



RECOMMENDATIONS TO THE BULGARIAN EU PRESIDENCY

The Bulgarian Presidency of the Council of the EU will lead negotiations on legislative proposals which will impact Europe's digitised economy for years to come. The recommendations below outline how to achieve a thriving European Digital Single Market.

Telecommunications: Encourage investments, competition, and innovation

The new European telecommunications framework should encourage investments, competition, and innovation. The review of the electronic communications code should simplify the current complex regulatory system, ensure greater predictability and increased consistency in spectrum licensing, and remove unnecessary regulation. Changing the threshold for regulatory intervention risks creating uncertainty and discourages investment. EU proposals to regulate interactive apps would fragment the EU single market, raise consumer prices and make market entry harder.

ePrivacy: Protect users and innovation

The EU's "ePrivacy" review should seek to minimize the number of obligations to prevent legal confusion in processing personal data, including communications data. It should therefore align with the newly approved General Data Protection Regulation. Restrictions, beyond those in the GDPR, on processing communications data, metadata, and machine-to-machine data risk unintended consequences. Cybersecurity updates may be missed when relying on an affirmative consent regime and third-party advertising revenue for publishers, small and medium-sized enterprises, and app developers might suffer. Finally, the proposal should not introduce backdoors to the encryption of online services, which would create new vulnerabilities and harm customer trust.

Copyright: Reform for the future and maintain online liability protections

The EU's e-Commerce Directive remains one of the most important laws for Europe's Internet economy. All platforms hosting third party content benefit from its liability protections. The proposed EU copyright legislation, however, dangerously undermines these protections and mandates filtering technologies. The proposal also creates an additional layer of rights for publishers related to the online usage of news content, undermining media pluralism. Other businesses, such as cloud infrastructure services and internet service providers, are also unduly captured under the scope of the proposal, and it is not clear how filtering systems would technically be implemented at this level. Furthermore, they would be in direct contradiction to the ePrivacy review as they would entail the processing of all communications data uploaded to their services. This proposal is therefore detrimental to the EU Single Market, to users' fundamental rights and, more generally, to innovation and investments in Europe's digital economy. Bulgaria should support a copyright reform fit for the digital age.

Preserve the Single Market in the review of EU audiovisual rules

The media industry has flourished under the EU's existing audiovisual rules. Unfortunately, the new EU proposal introduces new measures such as levies and European content quotas for media service providers. New rules for video-sharing platforms and social networks would moreover undermine the e-Commerce Directive. These provisions would fragment the EU Single Market and hold back investments and European start-ups. Bulgaria should support an audiovisual reform that respects the country of origin principle and the key principles of the e-Commerce Directive.



E-commerce restrictions hurt Europe's digital economy

The so-called "platform bans" hamper the development of pan-European e-commerce. Manufacturers often prohibit their authorized resellers from selling tangible goods over platforms such as Amazon or eBay. These bans are often unjustified and hurt consumers, which has led some national competition authorities to take action. More policymaker attention to these restrictions is needed.

New VAT rules should reduce bureaucracy for small European businesses

The proposed revision of the EU Value Added Tax (VAT) framework introduces new administrative burdens on tens of thousands of exporting European micro-businesses. Most worrisome is the proposed pan-European, low 10,000 Euro threshold for applying foreign VAT on cross-border sales. Once a seller has sold 10,001 Euros worth of goods to other EU countries, he or she will have to comply with 28 different national VAT rates for all subsequent sales in the EU. An alternative, equally ill-designed approach is to make online marketplaces liable for collecting and remitting VAT on behalf of their business users. Such an approach is practically not feasible, as many marketplaces act as mere technical intermediaries connecting buyers and sellers, without necessary product knowledge, control over financial flows, or physical control of the traded products.

Quick adoption of proposal on the free flow of non-personal data in the EU

Companies, such as Bulgarian startups, are increasingly hindered from doing business in other EU Member States due to national data localisation requirements. These rules fragment the EU Single Market, increase prices, and lower Europe's competitiveness. We therefore welcome the European Commission's ambitious legislative proposal and encourage the Council and European Parliament to adopt it as quickly as possible.

Implement the Tallinn Declaration on eGovernment

The recent Tallinn Declaration reasserted the Council's commitment for the 'public sector to lead digital transformation' across Europe. The Bulgarian Presidency can play an important role in (i) ensuring the effective implementation of a number of existing EU legal tools; (ii) sharing national success stories by bench-marking important success factors and standards, and, (iii) elaborating and advancing new procurement guidance related to digitisation. The successful rollout of transformative eGovernment will provide an immediate boost to Europe's digital economy.

Trade: The EU Single Market is only be the beginning...

The Internet enables companies, big and small, to export to the rest of Europe – and the rest of the world. European companies however, face digital trade barriers when trying to do businesses in third markets. The EU should proactively use its ongoing trade negotiations to address barriers related to data flows, data localisation, source code, encryption, intermediary liability protections and discrimination in access to communications networks.

We look forward to contributing to a successful Bulgarian Council Presidency!