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From: Presidency
To: Council
Subject: **A Digital Single Market: next steps for Europe**

Delegations will find in Annex a Discussion paper by the Presidency for the informal lunch of Ministers responsible for Telecommunications and Competitiveness on 26 May 2016.

**Discussion paper for the informal lunch of
Ministers responsible for Telecommunications and Competitiveness
26 May 2016**

A Digital Single Market: next steps for Europe

Digitisation: the opportunity that Europe needs

Digitisation is everywhere and helps us in ways that we could not have imagined a generation ago. More than being a distinct economic sector, it has become the driving force behind the profound transformation and disruption in virtually every economic sector. New networks and IT solutions help people and business connect and interact, eliminating physical distance and opening up new markets and opportunities. Digital technology actively contributes to finding solutions to societal challenges, like the ageing population, and holds vast potential to create more growth and jobs in Europe. The Netherlands Presidency therefore considers this Digital Day's joint lunch of Telecommunications and Competitiveness Ministers a highlight of its mandate to ensure that we join up efforts on the crucial next steps in this field.

Building the right framework to facilitate innovation and growth

To ensure that all sectors of our economies remain competitive at a global scale, the Commission published the Digital Single Market Strategy last year. The European Council welcomed this Strategy in June 2015, highlighting the need for swift progress. After a series of broad public consultations, the first specific legislative deliberations have now started. The Netherlands Presidency aims to pave the way for swift implementation.

There is an urgent need for inclusive action

This is not just about delivering legislative results: it is what we need to do now to facilitate a stronger digital economy. All elements of the strategy are connected and the success of one depends on the other: the Internet of Things will not flourish if users lack skills; smart devices are useless if there are no state-of-the-art networks they can rely on.

There is a clear risk in delaying action: the risk of failure of Europe as a leading actor in a global digital age. Doing nothing to unlock this potential is costly. A recent study of the European Parliament confirms this, by highlighting that slow and inefficient regulatory reform processes in the field of e-commerce alone already cost the European economy up to €748 billion¹. It is certain that we will lose jobs by operating as 28 isolated entities, or by focusing on individual initiatives alone. The potential benefits from creating a digital single market are greater than the sum of its parts.

The role of the Council towards a digital single market

Within the Digital Single Market Strategy, the Commission has outlined 16 initiatives, several of which have been or will be presented as packages. The table in the annex provides a full overview of the state of play. Now that the Commission is delivering on its role through the presentation of concrete initiatives, it is up to the Council and Parliament to put into place the next necessary steps. We must maintain the common digital ambition that has been expressed by all parties, now that concrete negotiations have begun. This comes with a strong call to use our joint ability to overcome our possible differences – for instance, due to national market situations or political realities – particularly as slow regulatory reform processes are costly. The Netherlands Presidency therefore aims to contribute to an efficient implementation pathway. In order to prepare today's lunch debate, Directors-General responsible for Telecommunications on 20 April and the High Level Group for Competitiveness and Growth on 3 May have reflected on this issue. Participants of both meetings underlined the importance and urgency of the next implementing steps of the Digital Single Market Strategy and how all elements are dependent on one another for their success. Today, we want to take this discussion to a political level by inviting the Ministers of both Council formations to reflect together on how we can ensure an ambitious implementation. In this respect, the Presidency finds it important to take into account potentially complicating factors for this implementation, such as political, regulatory, economic or societal circumstances. We also invite Ministers to reflect on their guidance for work on these initiatives at a technical level.

¹ European Parliament (2016), "Reducing Costs and Barriers for Businesses in the Single Market"
[http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578966/IPOL_STU\(2016\)578966_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578966/IPOL_STU(2016)578966_EN.pdf).

The broader context: achieving a full digital single market

Regulation cannot solve every challenge; however, there is a clear case for cooperation at a European level, both through legislative and non-legislative initiatives, given the borderless nature of digital technologies. Our cooperation can focus on creating the right framework conditions, such as the review of the telecommunications framework which is expected to take place after this summer. It can also consist of ensuring coherent legislation where several initiatives complement one another, as is the case for the proposals under the May e-commerce package. Our cooperation can also take the form of a common European understanding on the role we see for new economic actors and realities, such as online platforms.

