




Von der Leyen’s tasks for the new EU Commission – Part 3

“A Europe fit for the digital age”

		
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On 16 July 2019, Ursula von der Leyen was elected as the new President of the future EU Commission by the European Parliament. On 10 September 2019, she submitted the candidates who are to make up her Commission in the forthcoming 2019-2024 legislative period and who will be confirmed by the European Parliament at the end of October.

This cepAdhoc assesses the main tasks regarding digitalisation, competition law and the internal market which von der Leyen will be entrusting to her proposed Executive Vice President Vestager and the Commissioners assigned to her in the area of Internal Market and (partly) Economy. Sylvie Goulard was originally proposed as Internal Market Commissioner but was rejected by the European Parliament on 10 October 2019.

A Europe fit for the digital age

On 16 July 2019, Ursula von der Leyen was elected as the new President of the EU Commission by the European Parliament. On 10 September 2019, she presented the members of her Commission for the forthcoming 2019-2024 legislative period.

Frans Timmermans (Netherlands), Margrethe Vestager (Denmark) and Valdis Dombrovskis (Latvia) will be given a prominent role in the new Commission. They are all Executive Vice-Presidents and will take on a dual function: Firstly, they are each responsible for a core topic and will coordinate the work of the Commissioners that are responsible for that area. Secondly, they are also responsible as specialist Commissioners for their own policy area and will be supported in this regard by the relevant Directorates General of the Commission.

In addition to the three Executive Vice-Presidents, five other members of the Commission will become Vice-Presidents. Three of these – Věra Jourová (Czechia), Margaritis Schinas (Greece) and Josep Borrell (Spain) – will also lead individual groups of Commissioners.






The EU Commission still has to be confirmed by the European Parliament. Firstly, it will hold hearings of the nominated candidates. Parliament will then vote on the candidates at the end of October. On 1 November, the approved Commission will take up its official duties.¹

This cepAdhoc assesses the core policy tasks, relating to digitalisation, competition law and the internal market, which von der Leyen will be entrusting to her future Commissioners. Margrethe Vestager is responsible for the topic of “A Europe fit for the digital age”. She is solely responsible for competition issues and will coordinate the Commissioner for Internal Market who is assigned to her. Sylvie Goulard was originally proposed for this post but was rejected by the European Parliament.






Tasks assigned by the Commission President

Competition	
Vestager	Improve the enforcement of competition law by the Commission in all sectors. The focus in this regard will be on case detection, accelerating investigations and improving coordination with national and international authorities.
	 cepAssessment: Safeguarding competition is a cornerstone of the social market economy. Public enforcement of EU competition law by the Commission is of great importance in this regard. The dynamic nature of today's global economy means that, in cases of abuse of market power, antitrust, merger control and state aid, rapid legal proceedings are crucial to avoid loss of efficiency and the resulting detriment to European companies.
	In cases of market failure and against the backdrop of the EU industrial strategy: apply the rules on state aid in such a way as to safeguard the competitiveness of EU companies . “Better tackle” the distorting effects of subsidies from third countries and the activities of state-owned companies from third countries.
	 cepAssessment: The Commission's task, as competition authority, is primarily to safeguard the process of competition and not the competitiveness of EU companies. Industrial policy considerations should not be mixed together with the enforcement of competition law (cf. cepPolicyBrief).

¹ After the rejection by the European Parliament of Sylvie Goulard, the EU Commission is now expected to take up its duties by December 1st.

	<p>Revise European competition law. This affects antitrust provisions, merger control rules and the rules on state aid.</p> <p> cepAssessment: The economies of scale characteristic of the digital economy, in combination with the growing importance of data, frequently lead to purported market dominance. Although some minor adjustments may be necessary, European competition law is generally able to overcome these problems. The important thing going forward is that competition law should protect competition - not the competitors - and only intervene where a company’s market dominance is unassailable.</p>
Digital issues	
? Vestager ²	<p>Develop a coordinated “European approach” to artificial intelligence (AI) which also takes account of the “human and ethical implications” of AI.</p> <p> cepAssessment: The continuation of the European AI strategy is essential for creating uniform EU-wide rules on AI. In addition, it will coordinate the strategies of the Member States (see cepPolicyBrief). Building on the canon of EU fundamental rights and -values, it is essential to challenge the use of AI, also from an ethical perspective, and to take account of the implications of AI for human beings. A common EU approach to issues involving the ethical legitimacy of AI – which has already been expressed in the publication of “Ethical Guidelines for AI” – will help to avoid fragmentation of ethical requirements for AI along national lines and may strengthen confidence in, and thus acceptance of, AI (see cepPolicyBrief).</p>
? Vestager	<p>Investigate how non-personal data can be used and shared.</p> <p> cepAssessment: The EU internal market is currently underdeveloped as regards non-personal data. A more developed market would facilitate the development of AI in the EU. Most market obstacles are not, however, regulatory in nature but arise e.g. because companies are afraid that by making their data available, they will help their competitors.</p> <p>Submit a legislative initiative on digital services (Digital Services Act) which will update the liability and security provisions regarding digital platforms, services and products.</p> <p> cepAssessment: Operators of digital platforms in the EU are confronted by divergent national measures, such as regarding the handling of hate speech and political advertising. Convergence would reduce costs for companies. The liability of platform operators for content uploaded by users, as introduced by the copyright reform, may result in the use of automatic upload filters. These can also accidentally block legal content. Better control is required to check that platforms comply with valid laws; such as by way of a European authority or closer coordination of national regulatory authorities.</p> <p>Improve Europe’s technological sovereignty: invest in blockchain as well as in the sharing and use of data and in algorithms; set standards for 5G networks and new-generation technologies.</p> <p> cepAssessment: Basically, it is economically inefficient to want to be independent of third-country technologies in all areas (principle of international division of labour). In some areas, dependence may be acceptable or unavoidable whilst in others it may be regarded as too risky. The Commission and Member States should keep inefficiencies to a minimum by carefully defining these areas.</p>

