Questions and answers - Digital Single Market Strategy

Brussels, 06 May 2015

Who will benefit from a Digital Single Market?

See also press release: A Digital Single Market for Europe: Commission sets out 16 initiatives to make it happen (IP/15/4919)

<table>
<thead>
<tr>
<th>Consumers</th>
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<tbody>
<tr>
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<td>Better consumer protection when buying online</td>
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<td>Better telecoms services and access to the Internet</td>
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<td>More work opportunities and possibilities to develop digital skills</td>
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<td>New innovative products and services in a vibrant digital economy</td>
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<td>More efficient e-services – notably e-government services – to save time and money</td>
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<thead>
<tr>
<th>SMEs and start-ups</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Clearer rules to sell cross-border and scale-up businesses in a market of more than 500 million consumers</td>
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<td></td>
<td>Less costs to grow cross-border: no need to adapt to each country’s consumer law and a VAT system better adapted to small e-commerce businesses</td>
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<tr>
<td></td>
<td>More opportunities with greater access to content, goods and services from other EU countries</td>
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<tr>
<td></td>
<td>Lower parcel delivery prices</td>
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<td></td>
<td>A level-playing field for competing actors on the market: every company, small or big, plays by the rules</td>
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<td></td>
<td>Standards and greater interoperability to develop products and services faster, reduce risks and costs</td>
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<td>Fewer burdens dealing with public administration: efficient e-services to save time and money; more market access through public e-procurement and e-signatures</td>
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<td>Better access to finance and simplified company law</td>
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<tr>
<th>The creative sector</th>
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</tr>
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<tbody>
<tr>
<td></td>
<td>New audiences and business opportunities across Europe</td>
</tr>
<tr>
<td></td>
<td>An environment nurturing cultural diversity, creativity and exchanges</td>
</tr>
<tr>
<td></td>
<td>Better enforcement of rights and actions to combat piracy</td>
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<tr>
<td></td>
<td>Increased legal access to content for users, meaning more benefits for authors and potentially less piracy</td>
</tr>
<tr>
<td></td>
<td>Clearer rules for all players, including intermediaries using copyright-protected content</td>
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<td>A fairer remuneration of rights with the participation of all players in the value chain</td>
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<td>Media rules adapted to the digital age and ensuring the promotion of European works notably in online video on demand platforms</td>
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<th>Industry</th>
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<td>Clearer rules to develop in a market of more than 500 million consumers</td>
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<td>A level-playing field for competing actors on the market, traditional players and newcomers</td>
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<td>Public investment and partnership with the industry, notably on cybersecurity</td>
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<td>Better and safer use of digital technologies, such as cloud computing or big data, reducing risks and costs</td>
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<td></td>
<td>Standards and greater interoperability in all sectors (such as energy, transport and health) to develop products, services faster, boost innovation and reduce costs</td>
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<td>Fewer burdens when dealing with public administration with efficient e-services – to save time and money</td>
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<td>More competitiveness on the global stage</td>
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I. Better access for consumers and businesses to digital goods and services across Europe

1. Cross-border e-commerce rules that consumers and business can trust
What are the problems?

Only 38% of people feel confident buying online from another EU country. For example – if you buy an e-book, and it doesn't work, what are your rights, and how do you enforce them? Only 7% of SMEs in the EU sell cross-border, it is simply too complicated and too expensive for them to adapt to 28 different sets of rules (see Factsheet for more figures).

How will the Commission make e-commerce easier?

The Commission will put forward clear contractual rules for online sales of both physical goods like shoes or furniture and digital content, like e-books or apps. It will fill in the existing legislative gap at EU level regarding digital content and will harmonise a key set of rules for physical goods. This will create a level-playing field for businesses, allow them to take full advantage of the Digital Single Market and sell with confidence across borders. At the same time, it will boost consumer trust in online purchases. Consumers will have even more solid and effective rights. For example, if the e-book you just bought is defective, it will be easier for you to obtain a remedy against the trader. Europeans will be able to shop in other EU countries as easily as in their home countries and get the best products at the best price.

What is the Consumer Protection Cooperation Regulation? Why will it be reviewed?

EU-wide enforcement is necessary in a Digital Single Market. Since 2007, thanks to the Consumer Protection Cooperation (CPC) Regulation, there is a network of national enforcement authorities to enforce the main EU consumer laws across borders consistently. The CPC Regulation is now being assessed. On the basis of the results, the Commission can propose improvements and assist Member States in saving resources dedicated to enforcement. More cooperation among national enforcement authorities will enhance their capacity to act across borders to tackle widespread infringements on online markets. This will increase legal certainty for businesses and reduce possible litigation costs. In addition, by coordinating actions and pooling resources, national administrations will avoid duplicating efforts.

