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Europe

Belgium's Role in Shaping the EU's Digital Future

Belgium holds the Presidency of the Council of the European Union from 1 January to 30 June 2024, wrapping up negotiations on many important files in the field of EU tech and digital policy before the terms of the current European Commission and Parliament come to a close. The Computer & Communications Industry Association (CCIA Europe) respectfully offers these recommendations, and looks forward to supporting the Belgian EU Presidency.

I Breaking down barriers to digital trade

The world is becoming more volatile and unpredictable. Authoritarian governments are on the rise, while the rules-based international order is being eroded. Europe cannot face these challenges alone. Hence, the Belgian Presidency should take a leadership role in enhancing the EU's cooperation with international partners and key allies.

Recommendations

1. Keep access to the cloud market open and non-discriminatory
2. Reform GDPR enforcement in a robust way
3. Cooperate with like-minded partners to advance shared interests
4. Lead on the implementation of global tax reform

II Embracing tech innovation so Europe can thrive

Consumer habits and needs are changing rapidly. That is why under the Belgian Presidency the EU's digital policies should take a more user-focused approach in order to deliver the innovation, openness, and flexibility that Europeans expect and demand today.

Recommendations

5. Protect the open internet, reject network fees
6. Reap AI's benefits through a risk-based approach
7. Adapt Europe's social and work policies to a changing world
8. Introduce pro-innovation rules for payments and open finance

III Making sure digital rules protect and benefit all Europeans

Coherent and harmonised EU rules are crucial for both businesses and consumers. Europe now has to focus on effective implementation of the Digital Services Act (DSA) and Digital Markets Act (DMA). Europeans need to see the tangible results and benefits of these new digital rules. Lawmakers should take enough time – once current legislation has been fully implemented – to assess what works, and what doesn't, before adding new layers of rules.

Recommendations

9. Protect the privacy and safety of users, and children in particular
10. Maintain a balanced relationship between media and platforms
11. Ensure the EU's liability framework is fit for purpose

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Breaking down barriers to digital trade

The world is becoming more volatile and unpredictable. Authoritarian governments are on the rise, while the rules-based international order is being eroded. Europe cannot face these challenges alone. Hence, the Belgian Presidency should take a leadership role in enhancing the EU's cooperation with international partners and key allies.

1. Keep access to the cloud market open and non–discriminatory

A thriving data-driven economy requires a competitive European market for cloud computing services. Certification, standards, or other specifications that exclude global and EU cloud vendors subject to foreign laws would steer Europe towards digital isolationism.

Indeed, the draft EU Cybersecurity Certification Scheme for Cloud Services (EUCS) risks fragmenting Europe's digital single market, while increasing cybersecurity risks in parallel. A discriminatory EUCS would have an estimated cost of up to €572 billion per year for the EU economy in the medium term, hitting smaller Member States disproportionately hard.

At a time when the EU wants 75% of enterprises to take up cloud services as well as applications which require scalable computing resources (such as big data and artificial intelligence) by 2030, it should seek to expand – not decrease – Europe's cloud offer.

The EUCS needs to be rethought, and focus exclusively on advancing the EU's cybersecurity goals. Where there are concerns about foreign government access to non-personal data, the EU should seek convergence with like-minded partners. Like it did when negotiating the recently adopted Data Privacy Framework with the United States, the EU should strive to reach a transatlantic agreement on law enforcement access to electronic evidence.

2. Reform GDPR enforcement in a robust way

The European Commission's proposal to improve enforcement of the General Data Protection Regulation (GDPR) is an opportunity to address some of the most severe shortcomings Europe has witnessed over the last five years.

Defendants' most basic rights should be respected, for instance, including the right to appeal an EDPB decision affecting them and the right to a fair hearing within a reasonable time period. The proposal should also prioritise preventing inconsistent GDPR enforcement and preserving the one-stop-shop mechanism is essential. Addressing cooperation between national authorities responsible for enforcing laws other than data protection and data protection authorities is important to ensure consistent enforcement across Europe.

Moreover, lawmakers should consider introducing further fixes to ensure faster case-handling, including mandatory exhaustion of a company's internal processes before complaints can be made to Supervisory Authorities (SAs). It would also be helpful to introduce new rules specifying to what extent an SA can initiate proceedings with a controller whose main establishment is situated in another Member State, and automatic closure of cross-border complaints past a given period of inactivity.