² In this area, Didier Reynders, Commissioner-designate for justice (Renew Europe, Belgium), will also contribute to “legislation on a coordinated approach to the human and ethical implications of artificial intelligence” and thereby ensure that fundamental rights are upheld.

Gentiloni ³ Vestager	<p>Bring about international agreement on the introduction of a digital tax by the end of 2020. If that fails, propose an EU digital tax.</p> <p> cepAssessment: The essence of digital services - i.e. the major importance of intangible assets and the supplier's lack of a physical presence in Member States in which sales are generated - represents a major challenge for tax law. Tax-related distortions of competition to the detriment of non-digital business models should, however, be avoided. Endeavouring first to find an international solution to the problem is the correct approach. This is the best way to avoid the problem being exploited for reasons of protectionism and industrial policy.</p>
Internal Market	
? Vestager (co-led with Dombrovskis ⁴)	<p>Develop a comprehensive long-term industrial strategy for the industrial future of Europe. The strategy will cover all aspects that impact on industry and its competitiveness; from investment and public procurement to trade, from qualifications and innovation to support for small and medium-sized enterprises.</p> <p> cepAssessment: The political desire to increase the competitiveness of European industry is appropriate. On no account, however, must its aim be the state-supported creation of European national champions, which would risk restricting competition in the EU. Giving preference to European companies when awarding public contracts, despite higher prices, weakens the desire of these companies to reform, and places a burden on the public purse. There is a danger that taxpayers' money will be wasted.</p>
? Vestager	<p>Ensure the smooth functioning of the internal market, i.e. enforce the application of common rules and remove existing barriers to trade in goods and services as well as artificial barriers between established and new digital markets.</p> <p> cepAssessment: The internal market still contains numerous barriers (see cepStudy). The removal of these barriers intensifies competition between companies and thus reduces prices for consumers. At the same time, product choice increases. Ensuring uniform application of the Posting of Workers Directive is also urgently required, e.g. by reducing the red tape applicable to the posting of workers.</p> <p>Ensure uniform competition rules in the internal market and prevent subsidies provided by third countries from distorting competition, particularly with regard to procurement.</p> <p> cepAssessment: In order to safeguard European companies against distortions of competition, the EU already imposes anti-subsidy duties on subsidies from third countries. The proposed Regulation from 2012, which was to enable contracting authorities to exclude goods and services from third countries, should not be revived; the proposed exclusion was arbitrary and not confined to countries that distort competition e.g. by way of subsidies. (see cepPolicyBrief).</p> <p>Assess the rules on intellectual property and ensure that they support the competitiveness of the EU and take account of digital developments.</p> <p> cepAssessment: Comprehensive protection of intellectual property is necessary to promote innovation. Currently, such protection is often too expensive and bureaucratic for small and medium-sized enterprises. Digital development makes an examination of the rules on intellectual property necessary. Thus, for example, it must be clarified whether artificial intelligence can obtain a patent.</p>

³ Paolo Gentiloni, Commissioner-designate for Economy (Progressive Alliance of Socialists and Democrats (S&D), Italy) will conduct the negotiations. He reports to Margrethe Vestager regarding digital tax, and in other matters to Valdis Dombrovskis (cf. [cepAdhoc](#)).

⁴ Together, Valdis Dombrovskis, Executive Vice-President (European People's Party (EPP), Latvia, cf. [cepAdhoc](#)) and Margrethe Vestager are leading this project with the assistance of the Internal Market Commissioner.