2. Affordable high-quality cross-border parcel delivery

Why does the Strategy include measures on parcel delivery?

Today only 15% of consumers shop online from another EU country – which is not surprising, if the delivery charge ends up being higher than the actual price of the product. The measures to be taken will address frequent complaints by e-retailers and consumers concerning a lack of transparency (what are the available delivery options and conditions?); the excessive costs of shipments (especially of small parcels sent by SMEs); the lack of interoperability between the different operators typically involved in a cross-border shipment (resulting in the absence of affordable track-and-trace solutions); the lack of convenience for the final consumer (not being offered last-mile delivery or convenient return options). These issues have already been identified in a Green Paper in 2012, followed up by a Roadmap in December 2013. The postal operators have committed themselves to introduce a number of improvements in the area of quality of services (e.g. track-and-trace services for small parcels sent across borders, easy return procedures, etc). The focus of the future EU measures on parcels is, however, on problems not addressed by the postal industry's own commitments initiative. This includes excessive prices and insufficient regulatory oversight. The Commission is today launching a public consultation to collect views from all the interested parties on the main issues and possible areas for improvement.

Why is action needed specifically on pricing? Will you regulate prices?

Recent studies confirm that the cost of delivery is still an obstacle to shopping cross-border. Shipping costs is the most common reason (57%) in Europe for not completing an online purchase. 62% of companies that are willing to sell online say that too high delivery costs are a problem (see the newly released Eurobarometer on e-commerce). Tariffs for cross-border small parcel delivery charged by postal operators are often two to five times higher than domestic prices. An example? It costs €32.40 to send a 2kg parcel from Belgium to Austria – over five times the price of €6.40 within Belgium. From Austria to Belgium it costs €14.40 – over three times the price of €4.50 within Austria. Competition appears to be the most appropriate and effective way of addressing today's concerns in terms of affordability. However, for such competition to unfold in a fair and efficient manner, all market participants – retailers, delivery operators as well as consumers – need to enjoy a certain degree of price transparency. Price regulation is only a means of last resort, where competition does not bring satisfactory results, and is not considered at this stage. Close monitoring is essential in order to identify and address any market failures. The situation will be reviewed after two years.

3. Preventing unjustified geo-blocking
What is geo-blocking?
Geo-blocking refers to practices used for commercial reasons, when online sellers either deny consumers access to a website based on their location, or re-route them to a local store with different prices. Such blocking means that, for example, car rental customers in one particular Member State may end up paying more for an identical car rental in the same destination. Sometimes restrictions are justified, for example due to national rules to protect public order in the Member States (e.g. blocking access to some tobacco products or to Holocaust denial content). Restrictions might also be justified by extra costs that are incurred by the providers/traders. However, in the large majority of cases online geo-blocking is not justified. In certain situations, it can even be contrary to competition rules. By limiting consumer choice, geo-blocking is a significant cause of frustration and of fragmentation of the Internal Market. Geo-blocking is typical for the Internet economy. There is no equivalent in the offline world: you are not refused a product on the basis of your nationality when you physically go to a shop in another Member State.

What does the Commission plan to do about geo-blocking?
Addressing unjustified geo-blocking will give more choice of products and services for consumers at lower prices. The Commission is planning to make legislative proposals in the first half of 2016 to end unjustified geo-blocking. Action could include a targeted change to the e-commerce framework, and to the framework set out by Article 20 of the Services Directive (on non-discrimination of recipients of services). As a result, traders will have only limited possibilities to deny access to online services. In parallel to legislative proposals, the Commission today launched a Competition Sector Inquiry to analyse the application of competition law in this area (press release and factsheet).

Will the copyright modernisation address geo-blocking?
One of the aims of the copyright modernisation is to facilitate the licensing of rights for online distribution of audiovisual content. Being able to legally access content online cross-border will help deal with geo-blocking concerns, while respecting the value of rights in the audiovisual sector. The financing of the audiovisual sector widely relies on a system based on territorial exclusivity, which as such cannot be considered as unjustified geo-blocking.

