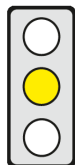


KEY ISSUES

Objective of the Communication: The Commission wants to push ahead with the digitisation of European industry.

Affected parties: Industry, research facilities.



Pro: (1) The free flow of data within the EU can lead to significant cost reductions. It is therefore appropriate to remove localisation requirements in Member States.

(2) Uniform EU-wide safety and liability rules for new digital technologies allow for legal and planning certainty. They should be introduced as early as possible.

Contra: As a rule, public funds should not be channelled into "Digital Innovation Hubs".

CONTENT

Title

Communication COM(2016) 180 of 19 April 2016: **Digitising European Industry:** Reaping the full benefits of a Digital Single Market

Brief Summary

► General Background

- In May 2015, the Commission submitted its Communication "Digital Single Market Strategy" [COM(2015) 192]. The third pillar of this strategy deals with "maximising the growth potential of the digital economy" (see [cepPolicyBrief](#)).
- In April 2016, the Commission submitted four Communications for the third pillar on the following subject areas:
 - Digitising European Industry (this [cepPolicyBrief](#)),
 - European Cloud Initiative [COM(2016) 178; [cepPolicyBrief](#) to follow],
 - ICT Standardisation Priorities for the Digital Single Market [COM(2016) 176; [cepPolicyBrief](#) to follow] and
 - EU eGovernment Action Plan [COM(2016) 179; [cepPolicyBrief](#) to follow].

► Digitising European Industry: Context and objectives

- According to the Commission, investments in ICT-related products in the EU amount to about a third of those made in the US. Small and medium-sized enterprises (SMEs) in particular are "seriously" lagging behind when it comes to digital innovations. (p. 4 and 5)
- The Commission wants to increase the attractiveness of the EU for investment in the development of digital products, e.g. devices and software for consumer markets and internet platforms (p. 5).
- Digital innovations open up "key parts of the value chain" for new competitors such as data or web platforms. EU companies are therefore increasingly concerned that "a major part" of value creation could relocate to these platforms. (P. 5)
- Digitisation brings new "regulatory challenges" relating to e.g. ownership of data, liability when using autonomous systems and safety in interaction between humans and smart devices (p. 5).
- Employees in the EU lack "digital skills" (p. 5).
- In view of these findings, the Commission suggests changes in the following areas in order to encourage EU competitiveness in the area of digital technology and to enable businesses to make use of digital innovations (p. 6):
 - development of "digital innovation hubs",
 - promotion of public private partnerships (PPPs),
 - adapting the regulatory framework conditions,
 - social aspects of digitisation.

► Development of "digital innovation hubs"

- Digital "competence centres" - such as technical universities and other research facilities - are of great importance to industry, especially for SMEs, for testing digital innovations prior to any investment (p. 8).

- The Commission wants to turn digital competence centres into "Digital Innovation Hubs" and link them up across the EU. This will give rise to one-stop-shops for the latest digital technologies. (p. 8)
- The Commission wants to support "digital innovation hubs" over the next five years with € 500 million from the EU programme for research and innovation, Horizon 2020. The Member States will contribute € 5 billion. (p. 8)

► **Promoting public private partnerships (PPPs)**

- Public-private partnerships (PPPs) can inter alia (p. 9 and 12)
 - facilitate the implementation of "EU-wide digital industrial strategies" and
 - more effectively link up research, development and innovation (R&D&I) with standard setting.
- The Commission considers it to be particularly important to support digital platforms, these are multi-sided market gateways for various groups of economic actors (p. 10).
 - Some digital platforms combine digital technologies such as the Internet of Things, big data and cloud computing as well as autonomous systems in order to offer cross-sector solutions.
 - Other digital platforms bring together digital solutions for one specific sector. Thus platforms for the "Connected Smart Factory" can improve manufacturing processes or facilitate connected and automated driving.
- PPPs for digital industrial innovations will be supported in the next five years with € 35 billion. This sum will be made up of (p. 10)
 - € 5 billion from the EU's Horizon 2020 Programme,
 - € 15 billion from "industry",
 - € 15 billion from the Member States.

► **Adapting the regulatory framework conditions**

- The rapid development of digital technologies "may" require modernisation of the legal framework conditions. The Commission therefore wants (p. 12 - 13),
- in 2016, in an initiative on the free flow of data in the EU, to
 - remove or prevent "unjustified" national rules ("localisation requirements") requiring the local storage of certain data and
 - "examine" rules on data ownership, access to data and on the interoperability and re-use of data, including industrial data;
 - assess rules on safety and liability as well as the legal conditions to allow "large scale testing in real life environments" for
 - autonomous systems such as self-driving cars and drones (see [ceplinput](#) on drones) and
 - applications for the Internet of Things such as the tracking of parcels via the internet,
 - examine the safety of apps and "other non-embedded software" not covered by specific legislation.

