

BUSINESSEUROPE recommendations for a flourishing European Digital Economy

KEY MESSAGES



Digital is crucial to ensure Europe's competitive advantage in the global economy and deliver growth and jobs. Technology will offer EU businesses new opportunities to close the gap with their competitors at global level. Innovations such as cloud services, data analytics improving efficiency in industrial processes and intelligent connected machines could add more than €2000 billion to Europe's GDP by 2030. Europe has lost ground in the digital sector over the last years and it is fundamental to reverse this trend.

BUSINESSEUROPE welcomes the new Commission's strong emphasis on the digital economy and has huge expectations from the new institutions to really deliver concrete actions. In this context, we would like to bring forward our key recommendations on the digital economy for the next five years. The following objectives need to be pursued in the years to come:

Europe needs to create the conditions to enable its future digital revolution. An integrated industrial policy is necessary to facilitate the digital transformation of all economic sectors. Legislation must enable data-driven innovation, with appropriate rules on data protection striking the right balance between protecting EU citizens and facilitating the free movement of data in the digital single market.

Europe needs to truly ensure connectivity. Policy makers need to put in place a regulatory framework where competitiveness and investment considerations are systematically taken into account. Open and non-discriminatory access to the Internet must be ensured, and users must be able to select from a range of different services, including specialised services, with different characteristics.

Europe needs to unlock the digital single market. Remaining barriers to cross-border e-commerce must be removed. The EU copyright framework must enable the development of the digital single market and should be sufficiently flexible to enable the digital evolution. Policy makers must favour digital entrepreneurship, facilitating the access to appropriate financing tools, and promote ICT skills.

Europe needs digital innovation. Policy makers need to foster digital innovation which brings commercial results, focusing on projects which can allow Europe to regain its leadership on the digital global marketplace.



15 December 2014

BUSINESSEUROPE RECOMMENDATIONS FOR A FLOURISHING EUROPEAN DIGITAL ECONOMY

Embracing the digital information revolution is crucial to ensure Europe's competitive advantage in the global economy. Europe has the assets to be at the forefront of this revolution. However, in the recent years, Europe lost ground in the digital sector. Just eight of the world's top 100 high-tech companies have their headquarters in Europe and generate only a tenth of the industry's global revenues. More or better ICT usage is estimated to be responsible for 0.3 percentage points of the gap between annual growth rates in Europe and the US. The EU needs to grasp the opportunities and values that digital can create, as well as clearly addressing and solving existing problems.

Europe must focus on its growing digital society, where the creation, distribution and use of information is at the core of most economic, political and cultural activities - to the benefit of both citizens and businesses. To support this, Europe must first create the favourable conditions for the digitalisation of its economy. The true benefits of a digital society in terms of higher productivity and resource efficiency, innovation, citizens' welfare, jobs and growth creation will materialise only if European companies can prosper, taking full advantages of the digitalisation process.

Europe is still very much risk-averse towards digital compared to other economic areas. It is time for the EU to rethink its risk-opportunity balance and exploit the opportunities rather than focus on the threats of the digital economy.

With a completed digital single market, it is estimated that Europe will gain 4% of GDP by 2020. Digital can truly be at the heart of Europe's recovery, but only if the EU gives itself the means to trigger a digital transformation. We share the Commission's focus on the need to unlock a new season of investment in Europe, including in the digital area. A new regulatory policy should be put in place that is effectively aimed at promoting investments in innovative networks and infrastructures and, even more importantly, in putting ICT and digital technologies to use.

The digital market structure has dramatically changed. This makes necessary to establish a level playing field amongst players that offer the same service.

BUSINESSEUROPE welcomes the new Commission's strong emphasis on the digital economy. We have huge expectations from the new institutions to really deliver concrete actions. In this context, we would like to bring forward our key recommendations on the digital economy for the next five years.

There are a number of horizontal principles that need to be taken into account by policy makers in the digital area.



Digital has a cross-fertilising effect on all sectors of the economy and on society in general.

For instance, digital is needed for more accurate health diagnoses, improved logistics and smarter energy use. It is also crucial for the supply of emergency aid, nutrition and information during disaster relief. These impacts must be taken into account systematically while legislating. Interaction, cross fertilisation and synergies amongst different sectors must be facilitated by policy-makers.

Digital is a cross-cutting element all policy areas.

Policy makers in all policy areas should acknowledge the cross-sectoral impact of digital. All legislation, irrespective of the policy areas, should take into account the impact on digital development. At the same time, specific legislation on digital, such as the one on data protection or cybersecurity, must be designed to take into consideration the implications for other areas, including single market, energy efficiency, industrial policy, manufacturing, trade, development aid, employment.

Legislation on digital must reflect the structure and the global nature of the digital economy.

More and more devices and areas in the world are interconnected. The digital economy is borderless. Different regimes across Members States or substantial divergences between the EU regime and other countries can disrupt digital services, solutions and business models, which are global by nature and can deliver the best value to society when deployed uniformly inside and outside Europe.

Trust is key for digital development.

Citizens' trust and their willingness to rely on digital solutions and services, combined with enabling conditions for companies to gather and use data, are key. This requires balanced regulation, education and change in mentalities.

Rules must be future-proof

and reflect the rapidly changing nature of the digital world, which evolves extremely quickly. Models and practices valid today might not be relevant anymore tomorrow. Therefore the legislation should not seek to anticipate or steer future developments or, worse, to stifle them. It is essential that any legislation reflects this reality, providing technology-neutral solutions which create a level playing field and avoid excessive regulatory burdens based on backward-looking approaches.

