

2 MAY 2017

Mr. Andrus Ansip
Vice-President of the European Commission

Dear Mr. Vice-President,

The Digital Single Market strategy recognises the potential of Europe to position itself as a world leading actor in the digital economy. Moreover, a stronger and more coherent Digital Single Market is essential to boost growth and jobs in all regions across Europe, and to ensure Europe's global competitiveness. We have strongly supported the strategy's vision of a Digital Single Market with a simple, transparent and stable regulatory environment that stimulates digital entrepreneurship and spurs digitisation across the economy to the benefit of business and consumers.

In anticipation of the Commission's mid-term review of the Digital Single Market Strategy, we commend the Commission for delivering initiatives on all the main themes presented in the strategy as progress on all elements is essential to reap the benefits of a single and coherent digital market. The mid-term review also offers an opportunity for both the Commission and Member States to take stock on the implementation of the strategy, remind ourselves of the objectives to remove barriers to trade in the digital economy, and to reflect on how far the results obtained thus far bring us towards realising the overall ambition of positioning Europe as a world leading actor in the digital economy.

A high level of ambition for the European economy must be supported by a positive approach to digital disruption. Other countries and regions are making great strides towards reaping the benefits of the new digital economy and we must embrace the transformative potential of digitisation in order to maintain and improve Europe's competitiveness in the global digital economy, even when this requires us to fundamentally rethink, update or abolish existing regulations.

The Digital Single Market should be characterised by openness towards innovation and new business models, by greater competition, removing existing barriers and a favourable environment for new entrants. This would give innovative European companies the best chances to scale up and challenge the current digital leaders from other parts of the world.

We believe a market-based approach is required where businesses do not face unjustified burdens, can operate freely across borders like they do in their home countries, and where all legislation enables digitisation. The mid-term review should reflect the prospect for achieving these core objectives based on the proposed initiatives and identify needs for further reform.

In particular, we emphasize the need to:

- Pay specific attention to the overall framework for digital start-ups and the scale-up potential of companies in the Digital Single Market. We recall that one of the key ambitions of the strategy is to "ensure that Europe maintains its position as a world leader in the digital economy, helping European companies to grow globally." In this respect, a key point is that European start-ups and scale-ups should be able to consider the Digital Single Market as their 'home market' with coherent regulation and framework conditions to reverse the trend that European digital companies move their business out of Europe to scale-up. A successful transformation towards digital economy will also depend on our commitment to fully exploit the growth and productivity potential of European

SMEs and to integrate them into the digital ecosystem. In this respect, we are concerned that the European Digital Single Market currently seems to be getting more fragmented rather than more integrated.

- The Digital Single Market strategy aims to enhance competition, promote investment, innovation and services and to continue protecting consumers in a technically disruptive regulatory landscape. Introducing and tailoring regulation where motivated to suit the long-term needs of end-users and consumers in the new digital economy is essential. Equally, our regulatory efforts should focus on updating and scaling back regulation – do we really need these rules to protect public interest in a disruptive reality? – rather than extending regulation. We should also continue to investigate alternatives to regulation with the goal of limiting new regulation to areas where such initiatives bring a clear added value. Competition law scrutiny of new digital markets is important and should be a priority with the aim to create a more level playing field between existing industries and new upcoming competitors in the field of digital platforms and sharing economy providers.
- The effects of proposals within the auspices of the Digital Single Market strategy should be measured in order to assess to what extent administrative and regulatory burdens on businesses have been reduced or extended. Listing proposals reducing burdens compared to proposals extending regulation or proposing new regulation would be useful.
- The Digital Single Market mid-term review should also evaluate to what extent action points have contributed to improving competitiveness of European companies in the global value chain of the digital economy and consider this when the Commission is publishing new initiatives.
- We also need explicit recognition that barriers to doing business digitally and across borders are now barriers to growth and jobs. We therefore encourage the Commission to proceed, on foot of the current public consultation, with the early presentation of a legislative proposal providing for the removal of localisation requirements that cannot be objectively justified. Nearly all cross-border transactions now have a digital component which must be underpinned by legal certainty. Particular attention is needed to keeping data flows open with the rest of the world through trade agreements and otherwise, consistent with protection of personal data, privacy and cyber security principles.
- Last but not least, in order to create a Digital Single Market that our citizens and businesses could comprehend and trust we invite the Commission to continue delivering in the key horizontal areas such as cybersecurity, data protection, skills and media literacy.

In our work in the Council we commit ourselves to working constructively based on the above principles and we encourage other member states and the European Parliament to do the same.

We fully support the attention the Commission gives to the Digital Single Market and we encourage a high level of political ambition in the upcoming mid-term review in order to unleash the full potential of the new digital economy for citizens and companies throughout Europe. Digital ambitions should be properly reflected horizontally in EU policies.

*A copy is sent to the cabinet of the President of the Commission,
Mr. Jean-Claude Juncker*

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