► **Social aspects of digitisation**

- According to the Commission, digital transformation is structurally changing the labour market and the nature of work. The Commission wants to address the resulting challenges by way of (p. 14 and 15)
- a social dialogue with the Member States, industry, social partners and "training providers" and
 - greater involvement of industry and research organisations in spreading digital skills.

Policy Context

The EU Commission sees the completion of a Digital Single Market as one of the priorities of its period of office. In May 2015, it presented a Digital Single Market Strategy [COM(2015) 192, [cepPolicyBrief](#) on maximising the growth potential of the digital economy].

Options for Influencing the Political Process

Leading Directorate General:	DG Communications Networks, Content & Technology
Leading Committees of the EP:	Industry, Research and Energy, Rapporteur: TBA
Leading Federal Ministry:	Federal Ministry for Economic Affairs and Energy
Leading Committee of the BT:	Committee for Economic Affairs and Energy

ASSESSMENT

Economic Impact Assessment

With an interlinked EU-wide network of "Digital Innovation Hubs", small and medium-sized enterprises in particular will be able to develop digital innovations more easily. **As a rule, public funds should not be channelled into such "Digital Innovation Hubs"**. Investment in digital innovations undoubtedly involves a high level of uncertainty for companies about the chances of realisation and marketing, but, if successful, they may benefit from the pioneer advantage. They should therefore bear the entrepreneurial risk of failure. Exceptions should only be made for basic research or application-based research bordering on basic research because that is where private sector financing is unlikely.

Public-private partnerships (PPPs) may be appropriate, in principle, to activate public investment but they must on no account be used as a way to shift the risks associated with investment to public budgets. Where digital industrial innovations can be financed in the private sector, PPPs should not be used. Only the cost of basic research or of supporting standardisation processes should be financed via PPPs if necessary.

"Localisation requirements" in Member States currently prevent data from being stored, processed or used where this can be done most efficiently. Economies of scale arising from large-scale data processing (big data) cannot be optimised either. **The free flow of data within the EU can lead to significant cost reductions.** It is therefore appropriate to remove localisation requirements in Member States, as envisaged by the Commission. However, many of the alleged barriers to the free flow of data are not purely legal in nature. Differences in data protection, the protection of trade secrets, user confidence or issues of data security also represent obstacles to the free flow of data within the EU. These can only be removed to a limited extent by legislation.

The rapid development of data-based technologies - such as the "Internet of Things" and "big data" - gives rise to questions about the use and ownership of data, especially since it will often be generated without human involvement in the future. Some of these issues can be dealt with by way of contracts between the players in the value chain. Where possible, this private sector approach should take preference over government-imposed rights of ownership or use.

Uniform EU-wide safety and liability rules for new digital technologies such as automated driving and the use of drones, strengthen the internal market and **allow for legal and planning certainty** for manufacturers and users. They should be introduced as early as possible as otherwise the development of new technologies will be hampered or the costs of potential liability will not be given sufficient consideration.

It is undisputed that digitisation of the economy is causing far-reaching changes to European labour markets. Necessary changes to national education and training structures and to the content of training must therefore be examined. In view of the lack of generally applicable solutions, the concrete details of how to approach this, should be decided primarily at national or local level.

Legal Assessment

Legislative Competency

Legislation arising from the Communication can be based, in particular, on the internal market competence (Art. 114 TFEU) and the competence to coordinate national laws on the activities of self-employed persons (Art. 53 (1) TFEU). In the areas of employment, social policy and professional training, it is primarily the Member States who are responsible; the EU can only take supportive and supplementary measures (Art. 145 et seq. and Art. 165 et seq. TFEU).

Subsidiarity

Dependent on the actual design of the follow-up measures. Likely to be unproblematic, however, due to the cross-border nature of the internet.

Proportionality with respect to Member States

Dependent on the actual design of the follow-up measures.

Compatibility with EU Law in other Respects

Dependent on the actual design of the follow-up measures.

Impact on German Law

Dependent on the actual design of the follow-up measures.

Conclusion

As a rule, public funds should not be channelled into "Digital Innovation Hubs". The free flow of data within the EU can lead to significant cost reductions. It is therefore appropriate to remove localisation requirements in Member States. Uniform EU-wide safety and liability rules for new digital technologies allow for legal and planning certainty. They should be introduced as early as possible.