KEY AREAS FOR ACTION

There are crucial questions that Europe needs to address properly to ensure that the EU can seize the digital opportunities. Many of the regulatory challenges ahead need to be assessed in a broader context and in their cross-sectoral impact. Our policy recommendations reflect an approach which primarily takes into account the impact on the potential current and future applications. For each of the areas selected, we identify the actions needed to stimulate the digital economy.



I. A NEW EUROPEAN DIGITAL REVOLUTION

1. DATA

Data-based innovation is expected to leverage €330 billion a year in the EU by 2020. Europe is still lagging behind in the use of big data. Surveys show that, in 2012, 45% of EU companies had big data initiatives, versus 68% in the US. Big data will increase industrial productivity, enhance workforce skills and enable businesses to understand and reach new consumers more effectively.

Handling data in a reliable way is at the basis of digital innovation. A reliable data protection and strong data security level can be a competitive advantage for Europe on the path to play a leading role in the digital economy. Data protection and digital opportunities are not mutually exclusive, they condition each other. A wise and carefully balanced legal framework for data processing in Europe can meet two objectives simultaneously: more trust by strong protection for personal data and more innovation through practical arrangements for new business models.

A framework to facilitate the transition towards a data-driven economy is fundamental.

APPLICATION SHOWCASE 1 – How the use of technology and data can improve industry's performance (examples by sector)

Banking: improving demand forecasting (e.g. demand for mortgages and other loans), which would help them to identify new product offerings, more accurate examination of credit worthiness and reduced credit card fraud through real time predictive analytics.

Insurance: increasing internal information and feedback (e.g. to get better insights on risks)

Telecom: improving demand forecasting, predict network infrastructure needs more reliably, providing attractive offers based on previous consumer behaviour.

High tech: better understanding of how to improve existing products (e.g. software flaws and hardware design problems) and extensive use of digital simulation to shorten design cycles.

Energy & Utilities: marketing and selling customers on new offerings (e.g. power savings, appliance and home monitoring) better decisions on location and improved operations of renewable energy assets (windmills, solar panels).

Retail: better segmenting and marketing, forecasting demand more accurately (to have the right products, at the right times, in the right stores) digital “buying assistant” for online stores.

Consumer packaged goods: understanding how to improve products by monitoring what customers are doing and saying about those products; getting customers to buy new offerings (e.g. automatic reordering for recurring purchases).

Automotive: improving demand forecasting – especially important for a long leadtime business, avoiding costly inventory in period of weak demand, or lack of supply when demand grows, configuration for daily production released against specific client orders much better aligned with real time clients’ demand, driving lower discounts to get rid of surplus inventories.

Media and entertainment: providing products that better meet customer needs and being better at fixing flawed products (e.g. downloads that do not work).

Travel-related: opportunities for new offerings (e.g. new vacation packages at popular destinations, based on the analysis of website visits)

Healthcare and life sciences: reorganising the healthcare system through implementation of practices such as telemedicine, telecare, teleconsultation and telemonitoring services.

Industrial manufacturing: improving demand forecasting (especially necessary for high-ticket items with long lead times and high inventory costs) and real-time reconfigurable logistics.

Source: *The Road to Reimagination: The State and High Stakes of Digital Initiatives TCS Global Trend Study - July 2014*



BUSINESSEUROPE recommendations

a. Recognise the role of data in the economy

Data protection regulation must respond to the need to protect citizens' rights and, at the same time, provide the appropriate conditions for companies to unlock the economic value of data. The two objectives should be pursued at the same time.

It is important to fully understand and take into account the correlation between personal data protection framework and the possibility to benefit from solutions such as big data, internet of things and cloud computing. If Europe wants to benefit from the opportunities they offer, these implications must be reflected in the provisions of the general regulation.

b. Adopt a data protection framework enabling data-driven innovation

The EU data protection framework should strike the right balance between protecting personal data and enabling their potential for digital innovation. It must allow businesses to collect, analyse and transfer data, while providing appropriate safeguards to enhance consumers' trust.

Currently, only about 10% of data collected in organisations are used for analytical purposes. It is still to be seen how the remaining part could be handled and to what conclusions they could lead to. Limiting the possibility to re-use data for a different purpose than the one they were collected for, as well as giving to the citizens an unconditional right to object to the processing of their data, can really hamper the development and use of big data, to the detriment of society and the economy.

c. Enable cross-border data flows

Cross-border data flow is essential for European business and consumers, both for international trade and for companies' daily operations. It is fundamental to avoid the imposition of forced data localisation requirements. Local server and data storage requirements could lead to higher costs and reduced competitiveness for businesses.