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3. Cooperate with like-minded partners to advance shared interests

In the pursuit of what it calls "strategic autonomy" or "digital sovereignty", Europe must not neglect common principles such as non-discrimination, mutual consultation, and dialogue with close partners whenever regulatory tensions arise. More than ever the transatlantic allies need to step up their commitment to protecting shared values and the rule-based international trading system.

The EU-US Trade and Technology Council (TTC) should serve as a forum to identify and structurally address transatlantic issues, with a view to ensuring closer alignment. The EU, and its partners, should remove global barriers to digital trade and free data flows. Likewise, Europe needs to provide more legal certainty to attract investments that can resolve supply-chain issues and secure access to critical (raw) materials and components.

4. Lead on the implementation of global tax reform

Europe should lead efforts towards the coordinated and consistent implementation of global tax reform, replacing today's mumbo jumbo of unilateral tax measures. The OECD/G20-led tax agreement would be a game changer in this respect. Hence, the European Union should refrain from introducing any new discriminatory digital taxes or levies to avoid derailing global tax reform.

❚❚ Embracing tech innovation so Europe can thrive

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5. Protect the open internet, reject network fees

Europe's largest telecom operators want the EU to introduce network fees, which content and application providers (CAPs) would have to pay to telcos whenever internet users want to access online content or services. If turned into legislation, European consumers and businesses would end up paying more for cloud and streaming services, and Europe's digital economy would be hit by new barriers to innovation and growth.

Already now, European consumers and small businesses are struggling with rising prices and the cost of living. The last thing they need is for European telecom incumbents to artificially inflate prices of online services and content in order to get their networks subsidised. In fact, the European Commission's latest data shows that full fibre and 5G roll-out is well within reach at current levels of network investment.

Network fees also pose a fundamental threat to the net neutrality principles underpinning the open internet. The body of European telecom regulators (BEREC) concluded there is "no evidence that such mechanism is justified" and warned of its "significant harm to the internet ecosystem." Digital rights groups, academics, consumer organisations, several Member States, and others have voiced similar, strong concerns. Indeed, the exploratory consultation on the future of the telecom sector has clearly demonstrated that an overwhelming majority of stakeholders (81%) is against network usage fees.

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That is why EU policy and decision makers should unequivocally reject network fees (and any other mandatory payment or arbitration mechanism for that matter), avoid that the idea is revived as part of the European Commission's upcoming white paper and Digital Networks Act (DNA), and ensure that the Commission's Better Regulation Principles and evidence-based policymaking are respected.

6. Reap AI's benefits through a risk-based approach

Artificial intelligence (AI) can help solve many of the challenges Europe faces today, such as fighting climate change and improving road safety. The tech sector supports the risk-based and technology-neutral approach of the Commission's original AI Act proposal. However, the Act would greatly benefit from clearer definitions, more narrow classifications of "high-risk" AI systems and use cases, as well as bans based on clear methodology. The proposed distribution of responsibilities across the AI value chain requires a better balance between developers, deployers, and other actors.

Any blanket imposition of disproportionate obligations on all general-purpose AI (GPAI) systems or foundation models, including open-source ones, should also be avoided. Focussing on specific technologies in the AI Act, rather than the high-risk context in which they can be used, is likely to hamper innovation and put European developers at a competitive disadvantage. As technology continues to evolve rapidly, any attempts to regulate specific AI technology instead of risks simply will not stand the test of time.

Although negotiations are still ongoing, it's already clear that Belgium will play a crucial role in either reaching a final deal on the AI Act, or starting discussions on the implementation and enforcement of this landmark regulation. Hence, CCIA stays committed to support the Belgian EU Presidency in delivering these important milestones.

In order to pave the way for cutting-edge products and services, the Presidency should encourage the Commission to develop a comprehensive strategy and roadmap for the deployment of specific AI use cases, such as autonomous vehicles, over the next few years. This should help avoid a regulatory patchwork of member state-specific requirements that may unduly delay the introduction of new technologies that hold great societal benefit.

7. Adapt Europe's social and work policies to a changing world

Europe would benefit from a regulatory approach preserving independent work that is flexible, accessible, and high-quality in nature. Allowing platforms to provide insurance and protection to improve the working conditions of platform workers, while maintaining quality and price protections for consumers, requires a forward-looking approach to platform work.

