

**Engineering Management BMEVITMMB03**

**EU INFOCOMMUNICATIONS  
REGULATION,  
Digital Single Market**

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**Budapest, 2024**

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# THE EU LIBERALISATION PERIOD (1987-2003)

## **1987 The start of the EU liberalisation process – The Green Book**

- ◆ Establishing the EU telecommunications law area
- ◆ Getting started to create the harmonised community market
- ◆ The decision: gradual liberalisation

## **1988 Prohibition of exclusive rights for telecommunications terminal equipment**

- ◆ 88/301/EEC directive

## **1990 Liberalisation of the telecommunications services market**

- ◆ 90/338EEC directive – despite general opposition from Member States successful implementation creates the conditions for competition

## **1994 Liberalisation of the satellite market**

- ◆ 94/46/EC directive

## **1996 Liberalisation of cable TV market and the market for mobile services**

- ◆ 95/51/EC directive and the 96/2/EEC directive

## **1998 Full liberalisation in the telecommunications market**

- ◆ 96/19/EC directive with a deadline of 1 January 1998

# THE EU LIBERALISATION PERIOD (1987-2003)

## 1999 Towards a new framework for Electronic Communications infrastructure and associated services

- ◆ COM (1999) 539 final; (November 10, 1999)
- ◆ Draft of a new regulatory package that also responds to technological developments in the electronic communications market

## July, 2003 The New Regulatory Framework enters into force

- ◆ Convergent and technology neutral approach
- ◆ It covers not only networks but also services and related devices, but not content
- ◆ It builds on the principles of competition law
- ◆ At the same time, it complements the system with ex-ante sector-specific market regulation operated by national regulations

# NEW REGULATORY FRAMEWORK (NRF), 2003

**Elements of NRF:** 4 directives + 1 regulation + 1 decision and more 2 directives

**Framework directive** – general structure of the EU regulatory framework for electronic communication, new procedure for the regulation of operators identified as having significant market power

- ◆ 2002/21/EC directive

**Authorisation directive**– Consistent and simple rules for the authorisation of services, abolition of individual authorisation and exclusive rights (except for scarce resources)

- ◆ 2002/20/EC directive

**Access directive**– creating a single, competitive wholesale market, regulating access to each other's networks and interconnections

- ◆ 2002/19/EC directive

**Universal Service directive**– minimum set of services of a minimum level quality at an affordable price for all end users

- ◆ 2002/22/EC directive

# NEW REGULATORY FRAMEWORK (NRF) 2003

## Elements of NRF (continued):

**Regulation on unbundled access to the local loop** – Provided and regulated the basics of unbundling. Regulation, so it is automatically binding in all Member States

- ◆ 2000/2887/EC regulation

**Decision on a regulatory framework for radio spectrum policy in the European Community** – It is essential to have common management because these are cross-border frequencies