In particular, Safe Harbor is a flexible instrument that allows companies to transfer personal data to the US, while at the same time ensuring the respect of EU rules. BUSINESSEUROPE supports the revision of the framework to adapt it to the current challenges. We welcome the European Commission recommendations to improve Safe Harbor and we call for a timely conclusion of the current review process. For now, the revision should maintain the overall structure and principles in place, while strengthening some elements, such as enforcement and transparency. The participation in Safe Harbor should cover the whole chain of data processing. In addition, closer cooperation between US and EU authorities must be ensured and the scope of the framework widened to other sectors that are currently excluded.

d. Maintain a soft regulatory approach on cloud computing

Cloud computing will be a fundamental tool for the digital economy, especially for SMEs, to which it will deliver costs saving and improved efficiency. Europe must promote the use of cloud, taking the necessary actions on procurement rules and adapting existing legislation to cloud models. BUSINESSEUROPE strongly



recommends that the Commission ensures a future-proof implementation of its cloud strategy without prescribing, dictating or promoting a specific business model. It is important to set out the principles and objectives, leaving markets develop adequate solutions. The Cloud Code of Conduct currently being developed by industry together with the Commission is a voluntary instrument that will help restoring trust and confidence in these services and harmonise their quality and availability throughout the EU. It is important, as this develops, that it remains implementable by different kinds of cloud services – infrastructure, but also software as a service.

e. Ensure adequate tools for public data processing

It is important to apply emerging big data technologies to develop integrated solutions for processing public sector information. This will enable innovation, promote new business models and at the same time deliver efficiencies. In this context, standards play a key role, for instance regarding the provision and the format of the data. Many standards are already available or under development in global standards bodies. Using standardised formats will ensure interoperability and efficiency, challenges which are increasing with the complexity of systems and processes.

APPLICATION SHOWCASE 2 – Big data for energy efficiency

➤ **Water pumps**

Grundfos is one of the world's leading pump manufacturers. Circulator pumps for heating and air-conditioning, as well as other centrifugal pumps for the industry, water supply, sewage and dosing are the main products. Today Grundfos is the world's largest manufacturer of circulators, covering approximately 50% of the world market of these pumps.

Grundfos also produces pumps equipped with sensors that can optimise the use of water (making it more energy and resource efficient), while collecting and transmitting the relevant data via web-connection to a central data centre. The data centre can then optimise and regulate a whole system of water pumps, e.g. in a public swim facility, or regulate a connected water reservoir-system to improve efficiency and ensure continuity. While sensors in Grundfos pumps collect the enormous amount of data, both data storage, processing and distribution of data could also take place in a cloud service, delivered by a third party, specialised in cloud computing services, that are able to service several customers on its computer server facilities.

➤ **Wind turbines**

With installed wind turbines in 73 countries around the world, Vestas has considerable experience in all the key disciplines – engineering, transportation, construction and operations and maintenance of wind turbines.

Every day, Vestas monitors and runs performance diagnostics on the world's largest fleet of wind turbines. The continuous stream of data from more than 25.000 wind turbines enables them to meticulously plan and carry out service inspections, thereby reducing wind turbine down-time to an absolute minimum – saving energy and optimising use of capital.

Vestas has also become a service provider in another respect. More than 30.000 windmills fitted with sensors gather data on daily basis on weather conditions. These data are then delivered to meteorologists, professional sailors, tourists and other customers.



2. CYBERSECURITY

Cybersecurity is a fundamental pre-condition for strengthening critical infrastructure resilience and to foster consumers' trust. The proposed Directive on Network and Information Security (NIS) is a step forward in this direction. We support the rapid conclusion of the negotiations that should draw on national best practices and come to an end within the next months. A consistent and uniform regulation is crucial within the EU. Member States, at the same time, should be given enough leverage to uphold and implement existing cybersecurity regulations. In this context, Member States should be given an appropriate scope of action to guarantee the highest possible compatibility with existing national NIS legislations. Cybersecurity enforcement also has to comply with the fundamental rights, notably the right to respect for private life and communications, the protection of personal data, the freedom to conduct a business, the right to property, the right to an effective remedy before a court and the right to be heard.

BUSINESSEUROPE recommendations

a. Restore trust in cybersecurity through private sector innovation

A secure cyberspace is a competitive advantage and essential for a well-functioning digital single market. Private sector will lead innovation in this domain and this will be the fundamental means to achieve cyber resilience, as presented in the cybersecurity strategy. Legislation should therefore be proportional, allow for a risk-based approach and foster private sector innovation rather than stifling it in an area which is rapidly evolving.

b. Improve cyber-resilience through best practice sharing

Cooperation must take place between public and private actors to foster innovation, exchange information and disseminate best practices on cybersecurity, involving consumers as well. For instance, the FS-ISAC (Financial Services Information Sharing Centre) is an excellent example of cooperation within the finance sector that has true value for all participants. This type of practice should be replicated within other sectors.

Beyond sector-specific minimum security requirements, the role of industry self-regulation must be recognised as a capital factor in order to achieve ad-hoc flexible solutions adapted to rapid changing environments and to the new security needs that, by the contrary, rigid rules cannot achieve. This self-regulatory approach would additionally favour the improvement of security within this dynamic field, where security threats are constantly changing over time.

c. Increase user awareness

Citizens' education and awareness-raising campaigns are key to foster a culture of security within the EU. The EU should ensure that all the players and organisations are involved, including end users. Outreach activities should ultimately educate consumers on cybersecurity risks and thus aim to reduce the impact of incidents.



d. Rely on international standards

International standards addressing cybersecurity issues are available or under development. Making use of these standards and specifications ensures global competitiveness of European industry and, at the same time, makes state-of-the-art security technologies available, increasing trust in networks and digital infrastructures.

e. Support initiatives for combined ICT and industrial-IT-security approach

As modern ICT becomes more relevant in industry sectors, this new trend should be accompanied by appropriate security considerations. It is important that traditional ICT and industrial-IT concepts fit together and are still manageable. A European initiative to set up clusters could support a combined security approach and strengthen the industrial base in Europe.

