

## Europe's digital agenda: Deliverables for the Digital Summit in Tallinn

### **Joint initiative by France, Germany, Italy and Spain**

Digital technologies are rapidly transforming all sectors of our economies and have an impact on our entire society. **Digitalisation offers immense opportunities for innovation, growth, jobs and well-being. However, it also poses new challenges to individuals, businesses, markets and public policies.** The ability we display facing these challenges will have a direct impact on the possibilities we have to remain globally competitive and successful.

**That is why we must work together, so that the European Union is in a position to make the most of the potential of digitalisation and seize the opportunities it provides.** Europe cannot fall behind. We want to make Digital Europe a reality that benefits our citizens and our economies. Estonia's choice to make the creation of digital Europe a priority of its presidency is to be commended. Making the most of this momentum, at the Digital Summit in Tallinn, our governments must commit themselves to make swift and concrete progress in this regard. A **threefold strategy** may be envisaged.

First, **we must establish a framework that ensures a level playing field for all potential players in the EU's digitalised economy and markets.** Ensuring that markets operate in a fair and competitive way is instrumental to encourage innovation, foster business development and guarantee consumer satisfaction. The key is to ensure that all similar economic activities are subject to similar rules. This concerns both tax policy and the regulatory environment.

- **The digital economy deeply affects the way businesses function and, therefore, the way they should be taxed.** This grants a profound review of the current tax systems in order to ensure an efficient, equitable and transparent taxation.

In particular, it is necessary, as far as VAT is concerned, to ensure **that the same content, good or service is subject to VAT in the Member State of consumption regardless of its physical or digital nature and that new business models are effectively taxed.** It makes no sense to apply a double standard that will ultimately alter the competitive conditions in the market and the ability of businesses to grow.

Regarding the taxation of corporate income, changes are needed to **ensure that taxable profits, including those deriving from digital activities, are appropriately attributed where value is created so as to prevent base erosion and profit shifting (BEPS).** The current system for taxing the profits of multinational enterprises (MNEs) is based on the location of firms' material establishments and the functions carried out by their staff. However, this approach often proves unsuitable for digital businesses. This situation leads to budgetary shortfalls for the countries where these firms generate profits remotely, with little or no physical presence in those countries. It fosters market distortions and unfair competition between firms depending on their business activity and the actual location of their operations. It also paves the way for systemic tax avoidance. For the sake of our states, firms and economies, this situation calls urgently for a response. The G20/OECD BEPS process has been an important first step but more and concrete progress is needed. The EU is the most appropriate venue

for defining a common approach so that we can act as leverage for global solutions and swiftly implement tangible measures. Therefore, we ask the Council to discuss and decide quickly –and on the basis of an appropriate Commission proposal in line with the G20/OECD approach- the necessary measures to deal with the challenges of taxation in the era of digitalisation while fostering technological progress.

For companies that shift to third countries their taxable profits earned in the internal market, to repatriate to the EU the portion of tax base that is unduly transferred offshore, the EU could explore options for a digital equalisation levy, as stated in the *“Joint Initiative on the Taxation of Companies operating in the Digital Economy”* subscribed by our Ministers ahead of the ECOFIN informal meeting in Tallinn, on September 15<sup>th</sup>-16<sup>th</sup>.

- Also, more generally, on the regulatory environment, **it is particularly important to establish a level playing field for similar activities and businesses that operate in the EU**; this would ensure competition on the basis of proper economic advantage, prevent the abuse of excessive market power by platforms and stimulate new platform based services. Harmonisation is needed at European level, but with scope for national flexibility. Acting in this field is essential since digital platforms act as means of access to the digital market for companies; and such access should be granted in transparent, fair and non-discriminatory conditions for all companies, especially SMEs.

Moreover, we should **launch a review of the entire EU acquis with a view to digitalisation**. The review should refer in particular to existing rules in areas such as competition, consumer-protection of personal data and single market freedoms, and present regulatory options to ensure a level playing field for digital and traditional business, and remove unjustified barriers to new market entry. Establishing adequate regulatory conditions is especially relevant in order to facilitate investment within a competitive market. In the regard, we need an agreement on the European Electronic Communications Code (Codex) by the end of 2017.

In parallel, **we must act proactively in several areas that will allow our economies and societies to make full use of the potential benefits of digital technologies**. We refer to five specific priorities for the next months and 2018.

- **Deployment of high-capacity networks (5G, fibre optics)**. Communication networks constitute the backbone of the digital world. On the one hand, since high-speed and future-proof infrastructure is key to attain the Gigabit Society, Member States and the EU need to make every effort towards high-speed broadband and 5G expansion, including by establishing ambitious roadmaps to achieve a world-leading optical fibre and 5G network in the EU by 2025. On the other, ensuring that citizens and companies, even in rural areas, have access to information society services multiplies the opportunities for them to flourish in today’s environment. The Commission should propose changes in the present regulation, especially regarding state-aid regulation, to foster fight against the “digital divide”.

