Policy Brief

Five measures for better policy-making in a digital Europe

25th February 2019

To become a world leader of the digital transformation, Europe needs the right institutional framework and governance to deliver on its ambitious policies and to remove roadblocks. In the following, we present a non-exhaustive range of measures, based on suggestions from our recent paper "Towards European Leadership on Innovation - Recommendations for the next Digital Single Market". By adapting its governance mechanisms, we believe the European Commission and Parliament can improve the coherence of their policy-making in the digital sphere and ensure an innovation-friendly, future-proof and legally sound policy framework.

A Digital Impact Assessment

Any future digital strategy should involve an assessment of all prospective policies with regard to their adverse impact on the digital competitiveness of the Union. A concrete measure to this end would be the introduction of a mandatory digital dimension in the impact assessment of new legislative initiatives. Already, the impact assessment report for each new legislative proposal must include a description of the environmental, social and economic impact of a potential legislative initiative, including the impact on small and medium enterprises and competitiveness. This assessment also needs to include an explicit statement if any of these are not considered significant.

Impact on the digital policy priorities of the Union should become an equally important marker for each impact assessment across all Directorate-Generals, reflecting the horizontal nature and importance of digital policy and the inevitable digital transformation of our economy and society. The assessment should be conducted according to a set number of principles, which could include technology neutrality, interoperability and the innovation principle.

The Regulatory Scrutiny Board

Besides considering a policy's effect on the digital priorities of the Union in each impact assessment, the responsibilities of the Regulatory Scrutiny Board should also be strengthened. The Scrutiny Board already assesses the quality of each impact assess-

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ment report and the coherence of a policy with the regulatory framework, but its tasks should be extended to account for the greater need for coordination in the digital realm, especially regarding policies drafted by different Directorate-Generals. At present, the Regulatory Scrutiny Board examines and issues opinions on the quality of draft reports relating to: impact assessments (developed during the preparation of new initiatives), major retrospective evaluations of a single policy or law, and fitness checks of multiple policies and laws.

In line with our proposed changes to impact assessments, the Regulatory Scrutiny Board should include a section on the compatibility of a law or policy with the digital agenda of the Union. This should serve the overarching goal of ensuring the coherence of both the existing regulatory framework and future policies across all policy areas, and help account for the cross-cutting nature of the digital transformation. Wherever applicable, the Regulatory Scrutiny Board should also consult with a technical expert for in-depth assessment of the functioning of a given technology within the scope of a scrutinised proposal.

Digital Regulatory Fitness and Performance (Digital REFIT)

The Regulatory Fitness and Performance (REFIT) programme was established in 2012 to simplify EU legislation, reduce friction and improve performance of the existing body of EU law. This initiative, which has been successfully applied to a range of legislative areas, should also be extended to key technologies like AI, 5G, Distributed Ledger Technologies, or 3D Printing. Leadership in technologies like these is vital to ensure European competitiveness in the digital age, and a coherent, supportive legislative framework is therefore particularly important in this context. This ex-post assessment of regulation could serve as a vital complement to the ex-ante scrutiny of the Impact Assessment and the Regulatory Scrutiny Board. A digital REFIT should also aim to support the Commission's existing action plans, strategies and communications related to the digital economy, e.g. the fintech action plan, the third mobility package, and the coordinated plan on artificial intelligence.

A comprehensive regulatory fitness check in these fields should aim at reducing the regulatory burden for innovative companies and business models in existing legislation. A REFIT aimed at improving existing regulation would perfectly complement the digital impact assessment, which aims at assessing prospective regulation. As is the case with the present REFIT platform, which is chaired by Commission First Vice-President Timmermans, responsibility for the technological REFIT initiatives should lie with the highest political level. By making the digital REFIT an integral part of the political agenda of the EU, the Commission would send an invaluable signal to entrepreneurs and innovators that the digital sector is at the heart of its agenda.

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A European Representative for Digital Policy

Simplifying the representation of its digital policy interests in the European and international arena should be a second priority for the Commission. To this end, the EU should follow the example set by several of its Member States and establish a representative office to reflect its digital ambitions.

A digital representative should be the Commission's external voice on digital affairs and have the crucial task of raising awareness and explaining the Commission priorities to the general public and other stakeholders on a national, European, and international level. Ideally, this digital ambassador would serve as a direct link between the general public and the heart of the Commission, bringing EU policy-making closer to the citizens, while also globally representing European confidence in its "digital third way" between the US and China. A role model for this function could be the Danish tech ambassador Casper Klynge, whose efforts have significantly strengthened Denmark's voice in digital affairs across the globe. The Representative for Digital Policy would ideally sit with the College of Commissioners regularly, and report directly to the Commission President. This should enable the representative to contribute concrete insights from the field (by citizens, businesses, third countries, and other stakeholders like NGOs) to policies in the digital sphere drafted by their colleagues in the College of Commissioners.

Digital Policy Spokespeople in the European Parliament

The European Parliament should also take steps to facilitate the coherence of digital policy-making on the European level. Each European political group should consider appointing a digital policy spokesperson to coordinate their group's positions on digital policy in the various Parliament committees, following the example set by the German Bundestag. These digital policy speakers could not only serve the party-internal coordination of policies, but could also be the first point of contact on digital issues for the other European institutions and stakeholders.

Bitkom represents more than 2,600 companies of the digital economy, including 1,800 direct members. Through IT- and communication services alone, our members generate a domestic annual turnover of 190 billion Euros, including 50 billion Euros in exports. The members of Bitkom employ more than 2 million people in Germany. Among these members are 1,000 small and medium-sized businesses, over 500 startups and almost all global players. They offer a wide range of software technologies, IT-services, and telecommunications or internet services, produce hardware and consumer electronics, operate in the digital media sector or are in other ways affiliated with the digital economy. A strong European digital policy and a fully integrated digital single market are at the heart of Bitkom's concerns, as well as establishing Germany as a key driver of digital change in Europe and globally.