- ◆ 2002/676/EC decision

**Directive on privacy and electronic communications**

- ◆ 2002/58/EC directive

**Directive on competition**

- ◆ 2002/77/EC directive

# SECTOR-SPECIFIC MARKET ANALYSIS PROCESS (1/4)

**Its purpose is to compensate for imperfect competition**

- ◆ It is based on the principle of dominance known from competition law

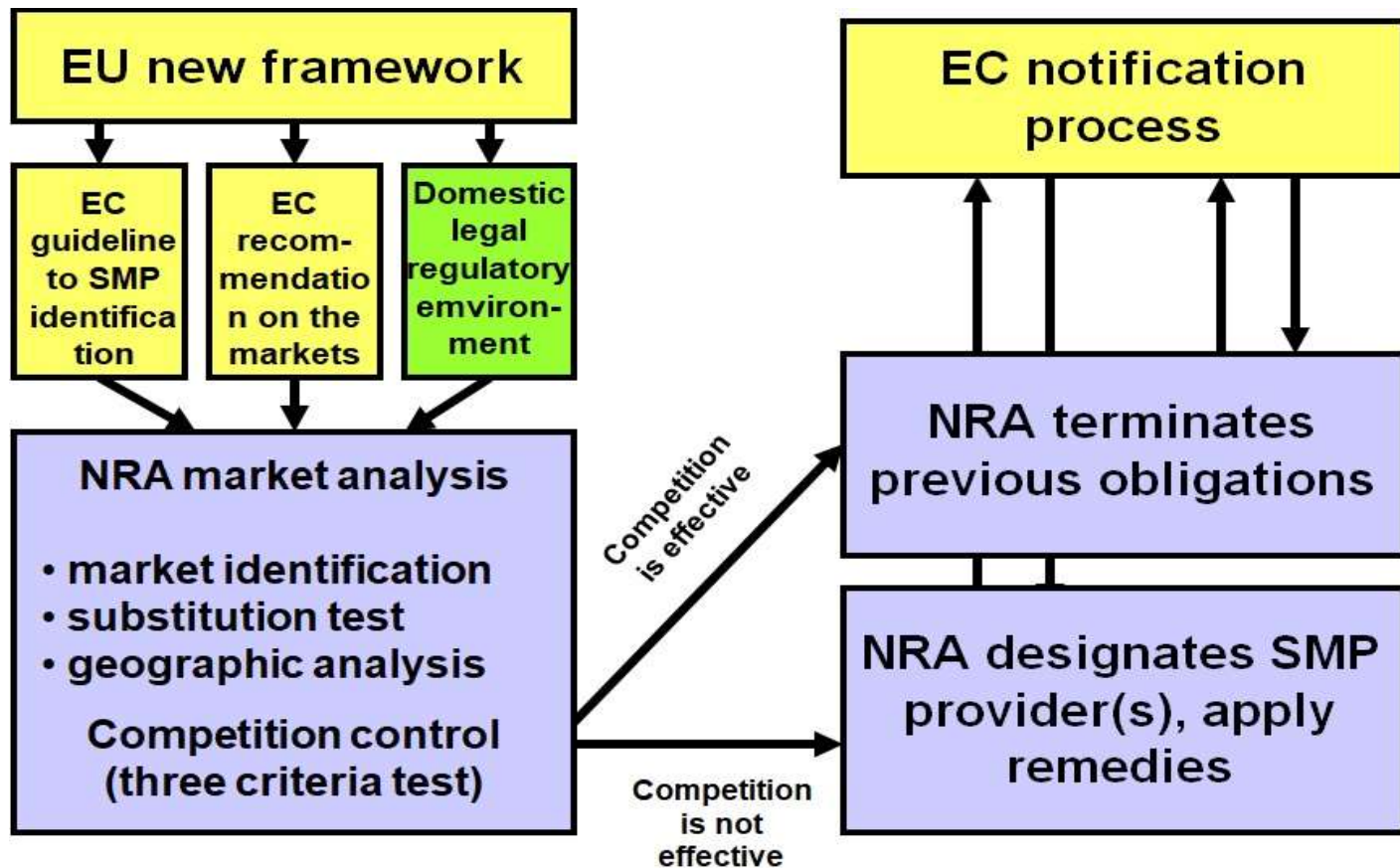
## **The market analysis process**

- ◆ 1. step: identification of market
  - ◆ specification of market
  - ◆ substitution test
  - ◆ analysis of geographic market (segmentation or not)
- ◆ 2. step: examination of ex-ante involvement, the three criteria test
  - ◆ High and non-transitory barriers to entry?
  - ◆ Are the conditions for competition unforeseeable?
  - ◆ Are ex-post competition law instruments insufficient?
    - ◆ With three „yes”, the market is concerned, ex-ante regulation is needed

# SECTOR-SPECIFIC MARKET ANALYSIS PROCESS (2/4)

- ◆ 3. step: Identification of service providers with significant market power (SMP), apply remedies
  - ◆ In addition to market share, a number of criteria need to be considered (for example: business size, control over difficult-to-duplicate infrastructure, technological advantage or superiority, lack of countervailing buyer power, access to capital markets, economies of scale and scope)
  - ◆ Remedies: for example access obligation, equal treatment, transparency, cost-orientation, accounting separation, functional separation
  - ◆ Form of implementation: in most cases prescribing a reference offer, price cap regulation, obligation to show economically independent sub-functions, establishment of an independent economic unit

# SECTOR-SPECIFIC MARKET ANALYSIS PROCESS (3/4)





# SECTOR-SPECIFIC MARKET ANALYSIS PROCESS (4/4)

## The markets proposed by the 2003 NRF as anticompetitive:

- ◆ The EU considered a total of 18 markets, 6 retail and 12 wholesale markets to be anticompetitive
- ◆ It was possible to deviate from this at national level for good reason

## Outcome of the 2007 review:

- ◆ The EU identified a total of 7 markets, 1 retail and 6 wholesale
- ◆ The reason for the emergence of competition in other markets is not necessarily the need for ex-ante regulation

## Outcome of the 2014 review:

- ◆ The EU has identified a total of 4 wholesale markets, but these are quite complex markets. Retail market is no longer on the list.