4. Better access to digital content - A modern, more European copyright framework

Why is a copyright reform necessary?
EU copyright rules date back to 2001. New rules are needed to respond to new technologies, consumer behaviour and market conditions. In particular, these rules should continue to reward creation while allowing access to a wider variety of works, especially across borders. Updated rules are important to nurture cultural diversity in the digital age, but also to boost innovation and help the work of researchers and educational institutions. The 2001 framework allows a large number of exceptions the application of which results in a patchy situation in different Member States. It is essential to reduce national discrepancies and work on a more European copyright framework to offer greater legal certainty in a number of sectors (research, education, cultural heritage, etc.).

What will be the main elements of the copyright modernisation?
The proposal will include:
- **Portability of legally acquired content**: if you have legally paid for an online service while at home, you should be able to access it in another EU country.
- **Better access to online services from other EU Member States**: if a service can be bought online in another EU country, why can't you buy it?
- **Harmonising exceptions** for important activities such as research, education, text and data mining (e.g. copying of a text and datasets in search of significant correlations or occurrences).
- **Clarifying the rules** of the use of copyright-protected content by intermediaries. The Commission will look into interactions between the creative sector and digital platforms.
- **Modernising the enforcement** of intellectual property rights, focusing on commercial-scale infringements.

Does the Commission want to change the principle of the territoriality of rights?
The Commission does not want to change this principle and understands it is important for the creative sector, especially for the film industry. Each film has its distribution strategy, its release windows system. The Commission aims to facilitate the licensing of rights and ensure a better access in the digital world. This means, for example, that if a film is available on a video-on-demand service in an EU country, Europeans outside the country can also pay to see it. This is not about opening access to
all content for free. It is about a win-win situation for creators and users; this is about nurturing cultural diversity in the digital age.

**Why will the Commission review the Satellite and Cable Directive?**

The Commission will review the 1993 Satellite and Cable Directive, assessing how it has facilitated consumers’ cross-border access to, and the portability of, satellite broadcasting services in the Internal Market. The Commission will look into the possible extension of its scope to certain broadcasters’ online services.

**5. Reducing VAT related burden and obstacles when selling across borders**

**What has been proposed in the Strategy concerning VAT?**

The Commission will make legislative proposals in 2016 to reduce the administrative burden on businesses arising from different VAT regimes including:

- Extending the current single electronic registration and payment mechanism to cross-border online sales of physical goods.
- Introducing a common EU-wide simplification measure - VAT threshold - to help small start-up e-commerce businesses.
- Allowing for home country controls including a single audit of cross-border businesses for VAT purposes.
- Removing the VAT exemption for the importation of small consignments from suppliers in third countries.

**What benefits will this bring to businesses?**

The benefits for business of this initiative are:

- **Simplicity** – A business only has to deal with one tax administration which in itself is a significant simplification.
- **A level playing field** – there will be no difference in VAT rates between goods ordered from websites in third countries, other Member States or domestically.
- **Certainty** – Clear rules allow business to plan for engaging in cross-border e-commerce. Furthermore the same rules will apply for goods and services.

**Can you give more information on the VAT threshold for start-ups selling online?**

The level and type of threshold will be considered as part of the impact assessment for the proposal. In addition to the measures outlined in the Strategy, preparatory work has started to prepare a comprehensive future initiative on reducing the VAT compliance costs for SMEs in general. This initiative is foreseen for 2016.

**Will there be a review of the VAT Mini One Stop Shop and the 2015 Place of Supply rules?**

It was already envisaged that an analysis of the implementation of the VAT Mini One Stop Shop (MOSS) and the 2015 Place of Supply rules would take place as part of our commitment to simplify cross-border VAT rules. The Commission sees this as a timely opportunity to take stock of the issues which both tax administrations and business face, and address these in the context of the 2016 proposal.

**Why will the VAT exemption on small consignments be removed?**

This exemption, which was originally a trade facilitation measure, has turned into an expensive tax subsidy in favour of imports to the disadvantage of domestic and intra-EU sales. It does not benefit small operators but big market players. It has been estimated that distortions resulting from this exemption cost EU business a turnover of up to EUR €4.5 billion annually. With the introduction of a single electronic registration and payment mechanism, this exemption will also no longer be needed, as VAT could be accounted for at an earlier stage than customs clearance, by exporters or carriers.

**What can be expected after the Digital Single Market strategy on VAT rates for electronic services such as e-books and other e-publications?**

The Commission will explore how to address the tax treatment of digital books and online publications in the context of the work being done on the adoption of a definitive VAT regime. The Communication setting out the main features of the definitive VAT regime will be adopted next year.