Policymakers should avoid overly-prescriptive or presumptive rules that risk affecting millions of genuinely self-employed Europeans, instead of combatting bogus self-employment. Preserving the freedom and flexibility that platform workers value will create jobs and strengthen Europe's economic resilience.

8. Introduce pro-innovation rules for payments and open finance

The European Commission's recent proposals for a new Directive on payment services and electronic money services (PSD3), Payment Services Regulation (PSR), as well as regulation on Financial Data Access (FIDA), are all opportunities to accelerate the deployment of new digital services for European consumers and small businesses. Europe should encourage the development of market-driven rules which are truly conducive of innovation, competition, and which promote consumer trust in the sharing of financial data.

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III Making sure digital rules protect and benefit all Europeans

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9. Protect the privacy and safety of users, and children in particular

Tackling child sexual abuse (CSA) is of paramount importance. CCIA Europe and its Members are deeply committed to preventing and fighting such heinous crimes. At the same time, the rules in the CSA Regulation that is currently being debated should strike an appropriate balance between online safety and the protection of fundamental rights.

The co-legislators need to ensure the final CSA rules respect the EU's ban on general monitoring and reject any form of mandatory and disproportionate privacy-invasive detection – which would impact not only children, but millions of EU citizens. Any prohibition or weakening of encryption (including end-to-end encryption) should be explicitly excluded. This is crucial with a view to respecting Europeans' right to privacy while ensuring the safety of children.

Moreover, the Council should make sure that online service providers can proactively prevent, detect, and report child sexual abuse. This would help to better target prosecution of those who are suspected of perpetrating crimes against children, but also align the new CSA rules with the broader legislative framework, and the DSA in particular.

10. Maintain a balanced relationship between media and platforms

The tech industry supports the introduction of new rules to safeguard the independence and pluralism of Europe's media, with a view to fostering a healthy information ecosystem. To strike this delicate balance, the Belgian Presidency should address the proposal for a "special treatment" of media service providers under the European Media Freedom Act (EMFA). The changes proposed by legislators, in their current form, would exempt "self-declared" media outlets from content moderation. And this despite the fact that legislators earlier objected to including such a controversial media exemption in the DSA.

Without significant improvements during the final negotiations, this provision could lead to more harmful and infringing content – directly contradicting the DSA – rather than promoting media freedom. In order to fix the EMFA, the special treatment of media content should be strictly limited to content produced by legitimate actors. This can be achieved through robust definitions and safeguards against abuse by rogue actors who try to spread disinformation or harmful content.

Facilitating the self-declaration of media service providers should also be limited to platforms carrying a significant amount of news information or media services, and not marketplaces for example. The position of the Council does not include a "must-carry" obligation for the news content – and this should be preserved in the final version of the text.

However, the carve outs for certain content moderation restrictions are not sufficient to ensure that very large online platforms can continue the fight against harmful content. Restrictions should be left out of the EMFA's scope, as the DSA already provides sufficient remedies and redress mechanisms.

11. Ensure the EU's liability framework is fit for purpose

CCIA Europe appreciates that the European Commission wants to better protect consumers in the digital era by updating the EU product liability regime. But while the revision of the Product Liability Directive (PLD) makes it easier for people to sue for damages caused by defective products, it does not do enough to protect the rights of manufacturers to challenge claims and to access evidence.

Reversing the burden of proof onto the manufacturer or service provider would completely change the way the legal system works and risks exposing companies to overly broad or frivolous claims without giving them the opportunity to adequately counter such claims – in defiance of the principle of equality of arms.

The revision also introduces a wider definition of the notion of "product" that includes software and AI applications, as well as an extended list of damages. This extension of scope disproportionately impacts the tech sector and disregards the functioning of the digital economy. A software bug simply cannot be remedied the same way as a wobbly coffee table.

In other words, the changes brought about by the PLD's revision risk hampering innovation and ultimately Europe's digitalisation – all to the detriment of consumers. If the revised PLD does not undergo improvements, it would only increase insurance cost and product prices for Europeans, without providing any clear benefits in terms of consumer protection.

That is why the Council should take stakeholders' feedback into account and make sure the PLD properly reflects the realities of the tech sector as part of its negotiations with the European Parliament. Should the negotiators decide to take sufficient time to assess the potential negative impacts of the PLD revision, Belgium might be able to make further improvements to the legal text.

About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

Visit ccianet.org/hub/europe/ or x.com/CCIAeurope to learn more.

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