# REFERENCE OFFER

## Content of the reference offer:

- ◆ Offer published by the SMP provider, detailing and recording the offered network services and their legal, technical and financial conditions

## The purpose of prescribing a reference offer:

- ◆ Pre-established contract terms (transparency, equal treatment)
- ◆ Pre-fixing of fees on (cost-based basis)
- ◆ Accounting separation

## The Authority shall review and adopt or amend the draft reference proposal

- ◆ Reference Interconnection Offer – RIO
- ◆ Reference Unbundling Offer – RUO

# 2009 NRF REVIEW

## One of the key findings of the new framework program:

- ◆ The regulatory framework need to reviewed regularly due to ongoing technological developments

## 2009 NRF review:

- ◆ Better regulation directive (2009/140/EC)
- ◆ Users' rights directive (2009/136/EC)
- ◆ The notification procedure has changed, cooperation on radio spectrum, changes have been strengthened, consumer protection and consumer rights have been strengthened, the protection of people with disabilities has the protection against spam has also been regulated.
- ◆ Regulation establishing the new Communications Board and the Office (1211/2009/EC)

**This regulation created the BEREC (Body of European Regulators for Electronic Communications) and the Office of BEREC**

# DIGITAL SINGLE MARKET (1/4)

## European Commission proposal for a Digital Single Market:

- ◆ Objective of the strategy published on 6 May 2015:
  - ◆ Making online products and services more accessible to European consumers and businesses
  - ◆ Creating the conditions and level playing field for the prosperity of digital networks and services
  - ◆ Maximizing the growth potential of the European digital economy

**Key challenges:** encouraging investments in high-speed broadband networks, a more consistent application of the internal market approach to spectrum management, enforcing real internal market conditions by addressing the lack of uniform regulation, effective consumer protection, a level playing field and rules, ensuring a more effective regulatory framework

The strategy is based on the above three pillars, which include 16 initiatives

# DIGITAL SINGLE MARKET (2/4)

## Pillar 1: Better online access to digital goods and services

### ◆ 8 tasks:

1. Making cross-border e-commerce effortless through harmonising consumer and contract laws
2. Revision of the rules on consumer protection cooperation
3. More efficient and affordable cross-border parcel delivery for consumers and retailers
4. Ending geo-blocking or restricting access to online services
5. Identifying barriers to competition in European e-commerce
6. Creation of a modern EU copyright law
7. Review of the Satellite and Cable Directive
8. Simplifying VAT rules through creating a single electronic registration and payment system

# DIGITAL SINGLE MARKET (3/4)

## Pillar 2: Creating an environment where digital networks and services can flourish

### ◆ 5 tasks:

9. Reform of the European Union's electronic communications regulation
  - Revision of the new regulatory program in 2002, codification of the four directives
  - Develop appropriate investment incentives
  - New conceptual framework and regulation in line with technological developments
  - Creating an effective institutional framework at EU level
10. Rewamp of the audiovisual media framework to ensure it meets current and future needs for content distribution
11. Comprehensive review of all online platforms, including transparency of search results and pricing policies, how to tackle illegal
12. Review of the privacy of electronic communications
13. Partnering with industry on cybersecurity, especially solutions for online network security

# DIGITAL SINGLE MARKET (4/4)

## Pillar 3: Maximizing the growth potential of the European digital economy

### ◆ 3 tasks:

14. Initiative on data ownership, free movement of data and the creation of a European cloud computing
15. Increase standardisation in key ICT areas, extend the framework for European cooperation to public services
16. New e-Government Action Plan , one-stop access to public administration, interconnection of business registers at EU level.

# CREATING A DIGITAL SINGLE MARKET (1/3)

## June 14, 2017:

- ◆ Regulation 2017/1128 on the cross-border portability of online content services in the internal market

## June 15, 2017:

- ◆ Roaming charges have been abolished in the European Union

## February 28, 2018:

- ◆ Regulation 2018/302 on action against unjustified territorial restrictions and other forms of discrimination based on the nationality, place of residence or place of establishment of the buyer in the internal market (geoblocking regulation)

## April 18, 2018:

- ◆ Regulation 2018/664 on cross-border parcel delivery services



# CREATING A DIGITAL SINGLE MARKET (2/3)

## October 2, 2018:

- ◆ Regulation 2018/1724 establishing a single digital gateway to information, procedures and assistance and problem-solving services