APPLICATION SHOWCASE 3 – Industrial internet, Industry 4.0 and Internet of things

Until today, there is no coherent development across Europe of the so-called “industrial internet”. An industrial platform called “Industrie 4.0” has been created in Germany, bundling competences and interests of companies active in ICT, automation, IT services and machine and plant construction. Other EU Member States are trying to replicate the idea.

It was estimated that Industrie 4.0 can lead to 1,7% additional economic growth in Germany by 2025, with productivity growing up to 30 percent in the area of chemicals, automotive, mechanical engineering, electrical equipment and agriculture. The gross total added value can be more than 422 billion euros by 2025.

The platform “Industrie 4.0” aims at developing and applying technologies from IoT (Internet of Things), IoS (Internet of Services) and WoT (Web of Things) into the future manufacturing and production facilities which will translate into specific use-cases in different industry segments.

The new model of digital enterprise will speed up production by linking drive technology and automation with industry software. It will increase production flexibility and shorten time to market with the help of industrial IT and industry software, facilitate customised mass-production and increase energy and resource efficiency, including improvements in the end to end product distribution logistics.

A “digital twin” will accompany both the engineering and the production process, and allow for testing any changes to the product or the production in the virtual world prior to implementing them in the real world. Together with Web of Things technologies, the digital twin will drive the emergence of cyber-physical production systems.

The resulting digital enterprise will open up possibilities to rapidly adjust machinery and plants to new products and to fully integrate a production lifecycle from product design to production and service. This will boost reindustrialisation in Europe.



II. A CONNECTED EUROPE

1. NET NEUTRALITY AND OPEN INTERNET

The debate on net neutrality and open Internet relates to the need to ensure, on the one side, that Internet remains open and accessible to all, and, on the other side, to be able to respond to demand for connectivity at different quality levels. This is particularly indispensable for safety or real-time critical applications, such as smart grids or emergency stop in a wireless factory, or innovations such as self-driving cars or remote health care.

To ensure both goals, open internet and traffic management, it is important that EU rules support efficient management of rapidly growing Internet traffic. Policy makers also need to understand that all users of Internet access are potentially both consumers and providers of applications and services and take it into account in the discussions on net neutrality.

BUSINESSEUROPE recommendations

a. The Internet must remain open and accessible in a transparent and non-discriminatory way

The market should provide open access for all services at any time and any place. Users should be able to communicate and access lawful content free from blocking and throttling. Users must benefit from real and robust best-effort Internet access service and be able to choose the options that best match their needs.

Policy-makers must ensure transparency and non-discrimination. Users must be informed about the different options available. Internet service providers, or any other player in the digital value chain, shall not be allowed to discriminate in relation to the transmission of any particular Internet services, applications or content.

b. Users must be able to select from a range of different services, including specialised services, with different characteristics

Many innovations, such as self-driving cars or remote health care, require a dedicated or enhanced service quality to function optimally. These types of innovations will proliferate with the emergence of the Internet of Things. Users should have the freedom to choose from a range of packages based on pricing, usage, and quality, including specialised services under appropriate performance safeguards. Specialised services should not be marketed or used as a substitute for general Internet access and they should not have a negative impact on the quality of the general Internet access service.

c. Guidance on traffic management techniques should be flexible

Guidance on digital traffic management techniques should be flexible and relevant in order to allow network operators and regulators to respond to emerging challenges. Rather than providing rigid prescriptions which would quickly become outdated,



guidance should be based on general principles, such as equal treatment for equal kinds of traffic.

d. Net neutrality must be addressed at a global level

The global nature of Internet requires a global approach to net neutrality, in order to avoid divergent rules which may negatively affect the development of services and distort competition between businesses inside and outside the EU.

2. CONNECTIVITY AND NETWORKS

Networks are the backbone of digital economy. An increase in the broadband penetration rate by 10 percentage points is estimated to increase annual per-capita GDP growth by 0.9 to 1.5 percentage points. Investments in infrastructure that enables fast and reliable connectivity provided at competitive prices will be the foundation of future EU growth and job creation.

BUSINESSEUROPE recommendations

a. Adopt a regulatory framework encouraging investments

Europe needs a new wave of investments in the digital industry as a driver not only for economic recovery, but also for innovation, entrepreneurship and other societal goals, such as more inclusion or better education. In this context, investments in next generation access networks (NGAs) are key and can be achieved through co-investments by all providers. In this moment, fiscal and monetary policies have limited capacity to invert the economic downturn– and the room for fiscal stimulus is very limited. Therefore private investments must be encouraged as much as possible. BUSINESSEUROPE welcomed the recent plans by the Commission in this direction and are looking forward to their implementation.

The private sector should pave the way for investments. Particularly for investment in digital, business needs a new paradigm which sets the right incentives for investments, along the following lines:

- Ensure adequate infrastructure that supports current industrial activities. Member States must define a **credible project pipeline and decrease re-negotiation risks** through appropriate contract mechanisms which would allow for a better understanding of needs to take forward projects. The selection of the investments requires the definition of clear and precise rules to assess the economic relevance and return of investment, with the involvement of the private sector expertise, and the legal certainty should be reinforced.
- **Bring simplification for companies in accessing EU funds through the new regulations 2014-2020 for European Structural and Investment Fund.** This should include more effective reimbursement methods, simpler project application, in particular for SMEs and start-ups, technical assistance for capacity building, online reporting, and simpler auditing for smaller operations.
- Ensure **better use of EU and national financial and regulatory means to promote PPPs**, including for infrastructure projects, and encourage a wider



exchange of national best practices in partnerships between the public and private sectors. This includes support for information (for instance European PPP Expertise Centre “(EPEC) guides”) and training programmes for Europe’s civil servants to enhance their capabilities in working with PPP contracts. Since transposition of the EU Public Procurement Directive is due by April 2016, Member States must ensure that any limitation on PPP driven by current legislation at national level is promptly resolved, allowing private capital to co-finance public projects within the strategic areas where the European Structural and Investment funds are being assigned.

