

EU Digital Single Market Strategy

IBM Point of View

The objective of the EU Digital Single Market Strategy (DSM) presented on May 6, 2015, is very clear: allowing 500 million EU citizens and millions of large and small businesses to live and operate cross border in the digital world as they would in the physical world.

This is an objective that IBM fully supports and looks forward to contributing in a positive and constructive way towards achieving it. IBM Europe has recently posted a blog on the EU's Digital4EU website that summarizes IBM's position:

<http://ec.europa.eu/futurium/en/content/why-digital-single-market-needs-make-europe-global-digital-player-ibm>

The European Union has removed most barriers to physical trade between its Member States but online still has far too many obstacles. Only 15% of European consumers say they have ever crossed an EU border while shopping online, only 17% of SMEs in the EU sell online and only 7% sell cross-border to other EU countries. Only 4% of internet traffic from EU countries goes to online services in another European country, whereas 54% of it goes to services in America. Less than 4% of all video-on-demand content in the EU is accessible cross-border.

Once completed the DSM will enhance consumer choice and add €415 billion to the economy.

Equally importantly, the DSM will strengthen the international competitiveness of the European digital sector. The global context must remain at the forefront of the DSM strategy and any form of protectionism must be avoided.

DSM - Potential impact on IBM

The DSM is built on three pillars:

- (1) better access for consumers and businesses to digital goods and services across Europe;
- (2) creating the right conditions and a level playing field for digital networks and innovative services to flourish;
- 3) maximising the growth potential of the digital economy.

Within the three pillars there are a number of areas of interest to IBM:

- eCommerce

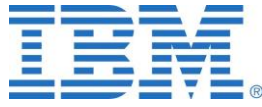


- Copyright
- Digital platforms
- Cloud
- ICT standards
- ISP intermediary liability
- eGovernment

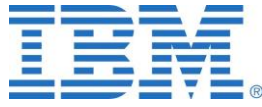
As a general principle, we welcome the cautious approach chosen by the European Commission towards regulation. The Digital sector is a new sector with new technologies that evolve rapidly, it is therefore important to create a framework that supports innovation instead of inhibiting it. Clearly in many areas more concrete evidence is required and analysis is conducted before deciding on the next steps.

More specifically:

- **Digital Platforms** – the European Commission expresses concern about possible market dominance of large Digital Platforms. The EU has announced a sector inquiry in the e-commerce sector and will look into practices of certain players (transparency, price comparisons, etc.). There are also moves to regulate ex-ante more widely, strongly supported by several Member States. At this stage the Commission has decided to collect more evidence (and await the outcome of the related competition cases) before deciding on the next steps.
 - IBM believes that a more cautious approach is appropriate since this is a very fast moving space. At the moment there is no clear definition of what a "digital platform" is and how the market functions – both of which are important elements before deciding on intervening.
 - IBM is also concerned with a potential "one-size-fits-all" approach to the consumer internet and other cloud services as this could have a spill-over effect and act as a brake on innovation in areas such as the Internet of Things and Platform as a Service.
- **Copyright** – one of the main focal points of the European Commission with regard to Copyright is to remove so called "geo-blocking" where this impedes on citizens' rights to access content they have subscribed to in one EU geography from another. For now, there is no move to fundamentally reform copyright law (such as touching on the Software Copyright Directive).
 - IBM believes that this light touch approach to reforming copyright is appropriate



- IBM supports the intention to adapt the legal framework to introduce more legal clarity on Text and Data Mining, which is important for the further uptake of big data and analytics in key areas such as government services, healthcare and retail.
- **Cloud** – the European Commission wants to continue an open and interoperable approach to Cloud ('free flow of data' initiative) which we fully support. However, there are concerns over contract terms, certification and data portability which could result in regulation later in this Commission's term. IBM is currently deeply engaged in various industry led Cloud Specific Interest Groups with the Commission on these topics which was started under the former Commission's Cloud Strategy.
 - IBM recommends continuing the current approach which allows for a degree of self-regulation and voluntary adherence to principles and standards such as in the proposed Code of Conduct on Data Privacy for Cloud providers.
 - The existing work on Cloud that the Commission is pursuing is unfortunately not referenced in the DSM and therefore creates uncertainty over its future. IBM calls for this to be clarified. Industry has invested heavily through expert resources to build a framework for Cloud.
 - We strongly welcome the move to address unjustified national data localization requirements under the 'free flow of data' initiative.
- **ISP Intermediary Liability** - the European Commission is considering revising the e-Privacy Directive to harmonize the procedures for removing illegal content across the EU or establishing additional responsibilities on online companies to monitor and verify the resilience of their systems against illegal content. If the current principles are changed then this could have an impact on IBM, as we host applications for clients.
 - IBM does not support an extension of the ISP Intermediary Liability to Cloud providers
- **Standards** – the Commission wants to identify key missing ICT standards and mandate EU standardization bodies to act quickly in developing those. This could result in European level standardization on big data, IoT, cloud and cybersecurity. Several standards-setting bodies are currently developing new technology standards for emerging and leading-edge technologies at a global level and therefore a careful assessment is needed in order to avoid duplication of efforts or conflicting standardization developments. Unique European standards will isolate European companies from the global market and risk impeding on the development of European expertise in areas such as Industry 4.0. Europe plays a leading role in global and international standardization with experts from Europe being active in lead roles in the respective technical bodies driving for market-led, global high-quality standardization.
 - While we do not oppose the EU's objective of promoting standards, it is important to make sure that primacy is with global and international, market driven



standards

- **International dimension** – the Commission acknowledges the importance of keeping the EU internal market open so companies can grow beyond the EU and the EU becomes even more attractive for global companies. In international relations the EU will also press for the same openness from trading partners, because barriers to global digital trade affect European companies who are the world’s first exporters of digital services.
 - IBM very much supports such an approach. Policies introducing limitations on data flows and forcing data storage in a particular location are increasing in number around the world. Bilateral, plurilateral and multilateral trade agreements should contain horizontal provisions that prevent the introduction of barriers to digital trade.

In conclusion, the European Commission's Digital Single Market Strategy is a good balance between benefitting the consumer and helping businesses compete in the digital sector in the international arena. At IBM we recognize the effort adhering to the Better Regulation principles to carry out further analysis and consultation before moving to the next phase.

Furthermore, companies from all sectors, large and small, aspire to compete internationally. The Digital Single Market holds great potential to support those aspirations as long as the European approach is compatible with the international market. As one of the largest IT employers in Europe - and operating in Europe for over 100 years - we look forward to being a positive partner of the European Commission, Member States and European Parliament in delivering the promises of the EU Single Market to consumers and businesses.