

VIEWS ON THE DIGITAL SINGLE MARKET STRATEGY

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AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled €2 trillion in 2014 and directly supports more than 4.3 million jobs in Europe.

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American Chamber of Commerce to the European Union (AmCham EU)
Avenue des Arts 53, B-1000 Brussels, Belgium
Register ID: 5265780509-97
Tel: +32 (0)2 513 68 92 | www.amchameu.eu

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Secretariat Point of Contact: Roger Coelho; rco@amchameu.eu +32 (0)2 289 10 18

AmCham EU is supportive of the broad goals and objectives of the Digital Single Market (DSM) Strategy (hereafter the Strategy) presented by the European Commission; we support the removing of regulatory walls and the movement from 28 national markets to a single EU one. Technologies are revolutionising the way we live, work and do business. Recognizing that a digital transformation of the economy is taking place is crucial in addressing its obstacles, such as abolishing fragmentation and barriers. As the Commission has rightly identified, the digital sector is key to unlocking growth. Here are some of our initial observations.

Openness and the global digital single market

- We firmly believe a successful completion of the Strategy could strengthen the international competitiveness of the digital sector in Europe. To fully leverage its potential, it has to be integrated into the global digital market.
- Great care should be taken that any new EU policy or regulation does not create new barriers, regulatory or otherwise, for trade amongst Member States and between Member States and international markets.
- We welcome the acknowledgement of keeping the EU internal market open so companies can grow internationally, while also becoming itself even more attractive for global companies. We agree with the objective for the EU to press for the same openness from trading partners, as barriers to global digital trade affect European companies who are the world's first exporters of digital services.

Smart Regulation

- The Digital sector is evolving rapidly, it is important that government and industry work together to create flexible and non-prescriptive frameworks that support innovation and attract investments, instead of inhibiting them.
- For innovative and evolving services to emerge and thrive in Europe it is key to avoid imposing strict ex ante regulation. In those cases where regulation is deemed necessary because market failures cannot be dealt with by normal regulatory oversight or competition law, it should be proportionate to risk. Policies need to be applied in a technology and service neutral manner.
- New realities need fresh thinking, not a reapplication of legacy rules. Any regulatory reform/modernisation should be evidence based.

Telecoms Review

- Significant upgrades in Europe's fixed and mobile networks will be needed to meet the needs for higher capacity and to provide connections for more diversified types of devices, services and applications.
- AmCham EU supports a review of the telecoms regulatory framework that incentivises investment in high-speed broadband networks. Stimulating investment in networks should be the primary goal of the review of the EU telecoms framework. We welcome the pragmatic plan to develop a more harmonised spectrum management approach that can ensure more consistent EU-wide objectives and criteria for spectrum assignment at national level.

Security and Privacy

- The Strategy mentions the draft Network and Information Security Directive (NIS Directive) and the draft General Data Protection Regulation (GDPR) as important steps forward in reinforcing trust and security in Europe. These need to be outcome-oriented and flexible enough to keep pace with technological developments. At this stage, we still have concerns that this will not be the case.
- Privacy laws need to be globally consistent and clear to enable businesses, consumers and citizens to fully leverage new and innovative technologies and services.
- AmCham EU recognises the importance of pursuing efforts to improve cybersecurity in Europe. We believe that public-private cooperation is and will remain the most effective methodology in this area. We look forward to contributing to the work of the new Public-Private Partnership on Cybersecurity announced for 2016.
- The objective for Europe should not be to try to devise local solutions to a global problem, but to foster and support the best possible cooperation of all relevant stakeholders and the dissemination of best available solutions irrespective of borders. We believe the work should focus on the desired outcomes and on the most effective ways to achieve them, as opposed to who should achieve them. We strongly believe that cybersecurity is a responsibility shared globally between the public and private sectors.
- The Strategy calls for the removal of any unjustified barriers within the internal market therefore cybersecurity must not be used as a pretext to erect new barriers, whether within or at the external borders of the DSM.

Data flows and Cloud

- AmCham EU strongly welcomes the intention to review barriers to the free flow of data within the EU. To that end, we support the move to address unjustified national data localization requirements under the '*free flow of data initiative*'. We are keen to provide our input into this process.
- The European Commission should also consider the international context and the free flow of data outside of the EU. Such flows should of course happen in accordance with EU law; when they do, through Safe Harbour, Binding Corporate Rules, Model Clauses or other adequacy rulings. Data flows should not be hindered or limited under national localisation requirements. We encourage the Commission to continue negotiations with the US for a successful conclusion of the Safe Harbour Review, which is still intrinsic to EU-US commercial data flows.
- With regard to Cloud, AmCham EU recommends continuing the current approach which permits some self-regulation and voluntary measures. A balance should be found between the interests of all the industry stakeholders. The existing work on Cloud that the Commission is pursuing is unfortunately not referenced in the Strategy and therefore creates uncertainty over its future. We believe this needs to be clarified.

Standardisation and interoperability

- Standardisation and interoperability are key to building the digital economy. The Commission and Member States have a role to play in promoting interoperability as a public policy goal, helping to map new priorities and fostering companies' technology contributions to standardisation. The market-led approach has achieved enormous success and this model needs to be preserved, including in the global context.
- While several standard-setting bodies are currently developing new technology standards for emerging and leading-edge technologies, the role of the industry-led standardisation system in developing global high-quality standards remains important. A careful assessment is, however, needed in order to avoid conflicting standardisation developments on big data, Internet of Things, cloud and cybersecurity.

Skills

- The development of skills, including those required to thrive in the digital economy, are critical. In order to further advance the skills agenda the Strategy should clearly set out the direction to be taken on digital skills in the upcoming Skills for Employability and Competitiveness initiative.

e-Government

- We welcome the inclusion of e-Government in the Strategy as an area where the EU can clearly add value to the work already ongoing in EU Member States. Promotion of cross-border services and common underlying principles such as the “once-only principle” and “Open Data” will help provide greater scale in the market for e-government services. However we believe that the European Commission has a greater role to play in identifying ways in which digital government services can adopt best practices from the private sector to deliver engaging digital experiences that citizens want to use in preference to other channels, in support of cost efficiency and quality of service.

AmCham EU strongly believes the Digital Single Market holds great potential. As an Association representing over 140 members and supporting €2 trillion investment in Europe, we look forward to being a strong partner of the European Commission, Member States and European Parliament in delivering the promises of the EU Single Market to consumers and businesses. AmCham EU will participate in any follow-up consultations the Commission may undertake on some of the policy measures being contemplated. Our detailed views on the DSM can be found [here](#).