, that absence of a threshold puts some SMEs in a difficult position as regards compliance with the regime; calls on the Commission to review the regime in order to make it more business-friendly;

20. Underlines the need to foster innovation and to promote a level playing field with the same operational, security and capital requirements for all financial operators in the digital economy;
21. Points to the particular taxation problems faced by SMEs when operating across borders; calls on the Commission, therefore, to explore options for tackling these obstacles to SMEs;
22. Stresses the importance of electronic identification and trust services in increasing the volume and quality of electronic trade with a view to growth; calls, therefore, on the Member States to take all necessary measures to implement Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market (the eIDAS Regulation) by 1 July 2016;
23. Supports the Commission's decision to launch a public debate with two consultations on geo-blocking and on platforms, online intermediaries, data, cloud computing and the collaborative economy; stresses that a definition of 'platform' is needed in order to have a clear point of departure for a review under competition law; encourages the Commission to create a business environment ensuring the development of innovative ideas, the protection of work standards, fair competition and a level playing field for digital services; acknowledges that the rapid rate of technological development in the digital market calls for a technologically neutral framework for future initiatives;
24. Regrets the lengthy duration of the investigations into Google's practices and the fact that these investigations have already dragged on for several years without any final results; welcomes, therefore, the Statement of Objections sent by the Commission to Google concerning its comparison-shopping service; calls on the Commission to continue to examine determinedly all the concerns identified in its investigations, including all other areas of vertical search, as this is ultimately part of ensuring a level playing field for all market players in the digital market;
25. Welcomes the Commission's intention to put an end to unjustified geo-blocking practices that reduce consumer choice; considers it essential to ensure the appropriate implementation of Article 20(2) of the Services Directive, which prohibits discrimination in the provision of services on the basis of nationality and/or place of residence, and Article 8(3) of the Consumer Rights Directive, which requires trading websites to indicate, at the latest at the beginning of the ordering process, whether any delivery restrictions apply and which means of payment are accepted;
26. Believes that digital payment services are crucial to the economy; calls on the Commission to remove any barriers to paying online in the Union and to ensure that all commercial EU websites which accept payment services such as online banking and credit

cards do not discriminate on the basis of the Member State of registration of these payment services;

27. Believes that the development of a European digital economy requires a sufficient level of competition and plurality of service providers, and stresses that the presence of network effects allows for the creation of monopolies and oligopolies; supports the Commission's efforts in preventing market abuses and upholding consumers' interests; encourages the Commission to remove barriers to entering the digital economy in sectors with few dominant players, except where needed for prudential purposes or to protect consumers' rights; calls on the Commission to combat discriminatory practices in all sectors of the digital economy, including online shopping and online payments, search and social networks, and net neutrality, as a further way of opening the market to competition;
28. Points to the importance of the data economy for the development of the Digital Single Market; notes that the threat to personal privacy constitutes a major challenge, for it affects trust in the digital environment; calls on the Commission to assess the levels of transparency, use of information and abusive use of personal data on online platforms, and to propose adequate regulation if needed;
29. Welcomes the Commission's launch of the public consultation on modernising VAT for cross-border e-commerce in September 2015, and perceives it as a crucial first step in order to simplify the way VAT is settled in cross-border online transactions; calls on the Commission to assess the results of this public consultation and report them to Parliament and a wider public once it has ended;
30. Stresses that consumers should enjoy the same level of protection regardless of what products they purchase and where, i.e. on e-commerce platforms or through traditional commerce;
31. Stresses that a thorough analysis of different types of 'sharing economy' platform should be carried out with a view to ensuring that relevant legislation allows the development of these services, in order to enable new forms of consumption and production while at the same time guaranteeing high levels of consumer protection;
32. Welcomes the Commission's initiative for a new e-government action plan; notes that interoperable e-signatures and the related eIDAS Regulation are highly relevant for the Digital Single Market in financial services, providing new tools for banks and insurance companies, such as electronic identification for the digital onboarding process and e-signature instruments for contracts and payments;
33. Believes that, while more should be done to remove barriers to entry for new and emerging digital businesses, those businesses must at the same time be required to comply with long-standing domestic regulations such as those covering taxation, health and safety, and workers' rights, and must operate to the same high standards required of existing businesses in these areas;
34. Stresses the importance of accompanying the development of the Digital Single Market with an up-to-date and effective framework so as to ensure e-business continuity and protection against cybercrime, particularly in critical areas such as banking services;

