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## **DRAFT 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)

Rapporteurs for the opinions (\*):

Jutta Steinruck, Committee on Employment and Social Affairs  
Petra Kammerevert, Committee on Culture and Education  
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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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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

*The European Parliament,*

- 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 26 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Article 3(3) of the TFEU,
- having regard to Article 9 of the TFEU,
- having regard to Article 12 of the TFEU,
- having regard to Article 14 of the TFEU and Protocol 26 thereto on services of general (economic) interest,
- having regard to the Commission communication entitled ‘A Digital Single Market Strategy for Europe’ (COM(2015)0192),
- having regard to the Commission communication entitled ‘Establishing a programme on interoperability solutions for European public administrations, businesses and citizens (ISA<sup>2</sup>) – Interoperability as a means for modernising the public sector’ (COM(2014)0367),
- 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>1</sup>,
- 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>2</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>3</sup>,
- having regard to its resolution of 27 November 2014 on supporting consumer rights in the digital single market<sup>4</sup>,

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<sup>1</sup> OJ L 84, 20.3.2014, p. 72.

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

<sup>3</sup> Texts adopted, P8\_TA(2015)0220.

<sup>4</sup> Texts adopted, P8\_TA(2014)0071.

- 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 of 11 September 2011 on 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 its resolution of 22 October 2013 on misleading advertisement practices<sup>1</sup>,
- having regard to its resolution of 27 February 2014 on private copying levies,<sup>2</sup>,
- having regard to its resolution of 24 October 2013 on the implementation report on the regulatory framework for electronic communications<sup>3</sup>,
- having regard to its resolution of 10 December 2013 on unleashing the potential of cloud computing in Europe<sup>4</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>5</sup>,
- having regard to its resolution of 4 July 2013 on completing the digital single market<sup>6</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>7</sup>,
- 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 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 staff working document of 23 April 2013 entitled ‘E-commerce Action plan 2012-2015 – State of play 2013’ (SWD(2013)0153),
- 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

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<sup>1</sup> Texts adopted, P7\_TA(2013)0436.

<sup>2</sup> Texts adopted, P7\_TA(2014)0179.

<sup>3</sup> Texts adopted, P7\_TA(2013)0454.

<sup>4</sup> Texts adopted, P7\_TA(2013)0535.

<sup>5</sup> Texts adopted, P7\_TA(2014)0067.

<sup>6</sup> Texts adopted, P7\_TA(2013)0327.

<sup>7</sup> Texts adopted, P7\_TA (2013)0377.

- transactions in the internal market and repealing Directive 1999/93/EC<sup>1</sup>,
- having regard to its resolution of 11 June 2013 on a new agenda for European Consumer Policy<sup>2</sup>,
  - having regard to its resolution of 22 May 2013 on the Implementation of the Audiovisual Media Services Directive<sup>3</sup>,
  - having regard to its resolution of 11 December 2012 on completing the Digital Single Market<sup>4</sup>,
  - 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 3 October 2012 entitled ‘Single Market Act II – Together for new growth’ (COM(2012)0573),
  - 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 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>6</sup>,
  - having regard to its legislative resolution of 26 February 2014 on the proposal for a regulation of the European Parliament and of the Council on a Common European Sales Law<sup>7</sup>,
  - having regard to its resolution of 11 September 2012 on the online distribution of audiovisual works in the European Union<sup>8</sup>,
  - having regard to its resolution of 12 June 2012 on critical information infrastructure protection – achievements and next steps: towards global cyber-security<sup>9</sup>,
  - having regard to its resolution of 20 April 2012 on a competitive digital single market -

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<sup>1</sup> OJ L 257, 28.8.2014, p. 73.

<sup>2</sup> Texts adopted, P7\_TA(2013)0239.

<sup>3</sup> Texts adopted, P7\_TA(2013)0215.

<sup>4</sup> Texts adopted, P7\_TA(2012)0468.

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

<sup>6</sup> OJ L 86, 21.3.2014, p. 14.

<sup>7</sup> Texts adopted, P7\_TA(2014)0159.

<sup>8</sup> Texts adopted, P7\_TA(2012)0324.

<sup>9</sup> Texts adopted, P7\_TA(2012)0237.

eGovernment as a spearhead<sup>1</sup> ,

- 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 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 its resolution of 21 September 2010 on completing the internal market for e-commerce<sup>3</sup> ,
- 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 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 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>7</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>8</sup>,
- having regard to the European Commission’s proposal on intellectual property: term of protection of copyright and related rights (2008/0157(COD)),
- 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

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<sup>1</sup> Texts adopted, P7\_TA(2012)0140.

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

<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.

<sup>7</sup> OJ L 304, 22.11.2011, p. 64.

<sup>8</sup> OJ L 376, 27.12.2006, p. 36.