**Why does the Strategy not include a specific action on direct taxation?**

There is broad and rising public and political concern over the fact that some multinationals currently succeed in paying very little corporate income tax in the EU. Aggressive tax planning strategies concern all industries, including digital players. The Commission Work Programme for 2015 foresees
that, in the light of global developments, the Commission will present an Action Plan on a renewed approach for corporate taxation in the Single Market, where profits are taxed where the value is generated. This Action Plan on corporate taxation is planned to be adopted before the summer.

II. Creating the right conditions for digital networks and services to flourish

1. Making the telecoms rules fit for purposes

What are the main challenges to be addressed in the EU telecoms framework?
The review of the 2009 Telecoms Package foreseen in the Commission Work Programme for 2015 will address five challenges:

- **A true single market**: the Commission will tackle regulatory fragmentation to allow economies of scale for network operators, service providers and consumers, while ensuring equivalent access to essential networks.
- **Spectrum**: Member States receive valuable revenues from the sale of spectrum rights. While these revenues should stay exclusively with the Member States, we need a more harmonised management of radio spectrum at EU level given its vital importance for connectivity.
- **Investment in networks**: updated rules should provide sufficient incentives for market players to invest in high-speed broadband networks and make sure that end-users benefit from competitive, affordable and high-quality connectivity.
- **A level-playing field**: the Commission will look into the growing importance of online players that provide similar or equivalent services to traditional communication services.
- **Governance**: there is a need to enhance regulatory consistency across Member States. The EU's institutional set-up needs to deliver convergent market outcomes, while taking account of different local and national conditions. In particular on spectrum management, improving coordination among Member States is essential.

Why are roaming charges and net neutrality not mentioned in the Strategy while spectrum is included?
Roaming and net neutrality are key elements of the Telecoms Single Market package that is currently being negotiated by the European Parliament and the Council of the European Union. In the Strategy, the Commission explicitly says that it expects the negotiations to conclude on a clear set of net neutrality rules and the end of roaming surcharges as soon as possible. The Commission wants the coordination of spectrum to be part of the final agreement too but more progress and ambition is needed which is part of the Digital Single Market Strategy.

How will the Commission help create EU-wide high-speed broadband networks?
The Commission is putting forward various plans and instruments to stimulate investment in the telecoms sector and develop the roll out of broadband. Firstly, with the Digital Single Market, we will reinforce the right regulatory environment for investment by telecoms companies. Secondly, we have various funding instruments for broadband. While most of the broadband investment must come from private operators, it is clear that in certain areas some form of public financing is necessary, notably in rural areas. For this purpose we already have European Structural and Investment Funds (ESIF). Under the European Regional Development Fund and Cohesion Fund (part of ESIF), over €20 billion are available for investments in ICT during the 2014-2020 funding period. Our new ambitious Investment Plan for Europe will also target digital infrastructures, along with other strategic infrastructures such as energy and transport networks. In areas where the market does not deliver the necessary infrastructure investment, it is allowed to use state aid subject to assessment.

2. A media framework for the 21st century

What does the Commission propose to do?
The Commission will propose a review of the Audiovisual Media Services Directive (AVMSD) focussing on issues such as the roles and responsibilities of all market players, measures for the promotion of European works, advertising and protection of minors. It will bring forward a regulatory proposal in 2016. The Commission will examine whether changes to the current system of rules concerning broadcast and on-demand services should be adapted. It will also consider whether its current scope should be broadened so as to apply to new services and players that are outside the definition of “audiovisual media services” given by the Directive and/or providers that fall outside its geographical scope.

Will the review look into the increasing use of on-demand services?
The Audiovisual Media Services Directive already provides rules on the promotion of European works by on-demand services. Such measures can relate to a share and/or prominence of European works in
the catalogue of programmes or imposing a financial contribution to the production or rights acquisition of European works by such services. Given the increasing importance of on-demand services, the European Commission has already started to look into this issue. Based on input from various sources – regulatory authorities and other stakeholders from the sector like video-on-demand providers or producers – a document has been published last year summarising the most effective ways and practices to promote European works in on-demand services. It appeared for example that giving more visibility to European works in catalogues can be a very efficient tool to increase their audience. The upcoming review of the Directive will take into account these results. We also need to keep in mind that many Europeans are willing to pay for content that is not offered in their country. Facilitating access to content cross-border can only be advantageous for both users and creators.

3. A fit for purpose environment for platforms and intermediaries

Why is the Commission looking into online platforms? Does the Commission want to regulate them?