35. Points out that the economic principles which have defined the development and spread of the internet, namely network neutrality, openness and non-discrimination, are being undermined by the spread of closed ecosystems within the web; maintains that the emergence and growth of such ecosystems, and the oligopoly-based structure that they have created within the market in digital services and goods, are adversely affecting consumer interests and innovation, and in the long term may therefore even jeopardise the development of the Digital Single Market;
36. Calls on the Commission to take the initiative quickly with a view to amending the legislation to reflect technological progress and eliminate a serious obstacle to the development of the e-book and e-paper market;
37. Stresses that the Commission must continue to enforce antitrust rules, particularly the regulation on vertical restraints and the accompanying guidelines, to ensure that the special rules on selective distribution are not used to restrict the availability of products via online commerce channels, and to prevent competition to the detriment of consumers;
38. Considers that the distinguishing characteristics of the digital economy, stemming in particular from the fact that marginal costs tend to diminish – falling to zero – and network effects are strong, are conducive to economies of scale and hence to concentration; calls on the Commission to devise a competition policy that takes into account the specific features of the digital economy and the related challenges;
39. Calls on the Commission to prepare a bold proposal to review the VAT Directive (2006/112/EC) in order to make the cross-border VAT system clearer and less burdensome for businesses, especially SMEs;
40. Points out that overlapping collaborative and market economy models could distort free competition in some markets; calls on the Commission to work towards a regulatory framework which, while promoting the development of the collaborative economy, will keep the playing field level and ensure compliance with EU legislation, in particular on tax and labour law matters;
41. Notes that the development of the Digital Single Market could be helped by the presence of innovation clusters within the EU, that is to say, geographical areas with a high concentration of digital enterprise and skills; calls on the Commission to encourage the further development of such areas and the dissemination of best practice and knowledge;
42. Points to the importance of business incubators, business angels and a variety of stakeholders and agencies, both public and private, working to develop businesses in the digital sector; calls on the Commission to establish a strategy enabling these stakeholders to become involved in the development of the Digital Single Market and laying the foundations for a European network of business incubators.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	1.12.2015
<b>Result of final vote</b>	+: 49 -: 8 0: 2
<b>Members present for the final vote</b>	Gerolf Annemans, Burkhard Balz, Hugues Bayet, Pervenche Berès, Udo Bullmann, Esther de Lange, Fabio De Masi, Anneliese Dodds, Markus Ferber, Jonás Fernández, Sven Giegold, Sylvie Goulard, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Petr Ježek, Othmar Karas, Georgios Kyrtos, Werner Langen, Sander Loones, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Costas Mavrides, Bernard Monot, Luděk Niedermayer, Stanisław Ożóg, Dimitrios Papadimoulis, Sirpa Pietikäinen, Dariusz Rosati, Pirkko Ruohonen-Lerner, Alfred Sant, Molly Scott Cato, Peter Simon, Renato Soru, Theodor Dumitru Stolojan, Marco Valli, Tom Vandenkendelaere, Cora van Nieuwenhuizen, Jakob von Weizsäcker, Steven Woolfe, Sotirios Zarianopoulos
<b>Substitutes present for the final vote</b>	Matt Carthy, Philippe De Backer, Ashley Fox, Doru-Claudian Frunzuliță, Ildikó Gáll-Pelcz, Marian Harkin, Barbara Kappel, Verónica Lope Fontagné, Paloma López Bermejo, Thomas Mann, Alessia Maria Mosca, Michel Reimon, Maria João Rodrigues
<b>Substitutes under Rule 200(2) present for the final vote</b>	Agnes Jongerius, Anneleen Van Bossuyt, Igor Šoltes

11.11.2015

## **OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM**

for the Committee on Industry, Research and Energy and for the Committee on Internal Market and Consumer Protection

on Towards a Digital Single Market Act  
(2015/2147(INI))

Rapporteur: Merja Kyllönen

### **SUGGESTIONS**

The Committee on Transport and Tourism calls on the Committee on Industry, Research and Energy and the Committee on Internal Market and Consumer Protection, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