55 of the Rules of Procedure,

- having regard to the reports of the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection and the Committee on Employment and Social Affairs, the Committee on Culture and Education, the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs, the Committee on Economic and Monetary Affairs and the Committee on Transport and Tourism (A8-0000/2015),
- A. whereas the use of the internet and mobile communications has changed the way users communicate, invent, consume and share; whereas this has expanded the market place, facilitating access by small companies to a customer base of 500 million customers and the development by entrepreneurs of new ideas;
- B. whereas all Union policies and legislation in the area of the Digital Single Market should allow new opportunities for users and businesses to emerge, especially within today's service society, while taking a holistic approach that considers their social dimension as they inevitably involve structural changes;
- C. whereas 75% of the value added by the digital economy comes from traditional industry; whereas its integration of digital technology remains weak, with only 1.7% of EU enterprises making full use of advanced digital technologies and 14% of SMEs using the internet as a sales channel;
- D. whereas a high level of consumer protection and satisfaction necessarily entails choice, flexibility, information and trust in a secure online environment;

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

1. Welcomes the Communication on 'A Digital Single Market Strategy for Europe'; believes that the horizontal approach taken needs to be strengthened in its implementation as the digital sector affects every dimension of society and the economy;
2. Believes that better regulation should help to examine policy through a digital lens and facilitate the adaptation of legislation and enforcement frameworks in the light of new technologies and new business models to prevent fragmentation of the single market;
3. Considers that users' trust in digital services is vital to innovation and growth in the digital economy and that reinforcing that trust should be at the basis of both public policy and business models;
4. Stresses the urgent need for the Commission and Member States to promote a more dynamic economy for innovation to flourish and for companies to scale up, through the development of e-government, a modernised regulatory framework fit for the emergence and scale-up of innovative businesses, and a long term investment strategy in infrastructure, skills, research and innovation;
5. Calls on the Commission, in cooperation with Member States, to further develop

initiatives to boost entrepreneurship that range from changing the mind-set on how success is defined to promoting an entrepreneurial and innovation culture; believes, in addition, that the diversity and specific attributes of the different national innovation hubs could be turned into a real competitive advantage for the EU if they are effectively interconnected;

6. Is concerned about the different national approaches taken to regulating the internet and the sharing economy; urges the Commission to take action to preserve the integrity of the single market and the internet as an open and global platform for communication and innovation;

## **2. BETTER ONLINE ACCESS FOR CONSUMERS AND BUSINESSES ACROSS EUROPE**

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

7. Welcomes the Commission's initiative to improve the legal protection of consumers as regards intangible digital content; points out that while consumers buying tangible digital content are protected by consumer protection laws, consumer rights when buying intangible digital content remain largely unregulated; agrees that consumers should enjoy a comparable level of protection regardless of whether they purchase digital content online or offline;
8. Believes that a full harmonisation of the legal framework governing online sales irrespective of whether they are cross-border or domestic sales, while maintaining the coherence of online and offline rules regarding legal remedies, constitutes the most practical and proportionate approach;
9. Considers that there is a risk that the Commission's proposals entail a growing disparity between the applicable legal standards for offline and online purchases;
10. Regrets the imprecision of the Commission's proposal regarding a legislative measure for a more comprehensive online sales law that covers digital content products as well as tangible goods;
11. Is sceptical about the legal nature of model contracts regarding online sales of tangible goods in the absence of statutory regulation;
12. 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;
13. Calls on the Commission to explore the possibilities of introducing an EU trustmark for online sales in order to induce trust, particularly in relation to cross-border online sales;
14. Calls for an ambitious enforcement framework for the Services Directive; encourages the Commission to make use of all means at its disposal to ensure the full and correct implementation of existing rules, including fast-track infringement procedures



whenever incorrect or insufficient implementation of the directive is identified;

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

15. Stresses that accessible, affordable, efficient and high-quality delivery services are an essential prerequisite for thriving cross-border e-commerce; supports the proposed measures to improve price transparency, interoperability and regulatory oversight that should target both the smooth functioning of cross-border parcel delivery markets and compliance with relevant social and labour rights, allowing enough flexibility for the delivery market to evolve and adapt to technological innovations;

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

16. Considers that ambitious actions are needed to improve access to legal digital content, in particular by ending geo-blocking practices and unfair price discrimination based on geographical location;
17. Supports in particular the Commission's planned scrutiny of the practical enforcement of Article 20(2) of the Services Directive in order to analyse possible patterns of discrimination against consumers based on 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 outlaw unjustified discriminatory behaviour by private entities and in order to provide interpretative assistance to authorities responsible for applying Article 20(2) in practice; 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;
18. Further points out the importance of the ongoing competition sector inquiry into the e-commerce sector in order to investigate, *inter alia*, whether geo-blocking restrictions infringe the rules of EU competition law; stresses the importance of increasing consumer and business confidence by introducing changes to the Block Exemption Regulation, most importantly Article 4a and Article 4b, in order to limit undesirable re-routing and territorial restrictions;