## December 11, 2018:

- ◆ Directive 2018/1972 on the establishment of a European Electronic Communications Code. Deadline for implementation: 21 December 2020

## December 11, 2018:

- ◆ Regulation 2018/1971 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for the operation of BEREC (BEREC Office)

# CREATING A DIGITAL SINGLE MARKET (3/3)

## April 17, 2019:

- ◆ Directive 2019/790 on copyright and related rights in the digital single market. Deadline for implementation: 7 June 2021

## July 12, 2020:

- ◆ Regulation 2019/1150 on the regulation to business (P2B) (area of online intermediation services)

# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (1/10)

## Objectives of the Code:

- ◆ Consolidate the four previous directives
- ◆ Integrate regulation in line with convergence requirements
- ◆ Modernize regulation in line with technological developments
- ◆ In connection with this, rethink the system of concepts, adapting to the changed technological bases
- ◆ Promote long-term investment, predictability and return on risk-taking
- ◆ Settle current issues of market regulation, end-user rights and spectrum harmonisation

# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (2/10)

## Provisions related to market regulation:

- ◆ The aim of the regulation is to gradually reduce sector-specific rules
- ◆ Analysis of retail markets, but regulation intervenes in the wholesale market
- ◆ The obligation of SMP providers have become more flexible, it is important to support high-capacity networks, e.g. through joint investment, voluntary commitments
- ◆ Only proportionate intervention is acceptable – this is of course a rather subjective concept
- ◆ More favourable rules for wholesale services providers only

# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (3/10)

## Provisions related to market regulation:

- ◆ Decrease the frequency of market analysis cycles from 3 to 5 years unless changes are too dynamic
- ◆ Making infrastructure-sharing more efficient
- ◆ Obligation for national authorities to map and geographically update networks by 2023 to support the deployment of very high capacity networks
- ◆ Imposing a symmetrical obligation under certain circumstances (i.e. not only for SMP) in sparsely populated areas
- ◆ BEREC will develop guidelines for consistent practical application

# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (4/10)

## End-user right provisions:

- ◆ The problem to be addressed is the removal of internal market barriers resulting from differences in implementation between Member States
- ◆ Non-discrimination (citizenship, residence ...)
- ◆ End-user instead of consumer (wider circle)
- ◆ Consumer protection, adequate choice and equivalent access for disabled people, the elderly, end-users in special social situations
- ◆ Strengthening consumer awareness - comparability
- ◆ The right to uniformly terminate of service package offers in the event of the right to terminate a service

# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (5/10)

## End-user right provisions:

- ◆ Universal service: Broadband fixed internet access and fixed voice
- ◆ Monitoring of retail charges for universal service by the NRA, if necessary
- ◆ Designation of a universal service provider in a given geographical area, if necessary
- ◆ Positive discrimination against people with disabilities – harmonising accessibility requirements, terminal equipment and services at affordable prices
- ◆ Possibility to maintain unnamed but previously introduced universal services (e.g. public telephone box, national directory, subscriber directory)

# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (6/10)

## Provisions related to spectrum harmonisation:

- ◆ Ensuring greater coherence and predictability between Member States
- ◆ Long-term radio spectrum licences for investment predictability
- ◆ Legal institution for the renewal of a licence
- ◆ Setting limits on the minimum fees for rights to use radio spectrum
- ◆ Supporting the deployment of 5G networks and the provision of the radio spectrum



# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (7/10)

## Elements of the Code related to the development of the digital single market:

- **Uninterrupted service launch**
  - ◆ The only requirement for unimpeded service launch is declarative notification
  - ◆ Notification of the start of the service, if required, without administrative cost and electronically
  - ◆ BEREC database for the registration of notifications
- **Unification of end-user rights:**
  - ◆ The Code provides for maximum harmonisation and uniform regulatory
  - ◆ Equal protection against a competitor from another Member States
  - ◆ Uniform protection of end-users regardless of Member States

# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (8/10)