1. Welcomes the Communication on ‘A Digital Single Market Strategy for Europe’; emphasises that the implementation of digitalisation and the enhanced deployment of interoperable Intelligent Transport Systems (ITS) are key tools to make the European transport system more efficient and productive and to better utilise existing capacity, with the result that daily transport, mobility and logistics will be more fluid, safe, resource-wise and sustainable;
2. Acknowledges that over-cumbersome administrative procedures in some countries may be an obstacle to burgeoning high-potential transport projects (including start-ups and digital projects); calls for the Digital Single Market to include a specific dimension aimed at reducing administrative formalities (taxation, statement of starting a business, recruitment, etc.) particularly when projects are launched;
3. Notes that the digitalisation of the transport and tourism sectors provides Europe with new business opportunities and jobs, and plays a central role in transforming European cities into smart cities; points to strong growth in the ITS sector, with an expected global annual growth rate of 16.4 % for the period 2014-2019; acknowledges that while the transport sector has been one of the pioneers in using and implementing new information technologies, further progress should still be made; places emphasis therefore on access to finance for innovative SMEs and start-ups in the transport and tourism sectors and believes that the EFSI should play a major role in the digitalisation of the sector;
4. Points out that the digitalisation of the transport and tourism sectors will pave the way for less mechanised jobs, providing potential for more creative tasks; points out that in-



service training programmes for workers are essential in order to keep pace with developments in technology; emphasises the need for social plans and education aimed at the development of other more attractive and sustainable jobs to offset the risk of losing jobs due to digitalisation in certain occupations;

5. Acknowledges that digitalisation may lead to structural changes in the transport and tourism sectors; emphasises the need to embrace new business models, digital platforms and services based on digitalisation and the sharing economy; welcomes the fact that digitalisation enables development of the concept of Mobility as a Service (MaaS) and encourages the Commission to start an in-depth analysis in support of steps towards MaaS, covering for instance consumers, transport infrastructures and urban planning;
6. Urges the Commission to assess the need to modernise EU transport and tourism policies and adapt them to the digital age; asks the Commission to harmonise the regulatory framework of different transport modes in order to promote a sustainable multimodal system and competition between modes or between the various entities along the value chain, and to encourage new innovations and services for mobility and logistics, including those based on the sharing economy, while creating a level playing field for existing market actors and new market entrants in terms of high European standards regarding safety, accessibility, working conditions, fair taxation, consumer protection, data protection and the prevention of harmful environmental effects; believes also in respecting the principle of technological neutrality and not hampering innovation;
7. Underlines the importance of well-defined and transparent passenger rights in transport; urges the Commission therefore to bring forward a proposal for a Charter of Passengers' Rights covering all forms of transport, including the clear and transparent protection of passengers' rights in the multimodal context;
8. Points out to the Commission that more effective support in the European tourism sector may be achieved by better exploitation of digitalised and innovative technologies;
9. Supports the development of new digital technology for the self-assessment of transport services and for the improvement of these services in the interests of users;
10. Urges the Commission to ensure that the EU strategy for a European single market is developed in cooperation with states that are the frontrunners in the field of good digitalisation practices in the area of transport so as to easily factor in technological innovations made by countries outside the EU, thereby improving interoperability and increasing opportunities for the growth and expansion of European companies on the international market;
11. Urges the Commission, in helping bring the transport sector into the digital age, not to eliminate the human element by ensuring that it is possible at all times for intelligent and automation systems to be controlled by professionals in an emergency; firmly emphasises that the possibility of taking control over automated control and driving systems must not be left out of training for workers in the sector;
12. Calls on the Member States to promote the digitalisation of transport services for users with disabilities, so that such services are a help and not a further hindrance;

13. Is of the opinion that growing digitalisation entails a threefold challenge: confidence, connectivity and capacity; stresses that confidence and solid data protection are prerequisites for completing the Digital Single Market; emphasises, in this context, the need to ensure high standards as regards data capacity, accessibility and security by providing a comprehensive, reliable and interoperable data infrastructure and by ensuring the security and credibility of data collection, processing, usage and storage; underlines the importance of having the necessary infrastructure to manage the quantity of new data flows generated, which will require investment in broadband, full exploitation of the possibilities offered by Galileo and more efficient use of frequencies;
14. Calls on Member States and local municipalities to make provision for, and always to include, the digital dimension of transport when drawing up urban mobility plans, ensuring that it is fully accessible and available to users;
15. Is of the opinion that the transport and tourism sectors will become one of the largest fields of implementation of the Internet of Things (IoT) and thus calls on the Commission to develop a coordinated strategy on connectivity in the transport sector; underlines the importance of foresight and ex ante impact assessment in decision-making both for the regulation and infrastructure investments in order to build an applicable foundation for digitalised and automated transport, paying careful attention to safety, the efficient use of infrastructure, privacy, security and accessibility of data; stresses also the need for strong cyber-security measures and requirements on connected vehicles, emphasising that this is not just a question of data protection, but concerns the physical security of a vehicle and its passengers;
16. Expects the Commission to present a comprehensive report encompassing an assessment of the current state of play of digitalisation in the EU tourism market with a view to identifying and addressing challenges and opportunities for the various public and private players at national, regional and local level; considers that such a report should include appropriate recommendations to ensure fair competition and a level playing field for all actors and to protect consumers by providing for transparency, neutrality and accessibility;
17. Stresses the importance of digitalisation in the tourism sector and the need to make all digital infrastructures easily accessible, in particular with regard to SMEs, taking into account also the development of sharing economy platforms;
18. Is convinced that digitalisation offers significant potential to intensify integration approaches; asks the Commission to identify existing shortcomings regarding integration, interoperability and standardisation; supports a holistic approach on telecoms, transportation and smart energy networks regarding the development of new types of digital services for consumers and suppliers; stresses that a partnership between the automotive and telecom industries is needed in order to ensure that connected vehicles and connected vehicle infrastructure are developed on the basis of common standards across Europe, as well as on the global scale;
19. Recalls the need for the ambitious promotion of multimodal and cross-border travel information, journey planning and ticketing services through digital and online platforms and, to foster this progress, asks the Commission to present a proposal requiring providers to make available all the information needed;

20. Stresses that the ICT tools, both networks and applications, should be comprehensive, accessible and easy to use for all users, including people with disabilities and the elderly; calls on the Commission, in implementing the Digital Single Market, to take account of the risk of those users being excluded;
21. Stresses the importance of the availability of high-speed wireless internet access for all citizens and visitors in Europe, especially in transport and tourism hubs and in rural and peripheral areas; calls on the Member States to respect their commitments to ending roaming charges in Europe; notes that dismantling barriers to the cross-border development of transport and tourism e-services is of the utmost importance; stresses, to that end, that geoblocking of transport-linked services should be prevented;
22. Stresses the need for the EU to play an active role in the UN World Forum on automotive regulations, and especially in the informal working group on intelligent transport systems and automated vehicles (WP 29); believes that such engagement is vital to ensure that EU connected vehicle standards are the basis for global standards; believes also that the EU should strengthen cooperation with the United States on connected vehicle standards and regulations.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	10.11.2015
<b>Result of final vote</b>	+: 41 -: 4 0: 0
<b>Members present for the final vote</b>	Daniela Aiuto, Marie-Christine Arnautu, Georges Bach, Izaskun Bilbao Barandica, Deirdre Clune, Michael Cramer, Andor Deli, Karima Delli, Isabella De Monte, Ismail Ertug, Jacqueline Foster, Bruno Gollnisch, Tania González Peñas, Dieter-Lebrecht Koch, Merja Kyllönen, Bogusław Liberadzki, Peter Lundgren, Marian-Jean Marinescu, Gesine Meissner, Cláudia Monteiro de Aguiar, Renaud Muselier, Jens Nilsson, Markus Pieper, Salvatore Domenico Pogliese, Tomasz Piotr Poręba, Gabriele Preuß, Christine Revault D'Allonnes Bonnefoy, Dominique Riquet, Massimiliano Salini, Claudia Schmidt, Jill Seymour, Claudia Tapardel, Keith Taylor, Pavel Telička, Wim van de Camp, Elissavet Vozemberg-Vrionidi, Janusz Zemke, Roberts Zīle, Kosma Złotowski, Elżbieta Katarzyna Łukacijewska
<b>Substitutes present for the final vote</b>	Rosa Estaràs Ferragut
<b>Substitutes under Rule 200(2) present for the final vote</b>	Clara Eugenia Aguilera García, Paul Brannen, Jiří Maštálka, Flavio Zanonato

## RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	14.12.2015
<b>Result of final vote</b>	+: 80 -: 6 0: 3
<b>Members present for the final vote</b>	Bendt Bendtsen, Xabier Benito Ziluaga, José Blanco López, David Borrelli, Jerzy Buzek, Carlos Coelho, Sergio Gaetano Cofferati, Lara Comi, Anna Maria Corazza Bildt, Daniel Dalton, Nicola Danti, Philippe De Backer, Pilar del Castillo Vera, Pascal Durand, Vicky Ford, Ildikó Gáll-Pelcz, Evelyn Gebhardt, Maria Grapini, Theresa Griffin, Antanas Guoga, Sergio Gutiérrez Prieto, András Gyürk, Hans-Olaf Henkel, Robert Jarosław Iwaszkiewicz, Liisa Jaakonsaari, Philippe Juvin, Eva Kaili, Kaja Kallas, Barbara Kappel, Krišjānis Kariņš, Seán Kelly, Jeppe Kofod, Miapetra Kumpula-Natri, Paloma López Bermejo, Antonio López-Istúriz White, Ernest Maragall, Angelika Mlinar, Csaba Molnár, Dan Nica, Angelika Niebler, Margot Parker, Eva Paunova, Morten Helveg Petersen, Miroslav Poche, Marcus Pretzell, Michel Reimon, Robert Rochefort, Virginie Rozière, Paul Rübig, Jean-Luc Schaffhauser, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Igor Šoltes, Sergei Stanishev, Ivan Štefanec, Catherine Stihler, Richard Sulík, Neoklis Sylikiotis, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Mylène Troszczynski, Claude Turmes, Vladimir Urutchev, Anneleen Van Bossuyt, Henna Virkkunen, Martina Werner, Anna Záborská, Flavio Zanonato, Carlos Zorrinho, Marco Zullo
<b>Substitutes present for the final vote</b>	Lucy Anderson, Pervenche Berès, Michał Boni, Lefteris Christoforou, Gunnar Hökmark, Werner Langen, Vladimír Maňka, Marian-Jean Marinescu, Roberta Metsola, Clare Moody, Julia Reda, Massimiliano Salini, Adam Szejnfeld
<b>Substitutes under Rule 200(2) present for the final vote</b>	Amjad Bashir, Andrea Bocskor, Petra Kammerevert, Ulrike Müller

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

80	+
ALDE, ECR, EFDD, ENF, PPE, S&D, Verts/ALE	Philippe De Backer, Antanas Guoga, Kaja Kallas, Angelika Mlinar, Ulrike Müller, Morten Helveg Petersen, Robert Rochefort, Daniel Dalton, Vicky Ford, Hans-Olaf Henkel, Marcus Pretzell, Richard Sulik, Evžen Tošenovský, Anneleen Van Bossuyt, David Borrelli, Robert Jarosław Iwaszkiewicz, Dario Tamburrano, Marco Zullo, Barbara Kappel, Bendt Bendtsen, Andrea Bocskor, Michał Boni, Jerzy Buzek, Lefteris Christoforou, Carlos Coelho, Lara Comi, Anna Maria Corazza Bildt, András Gyürk, Ildikó Gáll-Pelcz, Gunnar Hökmark, Philippe Juvin, Krišjānis Kariņš, Seán Kelly, Werner Langen, Antonio López-Istúriz White, Marian-Jean Marinescu, Roberta Metsola, Angelika Niebler, Eva Paunova, Paul Rübig, Massimiliano Salini, Andreas Schwab, Ivan Štefanec, Adam Szejnfeld, Vladimir Urutchev, Henna Virkkunen, Anna Záborská, Pilar del Castillo Vera, Lucy Anderson, José Blanco López, Sergio Gaetano Cofferati, Nicola Danti, Evelyne Gebhardt, Maria Grapini, Theresa Griffin, Sergio Gutiérrez Prieto, Liisa Jaakonsaari, Eva Kaili, Petra Kammerevert, Jeppe Kofod, Miapetra Kumpula-Natri, Vladimír Maňka, Csaba Molnár, Clare Moody, Dan Nica, Miroslav Poche, Christel Schaldemose, Olga Sehnalová, Sergei Stanishev, Catherine Stihler, Patrizia Toia, Martina Werner, Flavio Zanonato, Carlos Zorrinho, Pascal Durand, Ernest Maragall, Julia Reda, Michel Reimon, Igor Šoltes, Claude Turmes
6	-
ECR, EFDD, ENF, S&D	Amjad Bashir, Margot Parker, Jean-Luc Schaffhauser, Mylène Troszczynski, Pervenche Berès, Virginie Rozière
3	0
GUE	Xabier Benito Ziluaga, Paloma López Bermejo, Neoklis Sylikiotis

Key to symbols:

+ : in favour

- : against

0 : abstention