Since 1995, information and communication technologies (ICTs) have driven productivity gains and growth in the EU. Over the past three decades, technological ‘convergence’ has been blurring the boundaries between telecommunications, broadcasting and IT. The Commission launched the digital single market in 2015 to deliver the main legislative proposals, such as boosting e-commerce, copyright, ePrivacy, harmonisation of digital rights, harmonised VAT rules and cybersecurity.

LEGAL BASIS

While the Treaties do not contain any special provisions for ICTs, the EU may take relevant actions within the framework of sectoral and horizontal policies, such as: industrial policy (Article 173 of the Treaty on the Functioning of the European Union (TFEU)); competition policy (Articles 101-109); trade policy (Articles 206 and 207); the trans-European networks (TENs) (Articles 170-172); research and technological development and space (Articles 179-190); the approximation of laws for improving the establishment and the functioning of the internal market (Article 114); the free movement of goods (Articles 28, 30 and 34-35); the free movement of people, services and capital (Articles 45-66); education, vocational training, youth and sport (Articles 165 and 166); and culture (Article 167). These are all key elements for a Digital Europe.

OBJECTIVES

Following up on the Lisbon Strategy, the Digital Agenda for Europe was conceived as one of the seven flagship initiatives of the Europe 2020 strategy adopted by the Commission. Published in May 2010, it sets out to define the key enabling role that the use of ICTs will have to play if Europe wants to succeed in its ambitious 2020 goals. In order to ensure a fair, open and secure digital environment, the Commission consequently built the Digital Single Market Strategy on three pillars: providing better access for consumers and businesses to digital goods and services across Europe, creating the right conditions for digital networks and services to flourish, and maximising the growth potential of the digital economy.

ACHIEVEMENTS

Since the opening up of the telecommunications market to full competition on 1 January 1998 and the beginning of its implementation, the Digital Single Market Strategy has delivered the main legislative proposals set out in it as priorities.

First, to provide better access for consumers and businesses to digital goods and services across Europe, and to provide the EU with an advanced system of user rights and protection for consumers and businesses, including:

— Lower prices for electronic communications and the end of roaming charges on 14 June 2017 (‘Roam Like At Home’)[3];

— Better internet connectivity for all with a comprehensive basic broadband coverage, mainly owing to developments in mobile and satellite broadband to develop a gigabit connectivity for all main socio-economic drivers with the harmonised use of the 470-790 MHz frequency band in the Union and the opening-up of broadband for 5G mobile internet by 2020; a common EU calendar for a coordinated 5G commercial launch in 2020; free Wi-Fi offered in hotspots to citizens and visitors in public spaces everywhere in Europe through WiFi4EU (Regulation (EU) 2017/1953); a high-quality 700 MHz band; and a Connecting Europe Broadband Fund (to support digital network infrastructures);

— Better protection of consumers in telecommunications with legislation on privacy (Directive 2009/136/EC) and data protection (Directive 95/46/EC), further improved by the new regulatory framework on data protection (Regulation (EU) 2016/679 and Directive (EU) 2016/680); by strengthening the mandate of the European Network and Information Security Agency (ENISA) (Regulation (EU) No 526/2013) after the adoption of Parliament’s resolution of 16 April 2013, followed by the Commission’s proposal and the Tallinn Summit; by creating an online platform for dispute resolution between consumers and online traders[4]; by creating an online platform to help make internet governance implementation more democratic and user-friendly[5]; by legislation on geo-blocking preventing direct and indirect discrimination based on the consumers’ nationality, place of residence or place of establishment in cross-border commercial transactions between traders and customers in the EU; by permitted uses in copyright for print-disabled persons; by the introduction of the 112 single European emergency number (Directive 2009/136/EC), the 116000 missing children helpline, the 116111 child helpline, and the 116123 emotional support helpline; and by providing the right to change fixed-line or mobile operator within one working day while still retaining one’s original phone number, i.e. number portability (Directive 2009/136/EC).

[4] Additional information may be found on the Commission’s ‘Resolve your consumer complaint’ webpage.
[5] The platform was launched by the Commission, in coordination with the Global Internet Policy Observatory (GIPO), on 22 April 2015.
Second, in order to create the right conditions for digital networks and services to flourish at the EU level, the Body of European Regulators for Electronic Communications (BEREC) (established by Regulation (EU) 2018/1971) provides for cooperation between national regulators and the Commission, promoting best practices and common approaches, while at the same time avoiding inconsistent regulation that could risk distorting competition in the single market in telecommunications. As regards spectrum management, the multiannual radio spectrum policy programme sets out policy directions and objectives for the strategic planning and harmonisation of the radio spectrum. This ensures that the internal market functions in Union policy areas involving spectrum use, such as electronic communications, research, technological development and space, transport, energy and audiovisual policies.

Third, the Digital Agenda for Europe aims at maximising the growth potential of the digital economy, by promoting digital skills and high-performance computing, digitising industry and services, developing artificial intelligence and modernising public services. New rules on the portability of digital services were adopted to allow consumers who have paid for online content services in their home country to access them when visiting another country within the EU and started to be applied from 1 April 2018.