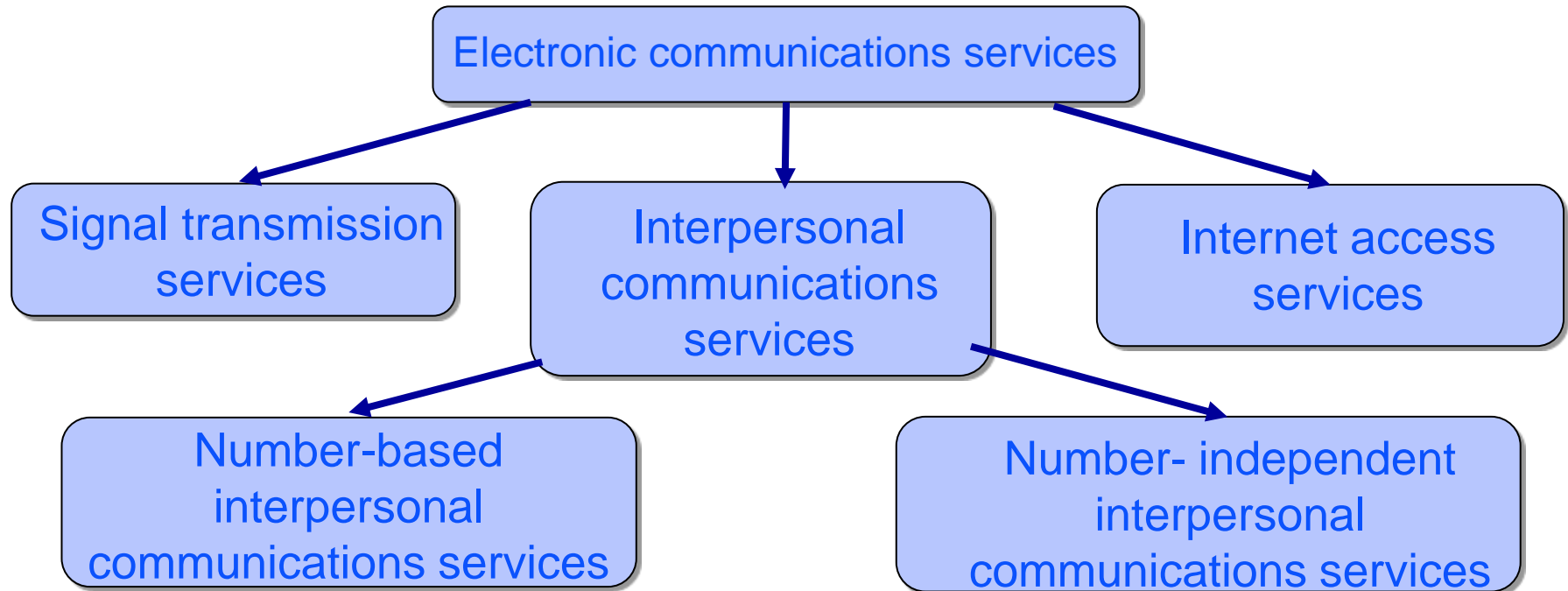
## Elements of the Code related to the development of the digital single market:

- The change in the definition of concepts of communication
  - ◆ Alternative solutions have been introduced for the transmission of voice and text messages (Skype, Viber, Whatsapp, Messenger etc.)
  - ◆ It has become necessary to expand the concept of communication with OTT services and internet access services
    - ◆ Definition of interpersonal communications service
    - ◆ Definition of number-based interpersonal communications service
    - ◆ Definition of number-independent interpersonal communications service
  - ◆ In addition to subscriber rights, end-user rights appear (e.g. Those living in a household, or a business operating there are also considered end-users).
  - ◆ Taking into account the needs of disabled, elderly, socially deprived subscribers and end users

# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (9/10)

## Elements of the Code related to the development of the digital single market:

- The change in the definition of concept of ECS



# EUROPEAN ELECTRONIC COMMUNICATIONS CODE (10/10)

## Elements of the Code related to the development of the digital single market :

- Measures to ensure interoperability
  - ◆ Connecting networks, making extremely high capacity networks available
  - ◆ Meeting the spectrum needs of wireless broadband services
  - ◆ Meeting the spectrum needs for the deployment of 5G mobile networks (3400-3800 MHz band, use of at least 1 GHz in the 26 GHz band)
  - ◆ 15-years licence for spectrum with 5-year renewal in order to protect and predict investments
  - ◆ The legal authority for the renewal of the licence is displayed

# THE BEREC REGULATION

## BEREC – Body of European Regulators for Electronic Communications

- ◆ It was brought to life by the 2009 regulatory package
- ◆ The most important body in European communications
  - ◆ The body shall be composed of experts from the NRAs
  - ◆ BEREC Office: BEREC Operational Support Agency, consulting, expert
- ◆ Regulation 2018/1971 increases the role of BEREC
  - ◆ Professional support and advice for national authorities and EU bodies
  - ◆ It also provides support to the European Commission on request and prepares legislative proposals for the sector
  - ◆ It provides guidance on the implementation of the Code