- **Stimulate Member States to seek means to promote investments in Research & Innovation projects**, for instance through tax incentives and exemptions for R&I expenditures. The EU should also exploit considerable potential of private capital in order to secure sufficient funding for innovative projects.
- **The EIB should play an increased role in supporting investment.** New market-based instruments should be developed, and existing rules adjusted, to allow the EIB to play a greater role in lending to private-sector led, long-term, investment and infrastructure, without undermining its credit rating or crowding out existing market lending. Such action can help, particularly programme countries to adapt to unusually adverse circumstances.

BUSINESSEUROPE adopted a more comprehensive message on investments in its November 2014 position *BUSINESSEUROPE expectations for an EU investment plan*.

b. EU Competition policy should include competitiveness and investment considerations

Competitive markets are fundamental in encouraging innovation and they must not be endangered. However, it is important that competitiveness and investment considerations are further taken into account.

At times, the current competition regulatory framework has hindered important economies of scale due to a lack of a sufficiently dynamic approach in merger cases. Telecoms operators often signal that mergers and acquisition are too difficult in their market due to competition constraints. This leaves little incentive for large investments in innovation and networks.

The current merger rules acknowledge that mergers are to be welcomed when in line with the requirements of dynamic competition and capable of increasing European industry’s competitiveness and growth (para 76 of the Horizontal Merger Guidelines and recital 4 of the Merger Regulation). Hence, EU merger policy and rules in principle allow for a dynamic, long-term perspective.

The problem is the overly narrow approach used in practice, where efficiencies are taken into account if they are proved to be of direct benefit to consumers and merger-specific, substantial, timely and verifiable. Other synergies – which in a wider perspective may be more important – are being disregarded, ultimately to the detriment of consumers, business and society alike.

At the same time, consolidation might reduce choice and competition and allow the rise of stronger, dominant positions. Regulators must remain especially vigilant that these positions are not abused when entering adjacent markets for applications and services



run over the Internet. This is even more relevant considering that the Internet value chain is blurring, with different players entering in different markets at the same time.

BUSINESSEUROPE believes that the only sustainable approach compatible with the overarching objectives of competition policy and the general interest of innovation and investment is to keep merger review open to all kinds of efficiencies, to be assessed on their own merits and with realistic and achievable standards of proof.

The EU should seek to encourage innovation and investment capacities of companies. Growth and employment require investments. Competition policy should not have an adverse impact on investment capacity, innovation, employment and growth.

c. Efficient spectrum allocation must allow uptake for mobile broadband

Spectrum is a scarce and critical resource. Greater harmonisation in spectrum is important, because the application of various national policies across the EU creates inconsistencies and fragmentation of the single market, which hamper the roll-out of services and the completion of the single market for wireless broadband communications. Therefore, it is vital to ensure that spectrum is managed across the EU in effective and more harmonised way, thus contributing to EU growth. Greater coordination and consistency would also enhance the predictability of the network investment environment. At the same time, it is important to bear in mind that, even if spectrum harmonisation can be enhanced, the detailed terms of licensing and timetables should still remain under national powers. Not only should an effective spectrum policy provide a sufficient availability of spectrum resources, but also guarantee that the needs of all stakeholders are taken into account.

III. A TRUE DIGITAL SINGLE MARKET IN EUROPE

1. COPYRIGHT

A fit-for-purpose EU copyright policy should enable the development of the digital single market and should be sufficiently flexible to facilitate the digital evolution. It needs to be based on a long-term vision, going beyond a single Commission term, while ensuring the principle of continuity and proportionality. Any legislative proposals that the Commission might decide to put forward in this area need to be evidence-based and must strike the right balance amongst equally relevant interests, with the view of fostering investment in creativity and innovation and supporting the development of new business models. They must also respect cultural diversity and facilitate the production of digital content in Europe. Rules should strike a balance between rightholders property rights and the further development and provision of innovative services in the digital economy. This should continue to extend to all relevant stakeholders. Furthermore, in reforming copyright, it is important to preserve the current provisions of the 2009 Software Copyright Directive, which underpins much of today's software development in its principles.



The long awaited reform of copyright rules should to be tackled with a targeted approach and put in place a climate conducive to the development of a vibrant and thriving market for the distribution of lawful digital content through attractive and innovative services.

BUSINESSEUROPE recommendations

a. Direct licensing must be supported

It is essential to support direct licensing as the key means to agree on the use of copyrights. Instead of creating more burdens, direct licensing can achieve the objective of fairly remunerate rightholders while allowing a fluid circulation of content.

Collective licensing models have an important function when direct licensing is not possible, where the collecting society gives an opportunity for the licensee to license in one hand (“one-stop shop” in cases of mass use of works via online distribution) or for non-discriminatory measures (e.g. cable retransmission). Collective licensing of copyrights should be developed in order to make it more open, transparent, efficient and fairer for the contracting parties, e.g. through high-quality implementation of the recently adopted Directive on Collective Management of Copyrights. Although further efforts will be needed overall, it is our hope that the Directive will help to solve some additional relevant problems, such as excessive transaction costs, lack of clarity relating to rights’ ownership and complexity of rights management. However, in the implementation phase, it has to be taken into account that the Directive only determines minimum standards. Any National Copyright Law which exceeds these standards has to be maintained.

b. Facilitate the availability of legal content within the EU

Illegal downloads or access on a large scale can jeopardise the development of an economically viable digital single market. There is an ever increasing legal offer of content on all media. However, this is not in itself sufficient to address illegal activities. A review of the window systems, as well as the application of a harmonised VAT rate applied to online and offline content services, could provide further incentives to increase the availability of legal content.

c. Revise the system of copyright levies

It is questionable that private copying levy schemes are still valid for the digital environment, although may have proven useful in the analogue world. They are now even inefficient and counterproductive. They should not be seen as an additional source of remuneration to authors, performers and producers. Compensation for private copying is exclusively based on harm and therefore should only exist if there is a proven substantial harm to rightholders. The problem behind the copying levies is economic and the solution is certainly not to extend the concept of private copy levies to digital uses. This would create legal uncertainty and greater imbalances and distortions compared to the ones it would solve.

Due to new business models and changing consumption patterns, the cases of private copying requiring compensation by means of levies are likely to decline. Consequently levy systems must be reformed via transitional measures in the first step - on the basis of the recommendations by the EU Mediator Mr. Antonio Vitorino - to improve the



current system and chart a path towards its ultimate phase out. As a second step, levies systems should be replaced by more flexible alternative forms of compensation based on actual demonstrable harm.

On the basis of these considerations, it would be inappropriate to extend the current private copying levy system to the domain of cloud computing, at a time in which European industry is focused on making the best out of this innovation. The effect would be to increase prices for European cloud service providers and thus limit the attractiveness, competitiveness and future development of business models based on these technologies. Imposing levies on the cloud would contradict the ongoing initiatives of the European Commission in line with the European Cloud Strategy and European Cloud Partnership and would only serve to stifle what promises to be an innovative and high-growth industry.

2. BARRIERS TO E-COMMERCE

At the basis of the concept of digital single market there is not only the concept of free movement of digital goods, but also the idea that physical goods and services must move freely in the single market thanks to digital tools. E-commerce, for instance, is not only digital. Consumers order online, but many products are physical. Services ordered online, such as a holiday or a flight, are physical as well.

Technology allows consumers not only to buy online, but also to widely research on prices, offers, quality, comparison of products and consumers' experience, enabling them to access the best offers and maximise their utility.

E-commerce offers in parallel huge new opportunities for business, especially SMEs, who can reach more consumers, and more easily. While e-commerce is rapidly taking off at national level, cross-border e-commerce is still lagging behind. There is a strong need to boost consumer confidence and business trust in cross-border e-commerce by addressing the remaining fragmentation of applicable rules, for instance in the area of VAT, excise duties and consumer protection, as well as inadequate payment and delivery systems (for instance, the cost of shipping online orders across borders differs substantially depending on which member state the parcel is sent from).

An important aspect to consider, as highlighted by the European Council in October 2013, is the need to address the bottlenecks in accessing one's "digital life" from different platforms, which might be related to lack of interoperability or portability of content.

BUSINESSEUROPE recommendations

a. Address divergences in consumer and data protection rules

A fully functioning digital single market requires the elimination of barriers that can hamper cross border e-commerce, still underdeveloped in the EU. Divergences in consumers' protection rules are an example of remaining barriers. For instance, consumers' legal guarantees are not fully harmonised in Europe. The trader does not know always which guarantee is applicable, if the one in force in his member state or the consumer's one. At EU level, there are significant differences. The minimum is two years in some country, while in others is lifetime. These differences obviously discourage traders to develop their online presence, but also have a very negative



impact on consumers, which will have less information and restrained access to products. Moreover, harmonised consumer protection rules should be applied symmetrically to all equivalent services, independently from the undertakings providing the service and their establishment. To this end, specific sectorial regulations should be avoided.

Data protection rules should also be harmonised at EU level. The digital economy, based heavily on the collection and use of data, is cross-border by definition. An online retailer cannot afford to comply with 28 different regimes within the EU.

b. Promote harmonisation and competition in online payments

Some companies experience difficulties with payments, where national legislation often requires them to set up bank accounts in all the banks where their (potential) customers have accounts. In some countries this can be up to 10 different bank accounts set up just so that they can receive payments for their products or services. Increased harmonisation and competition in the online payment markets would reduce these problems.

c. Ensure clarity and harmonisation of excise duties

Different rules applicable to the payment of excise duties are a significant barrier to cross-border e-commerce. They lead to a lack of clarity as to who is ultimately responsible for the payment of the excise, preventing the development of online businesses in excisable goods. More effective systems of excise tracking and payment are essential.

Many companies encounter problems whilst negotiating with excise authorities in relation to the administrative requirements of national legislation. Each Member State has its own specific interpretation of distance sales for excise purposes, creating different process requirements, often incompatible or contradictory.