- **Support for European platforms.** The European ICT and cultural sectors have an enormous potential given the creative, diverse and multi-lingual background of our societies. In order to help them thrive, the Commission should propose an initiative promoting the creation of a European platform of digital and cultural content, able to compete with other international players. In addition, we should identify suitable EU-projects stimulating new platform-based services focused on areas where Europe has competitive advantages.
- **Digitalisation of our industry, services and public administration.** This means helping our companies, large and SMEs, in all sectors, to embrace new technologies and create new processes, products and services. The Commission should propose measures in order to help companies, especially SMEs, to access under appropriate terms the resources (financial, technical...) needed to undergo digital transformation.

By digitising processes and fostering e-administration, governments can also enhance services, make them more easily accessible, save money, and improve citizens' quality of life. Innovation procurement arises as a promising instrument to find solutions in areas such as smart cities, health, ageing or natural language processing. In addition, we should introduce European principles and measures, such as once-only or one-stop government, into the digitalisation of national administration, to facilitate interoperability and cross-border electronic administrative services.

- **Investment in human capital.** The development of digital skills and capabilities is imperative in order to ensure inclusiveness and prevent inequalities in our labour markets, which are changing at a fast speed. Helping workers –especially the young, the low-skilled and the long-term unemployed- to improve their skills and increase their adaptability through life-long education and training will increase their access to jobs of higher quality. In addition, it is important to attract the best digital talent to the EU with initiatives such as the “*tech visa*”, which could now be developed or coordinated at the EU level.
- **Financing the scaling up of European companies.** The European ecosystem is very performant in the first phase of digital companies' development (start-ups), but still underperforming the US for the following phases (scaling up). This is why the development of venture capital should be encouraged at the EU level, especially in the framework of “Juncker Plan” through the EIB/EIF.

**These five areas are critical to attain a European Gigabit Society, so they should be part of the investment priorities for the European Structural and Investment Funds.**

**Finally, it is also necessary to create an environment that guarantees that citizens, businesses and governments can exercise their rights and have an adequate protection which will result in strengthening their trust and confidence in the digital world bridging the “digital divide” as far as possible.** Efforts must be made at European level to achieve this goal, with special focus on the following five areas:

- **Appropriate framework for data.** Data has become the most significant asset in the digitalised economy. It seems that removing barriers to the free flow of data would increase opportunities within the Single Market; however, initiatives in this regard must be studied taking into account important aspects that warrant a deep reflection and need to be addressed previously, especially as regards flows of data at the international level. In particular, we refer to the ownership of the data, the impact on privacy, real-time accessibility in specific cases for public players (e.g. for tax investigations), how transparency and data security will be guaranteed, the effect on competition and market structure and how to prevent second round effects of data misusing.

The Commission should promote an open, neutral and transparent debate on these issues. As a step forward, work should continue to reach as soon as possible an agreement on the Commission's proposal for a Regulation on ePrivacy, which complements the General Data Protection Regulation.

- **Adequate regulation of intellectual property rights.** We must establish an adequate framework of copyright rules, protecting investment and supporting innovation, the flow of knowledge, and business development and growth.
- **Protection of citizens' constitutional rights and freedoms in the digital age.** Digital technology is posing a serious challenge in terms of citizen's rights (privacy, right "to be forgotten", honour, etc.). The EU should reflect on the impact of digitalisation on citizen's constitutional rights and freedoms, and on how to develop an adequate judicial framework that addresses such challenge. As a step forward, we should urge social networks and platforms to improve their complaint management in order to accelerate the removal of hate speech and to strengthen their cooperation with public authorities within the framework of their competences.
- **Increased transparency on platforms' practices and uses.** In order to foster confidence in the digital economy, increased transparency on platforms' practices and uses is needed. A European initiative should be launched on this topic.
- Last but not least, **fostering cybersecurity.** A coherent EU cyber security policy must continue to support Member States in the development of their cybersecurity capacities, promote and maintain awareness, education and research as well as a strong and innovative cybersecurity industry. European ICT-security certification is the key to protecting critical infrastructures, governmental data and citizen data alike.

Among other measures, Member States need to establish and coordinate educational and awareness-raising campaigns as well as supporting the development and generalization of cybersecurity training in universities and in earlier curricula. Also, they should foster a culture of responsible vulnerability disclosure as well as a culture of clear incident reporting rules.

In particular, in relation to the fight against terrorism, it is essential to improve coordination and common understanding among stakeholders, maintain a constant dialogue with Internet service providers in order to speed up and develop automatic detection and elimination of pro-terrorism contents of the Internet, including through legislative measures at the EU level if necessary, and to facilitate access of competent authorities to relevant data, including enabling our security authorities to handle encrypted communication technically and legally in a compatible way with cryptography in general. It is also necessary to prevent radicalization, for example by pursuing indoctrination and dissemination of propaganda, training manuals and other terrorism-related materials, via the Internet or electronic communications services. A secure European net-environment requires that both public and private entities are well equipped to face cybersecurity challenges, including by establishing public private partnerships.

Finally, fostering the security of our citizens on the network and respecting our fundamental freedoms is a key objective of the European cybersecurity policy. Therefore, we welcome initiatives to improve information exchange and coordination among Member States, and stand ready to examine how best the recent Commission's initiatives can support national efforts in this area.