# THE BEREC REGULATION (cont.)

## BEREC – Body of European Regulators for Electronic Communications (continued)

- ◆ The role of the BEREC Office will be expanded
  - ◆ Professional and administrative support services
  - ◆ Collection of information from NRAs
  - ◆ Dissemination of best practice among NRAs
  - ◆ Compilation of draft reports
  - ◆ Establishment and maintenance of registers and databases for BEREC

## Cooperation between BEREC and NRAs will be closer

- ◆ BEREC guideline should be taken directly into account in the application of official law
- ◆ At the same time , the transposition of the Code strengthens the independence of NRAs

# EUROPE'S DIGITAL DECADE (2020-2030)

## **March 9, 2021: A new initiative – Europe's Digital Decade Strengthening digital sovereignty, developing our own European standards**

- ◆ It is based on the emphasis on data, technology and infrastructure
- ◆ Skills to be achieved: 20 million ICT professionals, gender equality, 80 % basic digital skills in the population
- ◆ Secure and sustainable infrastructures: Gigabit access for everyone, 5G everywhere, doubling of the semiconductor industry, 10,000 climate neutral highly secure edge nodes, the first European computer with quantum acceleration
- ◆ The digital transformation of businesses: 75 % cloud computing, artificial intelligence, big data; strengthening innovation, 90 % of SMEs on a digital basis
- ◆ Digitization of public services: the keys are 100 % online, health data for all citizens, 80 % digital ID usage

# EUROPE'S DIGITAL DECADE (2020-2030)

## Measures, action plans:

- ◆ Artificial intelligence ★
  - ◆ European data strategy
  - ◆ European industrial strategy
  - ◆ High Performing Computing (HPC)
  - ◆ Digital Market Act (DMA) ★
  - ◆ Digital Services Act (DSA) ★ (★ more detail below)
  - ◆ Cybersecurity
  - ◆ Digital skills
  - ◆ Connectivity
  - ◆ European Digital Identity
    - ◆ European Chips Act
    - ◆ Contributing to European Defence
    - ◆ Space
    - ◆ EU-US Trade and Technology Council
- } subsequent expansion

[https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age_en)



# ARTIFICIAL INTELLIGENCE REGULATION DRAFT (1/5)

## Subject of the AI regulation

- ◆ Harmonised rules for the placing on the market, putting into service and use of artificial intelligence systems in the European Union
- ◆ Prohibitions on certain artificial intelligence practices
- ◆ Special rules and requirements for high-risk AI systems
- ◆ Harmonised transparency rules for AI systems that interact with natural persons, emotion recognition systems and biometric categorization systems, and AI systems for the production or manipulation of image, audio or video content
- ◆ Rules for market surveillance

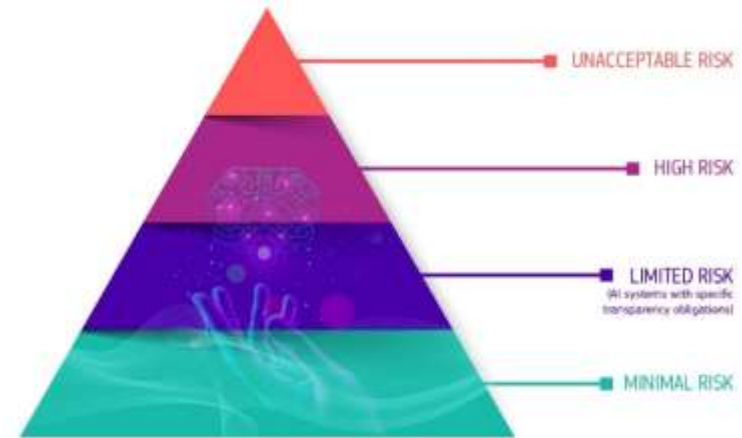
# ARTIFICIAL INTELLIGENCE REGULATION DRAFT (2/5)

## The scope of the AI regulation extend

- ◆ For providers placing AI systems on the market or putting them into service in the Union, regardless of the location of the provider
- ◆ For users of AI systems within the Union
- ◆ Providers and users of AI systems in a third country if the output produced by the system is used in the Union

## The regulation is based on a risk-based approach

- ◆ Unacceptable risk
- ◆ High risk
- ◆ Limited risk
- ◆ Minimal risk



# ARTIFICIAL INTELLIGENCE REGULATION DRAFT (3/5)

## The regulation is based on a risk-based approach

- ◆ Unacceptable risk: AI systems that clearly threaten people's security, livelihoods and rights will be banned (manipulation of human behaviour, social scoring by governments etc.)
- ◆ High risk: critical infrastructures, education and training, security equipment for certain products, employment, basic private and public services, certain areas of law enforcement, migration management, asylum, border control, justice and democratic processes, remote biometric identification
  - ◆ Strict rules will apply for high risk applications (clear information, high reliability, accurate documentation, proper human supervision, etc.)

# ARTIFICIAL INTELLIGENCE REGULATION DRAFT (4/5)

## The regulation is based on a risk-based approach

- ◆ Limited risk: i.e. systems subject to a specific transparency obligation (e.g. chat machines)
  - ◆ The user should be aware that they have contacted AI, the continuation is based on their own decision
- ◆ Minimal risk: This is not regulated by the AI Regulation as it has no particular effect (e.g. video game, spam filter etc.)

## General purpose AI

- ◆ Systemic risk model if it has *high impact capacity* or based on a decision of Commission
- ◆ High impact capacity: when the cumulative amount of computation used for its training measured in FLOP is greater than  $10^{25}$ .

# ARTIFICIAL INTELLIGENCE REGULATION DRAFT (5/5)

## A European Artificial Intelligence Board is set up

- ◆ The Board shall be composed of the national supervisory authorities, chaired by the European Commission
- ◆ The competent national authority shall be designated or established by the Member States

## Entry into force

- ◆ It shall apply from 24 month from the date of entry into force
- ◆ Date of entry into force – in June or July of 2024
- ◆ Some Chapter shall apply from 12 month from the date of entry into force (for example the EU AI Board and the national authorities)

# DIGITAL SERVICES ACT (DSA) (1/5)

## **Creates a new regulatory environment for digital services**

- ◆ Lays down uniform, harmonised rules for intermediary service providers
  - ◆ supporting innovation, growth and competitiveness
  - ◆ protecting consumers and their fundamental rights online, ensuring a reliable online environment
  - ◆ and to curb illegal content
- ◆ it creates
  - ◆ the framework for the exemption of intermediary service providers from liability
  - ◆ rules of due diligence and other obligations of intermediary service providers
  - ◆ rules for implementation and enforcement of this regulation
  - ◆ framework for cooperation between competent authorities

# DIGITAL SERVICES ACT (DSA) (2/5)

Scope of the DSA: covers intermediary service providers providing transmission, caching and hosting services to service users regardless of whether they are based in the EU or not

- ◆ Online platform: means a provider of the hosting service, that stores and disseminates information (e.g. online marketplaces, app stores, collaborative economy platforms, social platforms)
- ◆ Very large online platform: an online platform that offers its services to an average of at least 45 millions active users per month in the Union
- ◆ The intermediary service provider is still not responsible for the content
  - ◆ This is true even if the provider voluntarily reviews the content

# DIGITAL SERVICES ACT (DSA) (3/5)

## New obligations in the DSA:

- ◆ Common obligations of intermediary service providers
  - ◆ Provision of information by official decision
  - ◆ Designation of contact points and legal representatives
  - ◆ Information on restrictions in the contract terms and conditions
  - ◆ Publication of an annual transparency report
- ◆ Additional obligations for providers of hosting services
  - ◆ Dealing with reports of illegal content
  - ◆ Clear and specific statement of reasons for decisions
- ◆ Additional provisions applicable to online platforms
  - ◆ Internal complaint-handling system
  - ◆ Out-of-court dispute settlement
  - ◆ Prioritization of trusted flaggers



# DIGITAL SERVICES ACT (DSA) (4/5)

## New obligations in the DSA :

- ◆ Additional provisions applicable to online platforms (cont.)
  - ◆ Measures and protection against misuse
  - ◆ Notification of suspicions of criminal offences
  - ◆ Screening of business partners
  - ◆ Online advertising transparency for users
- ◆ Additional obligations for very large online platforms to manage systemic risks
  - ◆ Risk assessment obligations
  - ◆ Independent audit and public accountability
  - ◆ Transparency of recommender system
  - ◆ Additional online advertising transparency

# DIGITAL SERVICES ACT (DSA) (5/5)

## New obligations in the DSA :

- ◆ Additional obligations for very large online platforms to manage systemic risks (cont.)
  - ◆ Provide access to data for authorities and researchers
  - ◆ Appointment of compliance officers
  - ◆ Additional transparency reporting obligations

## Competent authorities, jurisdiction

- ◆ Designation of Digital Services Coordinators
- ◆ Designation of jurisdiction of a non-EU intermediary service provider
- ◆ Establishment of the European Board for Digital Services

## Penalties, fines

- ◆ There is no exhaustive list, only records the maximums as a percentage of total turnover

# DIGITAL MARKET ACT (DMA) (1/6)

## **It provides a new competition regularly framework for large online platform**

- ◆ Caused by: In Europe's digital technology most of the total value generated is concentrated in just a few major online platform
  - ◆ They take advantage of the powerful network effect, embedded in their own platform ecosystem
  - ◆ They are increasingly serving as gateways or gatekeepers between business users and end users
  - ◆ They are a strong barrier to entry
- ◆ It aims to ensure
  - ◆ these platforms should act fairly online
  - ◆ new opportunities for innovators and technology start-ups
  - ◆ give consumers more choice and better quality, direct access and fairer prices

# DIGITAL MARKET ACT (DMA) (2/6)

## The platform provider as gatekeeper

- ◆ Gatekeepers: basic platform services that meet the qualitative and quantitative requirements of DMA.
- ◆ Online intermediary services, online search engines, social networking, video sharing platform services, number-independent interpersonal electronic communication services, operating systems, cloud services, advertising services including advertising networks and advertising intermediary services
- ◆ The platform provider is gatekeeper, if
  - ◆ has a significant impact on the internal market (annual turnover of at least EUR 6,5 billion over the last three years) or the market value at least EUR 65 billion.
  - ◆ with more than 45 million EU users or more than 10 thousand business user are connected to the service

# DIGITAL MARKET ACT (DMA) (3/6)

## Main responsibilities of gatekeepers

- ◆ Notifications to the Commission (threshold, M&A transactions)
- ◆ Free pricing for business users
- ◆ Freedom for business users outside the platform
- ◆ Freedom of removal
- ◆ Freedom of install software and application stores
- ◆ Data portability (in accordance with GDPR)
- ◆ Transparency provisions
  - ◆ in the field of online advertising
  - ◆ in search services
  - ◆ during profiling
- ◆ Access to data
- ◆ Equal access to app stores
- ◆ Access to software features

# DIGITAL MARKET ACT (DMA) (4/6)

## Prohibitions on gatekeepers

- ◆ Prohibition of aggregation of personal data without consent under the GDPR
- ◆ Prohibition of mandatory use of the gatekeeper identification service
- ◆ Prohibition of compulsory registration
- ◆ Prohibition on the use of publicly available data
- ◆ Prohibition of discrimination in ranking
- ◆ Prohibition of technical restrictions on end-users

## Powers and means

- ◆ Authorisation of Commission with powers and procedural rights
- ◆ Establishment of Digital Markets Advisory Committee

## Sanctions

- ◆ The Commission may impose fines, but the DMA sets maximum limits for this

# DIGITAL MARKET ACT (DMA) (5/6)

## Powers of the Commission

- ◆ Qualification of platform providers as gatekeepers
- ◆ Review of qualification (upon request or ex officio)
- ◆ Regular review (every two years)
- ◆ Provide individual temporary exemptions in case of proven threat to economic viability
- ◆ Exemption from certain obligations on grounds of public morality, public health or public security
- ◆ Initiation of market investigations
  - ◆ to decide whether to be a gatekeeper
  - ◆ to investigate system-wide non-compliance by the gatekeeper
  - ◆ to revise the list of unfair practice obligations

# DIGITAL MARKET ACT (DMA) (6/6)

## Procedural rights of the Commission

- ◆ Request information from any business, government or authority in a Member State
- ◆ Access to databases and algorithms
- ◆ Conducting interviews with any natural or legal person in investigative matters
- ◆ On-the-spot checks at the premises of undertaking with inspectors and experts if necessary
- ◆ Order interim measures on the basis of a prima facie findings of a breach of obligations under the DMA with inspectors and experts
- ◆ Monitoring the actual implementation of and compliance with DMA obligations



# LINK COLLECTION

A Digital Single Market Strategy for Europe

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52015DC0192&from=EN>

European Electronic Communications Code

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016PC0590&from=en>

BEREC Regulation

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1971>

Europe's Digital Decade

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52021DC0118&from=en>

Artificial Intelligence draft regulation

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021PC0206&from=EN>

Digital Services Act (DSA)

<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:32022R2065&from=EN>

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