

---

# Digital Single Market strategy: first impressions

11 May 2015

---

## 1 Digital Single Market

The European Commission has a vision for a Digital Single Market (DSM) in which, irrespective of their nationality or place of residence, individuals and businesses can seamlessly access products and services online, under conditions of fair competition while maintaining a high level of consumer and personal data protection.

Announced on 6 May 2015, the Commission's strategy introduces a framework for realising the DSM, which is expected to promote innovation, growth and jobs throughout Europe. Alongside this strategy, a separate, but complementary, [sector inquiry](#) will focus on barriers to cross-border trade set up by companies supplying goods and services online.

### 1.1 What are its goals?

The DSM strategy is built around three pillars for change.

1. Improving 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.

### 1.2 And its key themes?

Under these three strategic pillars, 16 actions are set out, which the Commission aims to deliver by the end of 2016 (see [strategy](#)). Although the actions each focus on a different part of the digital value chain, they are inter-related with a number of key themes running throughout.

Oxera Consulting LLP is a limited liability partnership registered in England No. OC392464, registered office: Park Central, 40/41 Park End Street, Oxford, OX1 1JD, UK. The Brussels office, trading as Oxera Brussels, is registered in Belgium, SETR Oxera Consulting Limited 0883 432 547, registered office: Stephanie Square Centre, Avenue Louise 65, Box 11, 1050 Brussels, Belgium. Oxera Consulting GmbH is registered in Germany, no. HRB 148781 B (Local Court of Charlottenburg), registered office: Torstraße 138, Berlin 10119, Germany.

Although every effort has been made to ensure the accuracy of the material and the integrity of the analysis presented herein, the Company accepts no liability for any actions taken on the basis of its contents.

No Oxera entity is either authorised or regulated by the Financial Conduct Authority or the Prudential Regulation Authority. Anyone considering a specific investment should consult their own broker or other investment adviser. We accept no liability for any specific investment decision, which must be at the investor's own risk.

© Oxera, 2015. All rights reserved. Except for the quotation of short passages for the purposes of criticism or review, no part may be used or reproduced without permission.

---

- **Harmonisation of EU rules and administration:** for consumers making online purchases, the Commission plans harmonised rules for digital content and EU-wide contractual rights for tangible goods. For businesses, the Commission plans a simplified VAT regime for cross-border sales and reduced regulatory fragmentation, supported by improved e-government services.
- **Increased market integration:** at the content level, the Commission plans an overhaul of the copyright regime to facilitate cross-border access in the digital environment. At the retail level, it opposes 'unjustified' geo-blocking by online sellers and services providers that facilitates differentiated pricing. And at the distribution level, it plans improved price transparency and regulatory oversight for cross-border parcel delivery.
- **Fit-for-purpose regulation for digital businesses:** in the media sector, the Commission plans to review the scope of existing regulation to ensure it keeps pace with technological changes and viewing trends. For online platforms, it plans a comprehensive review of its business practices including: advertising transparency, the use of consumer data, market power, consumer lock-in, and intermediary liability.
- **Privacy:** the Commission is committed to ensuring that the high level of personal data and privacy protection required to invoke trust by consumers is enshrined in European law. This includes reviewing the scope of existing law to ensure that emergent, as well as traditional, communications providers are included.
- **Investment, innovation and interoperability:** at the infrastructure level, the Commission plans a complete overhaul of the EU telecoms regulatory framework, with a focus on consistent spectrum policy and management, and improved incentives for next-generation network investments. At the device level, it will seek to promote the development of standards in key areas (such as e-health, transport and energy), and the fair adoption of standard-essential patents. Its 'Free flow of data' initiative aims to address restrictions on the movement of Big Data and issues of data ownership.

### 1.3 How can economics help?

One issue online businesses could face as the Commission pursues its market integration and privacy goals is a reduced ability to undertake differentiated pricing strategies. Many online services and retailers make use of data such as consumer location or purchase history when setting prices or making purchase recommendations. Economics recognises that, in certain circumstances, these strategies can be welfare-enhancing for consumers, by ensuring online firms earn enough to recover their fixed costs (securing the continued operation of their services) while still maximising access for European citizens. (For further details, see Oxera's *Agenda* article on the economic aspects of differentiated pricing by online businesses, 'The Cloud, or a silver lining: differentiated pricing in online markets', forthcoming, May 2015.)

Furthermore, the precise effects on consumers are highly market-specific, requiring detailed data-driven analysis before robust conclusions can be drawn. It would be insufficient simply to read the impact of differential pricing across from one online market to another—for example, the effect in online digital media markets will be notably different from that in online car-hire bookings. To do so would risk unintended consequences of the policy change that actually erode consumer welfare.

Similarly, as the Commission considers a fit-for-purpose regulatory environment

---

for digital businesses, a number of important questions will be raised. First, given the fast-moving, innovative nature of most online markets, a question remains as to whether ex ante regulation is necessary, or whether ex post competition enforcement may be more appropriate. In contemplating this, the Commission must identify a well-defined source of market power that the proposed regulation seeks to address—a complex task given the particular features of digital business and online platforms (network effects, two-sided markets, ongoing innovation), but one which the insights and tools of economics are ideally suited to tackle. Additionally, before any regulatory remedies are imposed, a thorough economic assessment should be undertaken to ensure that the suggested remedies are both effective and proportionate.

Finally, in tackling investment, innovation and interoperability the Commission's plans touch on several inter-related areas of policy—such as network regulation, competition policy, consumer protection and data privacy. This introduces tensions where different policy objectives do not necessarily support the same actions, and trade-offs need to be made. For example, further strengthening Europe's data protection and privacy regulations could hinder the growth of Big Data analytics, which offers the potential for social benefits as well as business innovation and growth. A careful consideration of the most likely counterfactuals, including an assessment of the potential for welfare enhancements, will help prevent these changes foreclosing other opportunities.

#### **1.4 Oxera and digital markets**

Oxera has a deep understanding of the economics of digital markets, as well as being at the forefront of the economic policy debate in this area. [Agenda](#), our monthly publication of leading economic thinking, has recently featured articles on the [economics of privacy](#) and [pricing clauses used by online platforms](#), and [cross-border pay-TV](#). Furthermore, at the March meeting of the [Oxera Economics Council](#) in Brussels, the discussion focused on the prevalent economic issues arising in online markets, such as differential pricing across European borders and the use of personal consumer data collected online. We will continue to contribute actively to this debate with a series of forthcoming articles and seminars. Our experts would also be happy to discuss any specific issues that might be relevant to your business.

**Contact:** [Felipe Flórez Duncan](#) or [Gareth Shier](#)

---