3. TAXATION IN THE DIGITAL ECONOMY

To survive in competitive environment, businesses need to pay close attention to costs, including taxes. Recently, the perception that the rules for taxation of cross-border activities are regularly broken has increased. This gave way to an international debate over base erosion and profit shifting, namely how to achieve a fair allocation of taxing rights between countries. It is important to fight tax fraud and tax evasion, as it is also fundamental to respect the competence of Member States to set their own tax policies, supported by a strong enforcement of state aid rules to ensure a level playing field within the single market.

The Internet has changed how business is conducted in a local, national and multinational environment. This has raised the question whether international tax rules have to be adapted to better reflect the changes that have taken place. When looking at emerging business models, the boundary between “traditional” and “digital” economy is blurred. In most cases, multinational enterprises emerging in the digital economy do not establish completely new business models, but rather look for more efficient ways to deliver goods and services. Devising separate rules for taxation in the digital economy is not a forward-looking approach, as offerings in the digital economy are



already embedded into many traditional business models and new business models in the digital economy evolve rapidly.

BUSINESSEUROPE recommendations

a. No special tax rules are needed for the digital economy

As the Commission's Expert Group on Taxation of the Digital Economy has concluded, it is not possible to ring-fence the digital economy. There should not be a special tax regime for digital companies or companies that digitalise part of their business – rules should be universal, neutral, fair, simple and effective. Companies of all sectors and sizes have digital transactions and processes that are integral part of their business models. While some of the business models of "digital/internet" companies are "new", most business models deemed part of the "digital economy" are in fact traditional businesses enhanced by the use of ICT.

While digital economy issues raise questions about nexus rules that are based on concepts of physical presence, changing the rules for taxation based merely on access to a market would be a radical departure from current international norms. So-called "digitally based companies" produce goods and services much as other companies do, and the necessary activities occur somewhere, even if not in a market country. The jurisdiction where these activities occur should be able to impose direct income tax on income directly attributable to those activities, and this is irrespective of whether the company operates as a digital company or not.

BUSINESSEUROPE believes that the appropriate means of taxing consumption is with consumption taxes rather than income taxes. VAT and other consumption taxes do not require allocation of revenue, costs, losses, etc.

This discussion is still ongoing and depends on the conclusions on other issues under review like the need for physical presence. Taxes, in particular VAT, applied to digital goods and services should be consistent to the ones applied in the physical world. A broad-based consumption tax, which does not make any difference between foreign and domestic providers, between sectors and between digital goods and services, would be in BUSINESSEUROPE's opinion preferable than a withholding tax.

b. New rules on VAT must be applied consistently

New VAT rules on the supply of telecommunications, broadcasting and electronic services to consumers will come into force in January 2015. According to the new provisions, suppliers are subject to the VAT in the country of the customer. This means that the supplier has to know and apply the VAT provisions of the country of the customer, as well as the different VAT rates.

This change can facilitate procedures for businesses, but will also involve significant additional administrative costs for companies during the transition period and thereafter. At least for the smallest companies, the changes can create a barrier for the sale of goods or services directly to consumers in other EU countries.

Commission and Member States should ensure that the new provisions are applied consistently towards the single market. Furthermore, the new so-called "mini one-stop shop" created for companies must be truly easy to use, so to limit the additional administrative costs arising from the new rules.



DIGITAL SKILLS & ENTREPRENEURSHIP

Digital entrepreneurship is critical to create new jobs and innovative ideas, accelerating the pace of innovation in Europe. For example, from 2013 to 2018, the app economy is expected to triple its revenues and generate 3 million jobs.

Skills are also fundamental to reap the benefits of the digital economy. The digital revolution is changing value chains of many businesses and altering their nature. In this environment, new digital professional profiles are needed at all levels. Universities and training systems in general are not responding to the demand of the companies, which need professionals specialised in areas such as big data, cybersecurity, applications development, product and service managers, creative people, digital artists and specialists in digital cities.

BUSINESSEUROPE recommendations

a. Facilitate contacts between investors and start-ups using digital tools

It is essential to create structures that facilitate contacts between investors and start-ups, such as specific Europe or worldwide dedicated platforms. Digital technologies can help here. In some European countries, electronic matchmaking platforms have been launched, connecting SMEs to a community of lenders, including banks and specialised investors. This brings in more speed, more competition and more transparency. The pan-European deployment of electronic matchmaking platforms such as FINPOINT should thus be encouraged for accelerating SME financing.

b. Enhance alternative finance market opportunities

The Commission should facilitate the development of crowdfunding through the sharing of good practice and raising awareness and understanding of the different types of crowdfunding. The Commission could also play a role in monitoring developments in the alternative finance market across the EU and gather data to improve the understanding of how alternative financing sources are being developed and used across the EU. This should include wider alternative financing sources and not just the crowdfunding market, given the importance that companies can diversify their access to finance.

c. Promote fiscal measures favouring entrepreneurship across Europe

Member States must create tax exemptions for investment in innovative start-ups. It is also key that Member States provide coverage to start-ups and/or SMEs, when required warranties for EU funds assigned to them to finance their projects.

d. Develop an entrepreneurship-friendly mindset

It is fundamental that Member States and companies develop a more “risk-taking” mentality, both for entrepreneurs and investors. Second chance for failed entrepreneurs must be possible.

Policymakers should make comparable data in key areas relevant for digital start-ups more widely available.