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

[JURI and CULT opinion]

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

[ECON opinion]

## **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**

19. Emphasises that incentivising private investments in fast and ultra-fast communication networks is a requirement for any digital progress, with competition remaining the main driver of infrastructure investments, innovation, affordable prices and choices for consumers; considers that little evidence exists, in the still fragmented European telecommunications market, of a link between consolidation of operators and increased investment in networks;
20. Stresses that since the development of over-the-top services has increased demand and competition to the benefit of consumers, modernisation of the telecommunication framework should not lead to more regulatory burdens, but should drive innovation and fair competition;
21. Calls as a priority for a harmonised framework for spectrum allocation to boost long-term infrastructure investments;
22. Stresses that uniform enforcement of the Connected Continent package, including the end of roaming surcharges and the net neutrality principle, requires the establishment of a single European telecommunications regulator;

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

[CULT opinion]

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

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

23. Urges the Commission to develop an innovation-friendly policy that fosters competition between, and innovation in, online platforms; considers that the priorities should be transparency, facilitation of switching between platforms or online services, access to platforms, and identifying and addressing barriers to the emergence and scale-up of platforms;
24. Appreciates the Commission's initiative to analyse the role of platforms in the Digital Economy as part of the upcoming Internal Market Strategy;
25. Encourages the Commission to analyse the need to protect consumers in the sharing economy and, where appropriate and if necessary, to come forward with proposals to ensure the adequacy of the consumer-related legislation framework in the digital sphere, including possible abuses;

#### ***3.3.2. Combatting illegal content on the Internet***

[LIBE and JURI opinion]

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

26. Considers, in order to ensure trust in digital services, that increased resources from the public and private sector are required to strengthen the security of IT systems and online networks and the encryption of communication, to improve cyber-attack prevention and to increase knowledge of basic security processes among users of digital services;

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

27. Believes that the digital transformation of industry is essential for the competitiveness of the European economy, allowing it to increase efficiency and access untapped potential; calls on the Commission to develop a digital transformation plan, including targets and the modernisation of legislation, in order to support the adoption of digital technologies and end-to-end connectivity, in particular in industrial value chains;

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

28. Emphasises the opportunities that new ICT technologies such as big data, cloud computing, the Internet of things and other data-driven technologies can offer to the economy and society, especially if integrated with other sectors such as energy, logistics, or health;
29. Calls on the Commission to carry out, with the public and private sector, a broad and transparent review on big data by March 2016, with the aim of anticipating the needs of big data technologies and addressing potential risks and challenges;
30. Calls for the development of a European approach and further integration of the single market related to the Internet of things, with a standard-setting strategy, the reinforcement of trust in these technologies through security and transparency, and through the 'free flow of data' initiative, clarification of the rules on the use, access to and ownership of data, and the facilitation of switching between data service providers to prevent lock-in;
31. Believes public administrations should have open data by default and progress should be made on the amount of open government data and on identifying key datasets to be made available on account of their value for the development of innovative services;
32. Acknowledges the growing concern of EU consumers about the use of personal data by online service providers; underlines the important role active consumers play in fostering competition; urges the Commission to clarify data ownership and data portability rules in accordance with the key principle that citizens should be in control of their data;

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

33. Considers that the ICT standardisation plan and revision of the interoperability

framework should aim at the faster definition of standards in an open and competitive way, to create economies of scale and increase sectoral interoperability;

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

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

[CULT and EMP opinion]

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

34. Believes that the development of e-administration is a priority for innovation, by reducing costs and providing better services for citizens; urges the Commission, together with the Member States, to develop an ambitious e-government action plan that includes benchmarks for progress, a step-by-step sectoral approach to applying the ‘once only principle’ in public administrations, and the full deployment of highly encrypted e-ID and e-signatures;
35. Calls for the development of a comprehensive single digital gateway as a single end-to-end digital process for businesses to set up and operate across the EU, from the online set-up of the business to domain names, the exchange of compliance information, recognition of e-invoices, filing taxes, a simplified online VAT scheme, online information on product compliance, the posting of workers, consumer rights, access to consumer and business networks, notification procedures and dispute settlement mechanisms;
36. Is concerned that cloud infrastructures for researchers still operate as separate entities; calls on the Commission, in cooperation with e-infrastructure organisations and users, to establish an action plan to lead to the establishment of the open and single science cloud by the end of 2016; believes that it should serve as a stimulus to the development of clouds in Europe beyond science, and to better interconnected innovation centres, start-up ecosystems, and improved cooperation between universities and industry in commercialising technology;
37. 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 EU market access for all economic operators in compliance with all selection, exclusion and award criteria;
38. 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.