Horizontal conditions and challenges for the Digital Single Market Strategy

Some horizontal conditions can be considered vital elements of our next steps. Examples include:

- Timeliness of our actions to ensure that we reap the potential benefits of digitisation as quickly as possible. Technological developments do not wait for the next Council meeting.
- Importance of delivering all of the initiatives: we need the full package in order to make a true difference, for example, ensuring that the best possible infrastructure is in place for digital innovations to reach businesses and consumers.
- Openness of our digital economy by removing cross-border barriers and unjustified burdens for new market entrants.
- Harmonisation of diverging national policies to obtain a European level playing field, where this is the most effective way to ensure that Europe is a key player at a global scale.
- Aligned national efforts to increase efficiency in stimulating innovation and research.
- Legal certainty for those realising growth-enhancing innovations. Therefore, we need to ensure a future-proof regulatory framework which is simple, effective, and enforceable.
- Measures that optimally fit into diverging national starting points and/or market situations, to ensure inclusive development of Europe's digital economy.

The Commission now works in a structure which brings together all relevant policy areas through a horizontal approach. Member States have shown broad support for the Council to follow this approach. Therefore, today the Telecommunications and Competitiveness Ministers meet together for an informal lunch debate to reflect on how the Council can make sure it plays a constructive and decisive role in a successful implementation process for the Digital Single Market Strategy. The Presidency will share the main findings of this debate with the European Council, as commitment from the highest political level is crucial for a speedy implementation process, and thus for the success of digitisation in Europe. The pervasiveness of digitisation throughout the economy and society, and thus the responsibility of various Council configurations, justifies a coordinating role of Europe's highest political body and responds to its call expressed in March for concrete steps on implementing the Single Market.

Questions for debate

During the lunch, Commission Vice-President Ansip will provide Member States with a brief update on the state of play of the Digital Single Market Strategy initiatives, focusing on the most recent ones in the field of e-commerce and platforms. Afterwards, Ministers will be invited to reflect on the following questions:

- What are your key criteria or objectives for the Strategy in assessing your national position on the Commission's initiatives?
- How can the Council, Member States, and the Commission effectively implement the Strategy, and which factors may hamper, in your view, a smooth and timely realisation of the digital single market?

Annex: Overview of DSM state of play, provided by the European Commission

Initiative	State of play
Proposal for a Directive on certain aspects concerning contracts for the supply of digital content	Presented by EC on 9 December 2015
Proposal for a Directive on certain aspects concerning contracts for the online and other distance sales of goods	Discussions in JHA Council
Proposal for a Regulation on ensuring the cross-border portability of online content services in the internal market	Presented by EC on 9 December 2015
Communication 'Towards a modern, more European copyright framework'	COMPET Council GA foreseen 26 May
Proposal for a Decision on the use of the 470-790 MHz frequency band in the Union	Presented by Commission on 2 February TTE Council GA foreseen 26 May
Communication 'Digitising European Industry - Reaping the full benefits of a Digital Single Market'	Presented by EC on 19 April
Communication 'European Cloud Initiative - Building a competitive data and knowledge economy in Europe'	COMPET Council Conclusions foreseen 26 May
ICT Standardisation Priorities for the Digital Single Market	
EU eGovernment Action Plan 2016-2020 Accelerating the digital transformation of government	
Regulation on Consumer Protection Cooperation	To be presented by EC on 25 May
Measures in the area of parcel delivery	Presentation to Council by VP Ansip on 26 May
Geo-blocking	
Guidance on the application of the Unfair Commercial practices Directive	

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Initiative	State of play
Review the Audiovisual Media Services Directive	To be presented by EC on 25 May
Commission assessment of the role of platforms in the market including illegal content on the Internet	To be presented by EC on 25 May Presentation to Council by VP Ansip
Cybersecurity PPP / Communication	Public consultation completed Presentation by EC foreseen by July 2016
Reform of the copyright regime (2nd part)	Preparation of the impact assessment by EC
Review of the Satellite and Cable Directive	Preparation of the impact assessment by EC
Reform telecoms rules	Preparation of the impact assessment by EC
Free flow of data	Public consultation completed by EC, studies underway
Review of the e-Privacy Directive	Public consultation by EC ongoing
VAT regimes	Public consultation completed by EC
Intellectual Property Rights Enforcement Directive (IPRED)	Public consultation completed by EC