Online platforms (e.g. search engines, social media, e-commerce platforms, app stores, price comparison websites) are playing an ever more central role in social and economic life: they enable consumers to find online information and businesses to exploit the advantages of e-commerce. Platforms have proven to be innovators in the digital economy. But they are also raising concerns. Some platforms can control access to online markets and can exercise significant influence over how various players are remunerated. Others worry about the lack of transparency as to how they use the information they collect, about their relationship with their suppliers, or their pricing policies. The Commission will therefore launch a comprehensive analysis of the role of online platforms, including in the sharing economy, to evaluate if further action is required.

What does the Commission foresee regarding the swift removal of illegal content?

The e-Commerce Directive foresees that Internet intermediary service providers should not be liable for the content that they hold and transmit passively. At the same time when illegal content is identified, intermediaries should take effective action to remove it, whether it be information that is illegal (e.g. terrorism/child pornography) or information that infringes the property rights of others (e.g. copyright). Today the removal of illegal content can be slow and complicated while content that is actually legal can be taken down erroneously. In fact 52.7% of stakeholders say that action against illegal content is often ineffective and lacks transparency. Differences in national practices undermine enforcement (with a negative effect on the fight against online crime) and confidence in the online world.

In tandem with its assessment of online platforms, the Commission will also analyse the need for new proposals to tackle illegal content on the Internet such as more rigorous procedures for removing illegal content and whether to require intermediaries to exercise greater responsibility and make more efforts in the way they manage their networks and systems – a duty of care. The Commission will consider all existing unilateral measures already adopted by intermediaries against illegal and harmful content and analyse best practices from different Member States on this issue. In particular, the Commission will examine the possibility of finding a common understanding by all interested parties through a co-regulatory approach.

4. Reinforcing trust and security in digital services and in the handling of personal data

Why does the e-Privacy Directive need to be reviewed?

The EU is committed to the highest standards of data protection, guaranteed by the Charter of Fundamental Rights. The modernisation of EU data protection rules is a key enabler of the Digital Single Market as it will strengthen consumer trust in the digital economy. The data protection reform is currently being negotiated by the European Parliament and the Council of the European Union. The European Council and the Commission call for an agreement by the end of this year. Special rules which apply to electronic communications services (e-Privacy Directive) will need to be adapted to the new framework on the protection of personal data. It will also be important to assess the scope of the Directive. It currently applies to providers such as traditional telecoms companies but not all market players are covered.

Why is a Public-Private Partnership on cybersecurity needed?

Revelations on surveillance activities and cyber incidents have left no doubt about the vulnerability of Europe, both in its use of ICT and in its own supply of technologies and solutions. Innovative ideas and solutions are needed to better protect our society and economy. It is essential to encourage the industry to supply more secure solutions and stimulate their take-up by enterprises and citizens. Meanwhile, the EU’s cybersecurity sector is fragmented and lagging behind other digital industries such as microelectronics. A Public-Private Partnership will be instrumental in structuring and coordinating digital security industrial resources in Europe. It will include a wide range of actors, from innovative SMEs and national security agencies to critical infrastructure operators and research
institutes. The initiative will leverage EU, national, regional and private efforts and resources – including research and innovation funds – to increase investments in cybersecurity. The amounts of funding have not yet been defined.

III. Maximising the growth potential of the Digital Economy

1. Building a data economy

What does the 'European free flow of data initiative' cover?

While personal data is covered and protected by EU rules, there are no clear guidelines for other types of data. Large amounts of data are produced every second, created by people or generated by machines, such as sensors gathering climate information, satellite imagery, digital pictures and videos, purchase transaction records, or GPS signals. They represent a goldmine for research, innovation and new business opportunities. But data often remains stuck in national expensive data centres (e.g. Member States requirements to keep data inside their territory). Unnecessary restrictions should be removed and prevented. National systems should be better aligned to allow a better flow of data and the development of new promising technologies such as cloud computing and the Internet of Things. The Commission will assess the different legal and technical obstacles and will then define measures to address them.

Why is a European cloud initiative needed?

Cloud computing services are used by only one out of every five enterprises in the EU. Those enterprises using cloud services report that the risk of a security breach was the main factor limiting a larger use of the cloud. We need to address this situation to boost our economy with the opportunities offered by cloud technologies. The European cloud initiative will facilitate clear and credible certification of services in order to allow users to benefit from secure, reliable and high-quality cloud services. It will ensure that SMEs and consumers are able to switch to a different service provider without undue technical or administrative restraints, and other contractual issues that require a common approach in a single market. The initiative will also link to other actions under the Digital Single Market Strategy, including on contract terms and conditions and on standards. The Commission could also launch a similar initiative on the Internet of Things (IoT), to develop a Trusted IoT certification scheme, as well as model contracts to facilitate the cross-border operations of connected devices and IoT services and applications.

2. Boosting competitiveness through interoperability and standardisation

Why is standardisation important? What are the plans of the Commission?

The ICT standardisation arena is a global one. Europe should speak with one voice and needs a long-term, strategic vision. The EU Rolling Plan for ICT Standardisation is an essential instrument in this regard. However, an increased effort is needed to ensure that standardisation keeps pace with changes in technologies. Europe needs to define missing technological standards that are essential for supporting the digitisation of our industrial and services sectors (e.g. Internet of Things, cybersecurity, big data and cloud computing) and mandating standardisation bodies for fast delivery. This is why an integrated standardisation plan will be launched to identify and to define key priorities for interoperable standards, with a focus on essential sectors such as health (telemedicine, m-health), transport (transport planning, e-freight), environment, and energy (smart metering). The Commission will set up a strategic forum for Member States and European Standard organisations to jointly discuss common priorities under the Commission’s guidance.

What is the Interoperability Framework? Why should it be extended?

e-Government services that are being developed in different Member States should be able to communicate with each other and not develop in isolation. Today, there is a common understanding among Member States on the basic requirements to achieve interoperability, based on the European Interoperability Framework put forward by the Commission in 2010. This Framework, based on the voluntary participation of Member States, should now be revised and made mandatory. A better connection of e-government services will cut red tape not only for public administration but also for citizens and businesses.

3. An inclusive e-society

What is the impact of new technologies on job creation?

Digital is a driver of growth, and growth always comes with employment. It is estimated that the Internet had created 2.6 jobs for every one that was replaced by technology. Digital transforms industries and new occupations, such as app developers, are emerging. Digital also transforms the way we work. For ICT professionals, the latest forecast estimates up to 825,000 unfilled vacancies by 2020 if no decisive action is taken for training. This is why digital skills are essential to benefit from the
opportunities offered by new technologies. While this is mainly the responsibility of Member States, the Commission will support their efforts and will address digital skills as part of its future initiatives on skills and training. In parallel, the Commission invites the social partners to include the relevant elements of the Digital Single Market in their social dialogue at EU level.

Why is a new e-Government Action Plan needed?
The current e-Government Action Plan is coming to an end in 2015. It has been an important tool for coordination between Member States and the Commission to modernise public administration. It notably enabled major steps in e-Identification, guaranteeing the identity of a person online while making sure their data is processed in a secure way. The new e-government strategy will focus on urgent actions already identified in the Digital Single Market Strategy, such as the interconnection of the business registries, the development of the 'Once Only Principle' and a 'Single Digital Gateway'. Transition towards full e-procurement and interoperable e-signatures needs to be accelerated as they provide for trusted and transparent electronic interaction, in particular benefitting small innovative companies and start-ups.

What is the 'Once Only Principle'? People and businesses should be able to provide information to a public administration only once. The aim is to cut red tape so that users do not have to submit the same data and fill in the same forms again and again. This would also encourage public administrations to adopt more efficient systems. The Commission plans to launch a pilot initiative with interested Member States in 2016. The focus of the work will be on defining an interoperable solution that can connect Member States administrations in a chosen area, relevant for European businesses, especially SMEs.

What is the 'Single Digital Gateway'? Why do we need it? The Single Digital Gateway will be an online access point to all Single-Market related information, assistance, advice and problem-solving services for cross-border activities. It would link up relevant EU and national-level content and services in a seamless, user-friendly and user-centric way, for the benefit of both people and businesses. Once again, the aim is to ease the life of Europeans, reduce costs and administrative burden.

4. The international dimension of the Digital Single Market

What would be the impact of the European Digital Single Market on the global stage? The scale provided by a completed Digital Single Market will help companies to grow beyond the EU Internal Market and make the EU an even more attractive location for global companies. Uniform rules – rather than a patchwork of 28 different regimes – are a market opener. The Single Market with over 500 million potential customers is a golden opportunity. The Digital Single Market will create a fair environment where all companies offering their goods or services in the EU are subject to the same data protection and consumer rules. This will guarantee legal certainty and will be positive for both the EU and its partners. The openness of the European market should be maintained and developed further in the digital sphere. The EU should continue to press for the same openness and effective enforcement of intellectual property rights from our trading partners.

MEMO/15/4920

General public inquiries:
Europe Direct by phone 00 800 67 89 10 11 or by email