It is also fundamental to activate technical talent to get involved in entrepreneurial ventures. One way of doing so would be to create an “Erasmus” programme for programmers, designers and engineers with rotations across different European countries, using start-up programmes as coordinating agents.

e. Promote ICT skills

As part of an overall approach which ensures that education and training systems better reflect labour market needs, the EU must continuously develop a policy framework that will promote ICT skills and encourage Member States best practices in these areas. Business, academia, schools, government and organisations should work together to develop a high level digital skills strategy that would facilitate global talent mobility.

To tackle the problems at source, it is important to introduce learning computer programming from the primary to secondary school stage and in a curricular way, through educational solutions that have been promoted for years from organisations like MIT. These solutions have been successful not only in improving the abilities of students in computational thinking skills, but also in innovation and creativity.

Students, educators and ICT professionals must get closer, in order to make the industry and its professions more visible to society, also to avoid certain stereotypes caused by lack of reference models (particularly gender stereotypes).

f. Create a digital learning strategy

In terms of delivery, BUSINESSEUROPE supports the idea of a coherent EU strategy for digital learning and open educational resources to be mainstreamed across all education and training sectors. This would be an efficient use of resources that could make a significant contribution to people’s education and training.

Digital learning could be particularly advantageous for continuous education and training and in instances in which people are balancing work and private commitments. It can also be a time and cost-efficient way for companies to offer training opportunities for their employees. In this way, the company can support development of its employees by offering learning opportunities according to their individual interests and needs, while saving time and financial resources.

IV. AN INNOVATIVE EUROPE FOR A GLOBAL LEADERSHIP

1. INNOVATION

Innovation in the digital sector must be a political priority for the next institutions’ term in order to really deliver on the digitalisation of the EU economy. Priorities must be given to actions and projects that can make Europe a leader in digital, such as 5G networks, Internet of Things, advanced manufacturing and micro/nanoelectronics.



*BUSINESSEUROPE developed a more comprehensive position on innovation in its document *A Breath of Innovation: BUSINESSEUROPE recommendations on future of EU research and innovation policy* from December 2014.*

BUSINESSEUROPE recommendations

a. Follow the innovation principle in policy making

Investment in R&D and development of innovative products and services requires an appropriate regulatory framework with a strong focus on enabling digital innovation. This will only be possible if the impact on innovation is thoroughly assessed and addressed when considering any new legislative proposal. In this respect, we support the introduction of the 'Innovation Principle' in the EU policy-making, namely fully assessing and addressing the implications of any policy proposal on innovation, instead of focusing only on risk avoidance or risk management.

b. Focus on innovation which brings commercial results

While the quality of European research is exceptional and has been responsible for many new technologies used worldwide, this scientific leadership is not sufficiently translated into industrial gains. Many times innovative products are developed in the EU but they end up being commercialised by foreign companies. The EU should foster market entry of innovation and better funding of research in the technology sector. Furthermore, as innovation increasingly relies on cooperation among businesses, dynamic clusters and networks for innovation need to be encouraged, especially alongside flagship projects based on market oriented PPPs.

The focus of the projects must be oriented towards initiatives which will allow Europe to face the global challenges and regain its leadership on the digital global marketplace. In particular, the development of 5G networks will be fundamental, but also e-Health and smart cities projects, as well as all kinds of industrial projects extensively using ICT solutions to gain competitiveness.

c. Use Horizon 2020 as an important step to bring innovation closer to the market

The adoption of the Horizon 2020 Package has been an important step to install a more innovation-driven policy approach, in particular to make EU R&D spending more effective to incentivise a faster market uptake of innovative solutions. But for the EU to be a global innovation leadership much more is needed. Capturing value from Europe's research by means of close-to-market innovation will be achieved by scaling up investment in R&D and innovation combined with a more qualitative approach. This will be done by building a true culture of innovation and encouraging reasonable management of risk, rather than over-playing the precautionary principle. This will not be enough without promoting a science-based policy making, ensuring a smart implementation of Horizon 2020, removing obstacles to commercialisation of research results, enhancing the regulatory framework supporting innovation and streamlining the jungle of EU funding mechanisms.



d. Create ad-hoc instruments for innovation and speed up the EU programming process

New innovation instruments, including, but not limited to PPP and EIP (European Innovation Partnerships) will have to be developed and promoted, in particular with a new approach of risk management and risk sharing. Member States should promote investment in R&I projects, for instance through tax incentives and exemptions for R&I expenditures. Within the Horizon 2020 framework programme for R&I, there is a need to reduce swiftly the heavy administrative burden and longer lead times compared to the benchmark established by some national programs. Especially in the context of ICT and digital services, the pace of EU project programming is very slow. This implies not only a faster evaluation of the proposals, but also speeding up the whole programme preparation process.

e. Facilitate collaboration between start-up communities and larger enterprises

Agile start-ups and fast growing smaller companies are often in the frontier when it comes to new digital services and solutions. Rapid research and development and prototyping activities of such companies can be better utilised in collaboration with established larger enterprises. For example, large enterprises could be encouraged to open their company data (through application programming interfaces, APIs) to external development partners.

f. Promote a digital strategy for the development of intelligent manufacturing and e-Health

Manufacturing industry is increasingly relying on digital issues, contributing to employment and growth and to the development of the Internet of Things. For these reasons, it must be supported by an important digital strategy. This strategy should also be oriented towards initiatives which will foster the adoption of e-Health practices, that contribute significantly to costs limitation, efficiency gain and to a better quality of the health services provided.

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