A Europe fit for the digital age is now a key priority of the EU. In its recent series of communications on artificial intelligence (COM(2020)0065) and data strategy (COM(2020)0066), the Commission highlighted the creation of a single market for data, in particular industrial and commercial data, as a key driver of the digital economy. In June 2020, the Commission announced in its communication ‘Europe’s moment: Repair and Prepare for the Next Generation’ (COM(2020)0456) that the digital single market will be a pillar in the COVID-19 recovery. Proposals include developing e-ID, investing in AI, cybersecurity, 5G networks, quantum and blockchain, building a real data economy and developing national e-procurement systems.

**ROLE OF THE EUROPEAN PARLIAMENT**

Parliament advocates a robust and advanced ICT policy and has been very active in the adoption of legislative acts in the area. It has also continuously helped to keep the focus on ICT issues, through own-initiative reports, oral and written questions, studies, workshops, opinions and resolutions, as well as through calls for greater coordination of national efforts for the development of pan-European services and EU support for ICT research and development[6].

Parliament has underlined the need to use the ‘digital dividend’ spectrum to achieve broadband for all EU citizens, and has stressed that further action is needed to ensure ubiquitous, high-speed access to broadband, as well as digital literacy and competences for all citizens and consumers. At the same time, Parliament strongly promotes technological neutrality, ‘net neutrality’ and ‘net freedoms’ for European citizens, as well as measures regarding access to or use of services and applications through telecommunications networks, on the basis of respect for the fundamental

rights and freedoms of citizens. Such measures must also ensure that internet service providers do not degrade users’ ability to access content and applications and/or run services of their own choice, as described in Parliament’s resolution of 17 November 2011 on the open internet and net neutrality in Europe.

Parliament is systematically consolidating these guarantees through legislation. It is at the forefront in removing obstacles within the digital single market and modernising EU telecoms rules for today’s digital and data products and services in order to maximise the digitalisation of the European services sectors, which leads to new jobs and opportunities. It aims at boosting cross-border commerce, harmonising digital contract rules, guaranteeing affordable cross-border parcel delivery services, supporting the free flow of non-personal data and implementing simpler VAT declaration procedures. Parliament has therefore improved data access and transfer for all by setting network neutrality standards, harmonising the use of the 470-790 MHz frequency band, supporting free Wi-Fi connections for all in towns and villages (Wifi4EU), investing in high-performance computing and in the science cloud (European Open Science Cloud) and ending roaming charges on the EU’s territory. Parliament has initiated and completed important legislative work on measures to reduce the cost of deploying high-speed electronic communications networks (Directive 2014/61/EU) and on electronic identification and trust services for electronic transactions in the internal market (Regulation (EU) No 910/2014) in order to facilitate electronic businesses.

Furthermore, Parliament successfully finalised the legislative work improving data protection by reforming the data protection framework and cybersecurity rules, approving the creation of a European ICT security framework, organising ICT certification in the EU, promoting investments in essential cybersecurity industrial capacities, guaranteeing an effective application of the protection of natural persons in relation to the processing of personal data as a fundamental right (Directive (EU) 2016/680), and protecting natural persons with regard to the processing of personal data and on the free movement of such data (Regulation (EU) 2016/679). This latter regulation aims to correct the following: fragmentation in the implementation of data protection across the Union, legal uncertainty and a widespread public perception that there are significant risks to the protection of natural persons (in particular with regard to online activity). Recently, Parliament’s Committee on Civil Liberties, Justice and Home Affairs (LIBE) voted in favour of rules on respect for private life and the protection of personal data in electronic communications with a view to helping businesses (COM(2017)0010).

At the request of the Committee on the Internal Market and Consumer Protection (IMCO), Parliament’s Policy Department for Economic, Scientific and Quality of Life Policies organised a workshop entitled ‘E-commerce rules, fit for the digital age’, following which various research papers concerning platform liability, stronger enforcement measures and the use of AI were published[7]. These research papers contributed to Parliament’s resolutions of 20 October 2020 on the Digital Services Act, more specifically on improving the functioning of the single market, adapting commercial and civil law rules for commercial entities operating online, and the fundamental rights issues posed. Furthermore, a study requested by the IMCO Committee entitled ‘Legal obstacles in Member States to Single Market rules’[8] found that a lack of reliable information on relevant laws and regulations in Member States causes problems for nearly all aspects of e-commerce. However, the Digital Single Gateway (Regulation (EU) 2018/1724) may help to remedy this. Parliament has established the Special Committee on Artificial Intelligence in a Digital Age (AIDA) to examine the future impact of artificial intelligence on the EU economy.

In its resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences, Parliament called on the Commission to further develop its capacity for cloud services to facilitate the exchange of research and health data at EU level and the development of a vaccine while complying with the ePrivacy Directive and the GDPR.

On 15 December 2020, the Commission submitted its proposed Digital Services Act package to Parliament and the Council under the codecision procedure. The package comprises two legislative initiatives, the Digital Services Act (DSA) and the Digital Markets Act (DMA). Its main goals are to create a safer digital space in which the fundamental rights of users of digital services are protected, and to establish a level playing field to foster innovation, growth and competitiveness in the European single market and globally.

Upcoming research on the impact of targeted advertising on advertisers, market access and consumer choice aims to understand the new dynamics of the online advertising market. With reference to the internal market and digital services specifically, it will examine how targeted advertisements relate to the free movement of services, the extent to which existing legislation is sufficient in addressing concerns, and which future legislative or policy developments are necessary.

[7]Relevant research includes:
