

A digital single market that works

**Ibec views on a
European digital
single market**

May 2015



Contents

Our vision for a digital single market **02**

1. Introduction 03

An effective digital single market matters **04**

Ireland's place in a digital Europe **05**

Being digital in Ireland - an opportunity for Europe **06**

A digital ecosystem: app developers **08**

2. Ibec's priorities for the digital single market 09

Securing trust in the digital single market **09**

Enabling access and connectivity in the digital single market **11**

Enabling investment, talent, innovation and trade in the digital single market **13**

3. Conclusion 16



“ A European Commission that understands and responds to the needs of business is more important than ever if Europe is to return to a path of strong economic growth that creates jobs for our citizens.”

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Our vision for a digital single market

A digital single market where policy makers understand and respond to the needs of business is more important than ever if Europe is to return to a path of strong economic growth that creates opportunities and choice for our citizens. Europe needs an accessible, secure, outward looking single market that embeds and encourages digitalisation as an enabler of greater connectivity, innovation, investment, competitiveness, growth, global trade and greater choice in goods and services.

Our priorities for a digital single market (DSM)

The rate of technological and behavioural change in our increasingly digital age can often outpace policy and regulatory processes. Therefore EU policy makers need to develop a flexible, outcome-based policy framework that avoids undue regulatory burden or obsolescence. The DSM framework should unlock the positive potential of a digital economy for businesses and consumers alike.

EU policy makers must work with business to develop a digital single market framework that:

- secures trust through smart regulation and by boosting awareness of the positive potential of data usage;
- ensures the free flow of data;
- unlocks a pro-investment climate in digital infrastructure to improve access and connectivity;

- encourages continued investment in quality digital content for consumers;
- develops skills, encourages talent and promotes innovation; and
- encourages e-commerce by boosting awareness of its benefits and by cutting red tape.

This document presents Ibec's preliminary recommendations to the EU's policy makers. The recommendations outline our vision for a European digital single market and the building blocks necessary to make that vision a reality. The recommendations seek to extend Ireland's global reach as part of our ongoing campaign, 'A European Union that works'. It is necessarily a priority list rather than an exhaustive list. We believe that, taken together and pursued with vigour, these priorities will enable business to create jobs and prosperity in Ireland and across the EU.

Introduction

Advances in technology and the use of data are already transforming the way that we work and live today. Due to its pervasive nature, information and communication technology must not just be viewed as a sector in itself, but rather as an enabler of the broader economy and society as a whole. Between 2001 and 2011, information and communication technology accounted for 30% of GDP growth in the EU¹. As established businesses benefit from unprecedented efficiency and productivity gains, digitalisation has significantly reduced market entry barriers and provided opportunities for new businesses to scale up².

People have become more open to both the use and potential of digital technology in their everyday lives. There are more than 790 million mobile phone subscriptions in Europe and the internet is used by more than 370 million EU citizens, with more than 80% of online consumers using price comparison websites to find the better deals. Consumers across all regions and economic sectors benefit from new innovative services and choice as a result of digitalisation. However, the full potential of digitalisation to both businesses and consumers across the EU has yet to be fully realised. Completing the digital single market would benefit EU consumers by an average of €400 a year, some €200 billion Europe wide³.

Developing a balanced EU policy framework that harnesses the full potential of this ongoing revolution in the use of digital tools will bolster the European single market. A well designed EU digital framework should enable our businesses to compete globally, innovate, invest, grow and provide European citizens with: jobs; opportunities to start their own business; greater connectivity; better healthcare and greater choice in goods in services.

The European Commission has identified the completion of a digital single market as one of its 10 political priorities. It is also a key priority of the European Council and the European Parliament. The European Commission presented a strategy on 6 May 2015, outlining steps towards a connected digital single market. In March, the European Commission indicated three areas it would seek to address:

- access for consumers and businesses to digital goods and services;
- digital networks and services; and
- the creation of long-term growth potential for a European digital economy and society.

The rate of technological and behavioural change in our increasingly digital age can often outpace policy and regulatory processes. Therefore EU policy makers need to develop a high-level, flexible, outcome-based policy framework that avoids undue regulatory burden or obsolescence and unlocks the positive potential of a digital economy for businesses and consumers alike.

1. <http://ec.europa.eu/digital-agenda/en/news/new-study-unlocking-ict-growth-potential-europe-enabling-people-and-businesses>
2. Mettler and Williams, 2011, The rise of the Micro-Multinational: How Freelancers and Technology-Savvy Start-Ups are Driving Growth, Jobs and Innovation (Lisbon Council Policy Brief, Vol. V. No. 3)
3. European Commission, 2014

An effective digital single market matters

A complete digital single market matters to Europe in terms of enhancing efficiencies in our infrastructure and public administration, and the opportunities it provides our businesses to invest, grow, create jobs and enter new markets. It will enable business to provide an improved choice in goods and services to consumers.

The European single market provides benefits in terms of inward investment⁴, market access⁵ and growth⁶. The achievement of a fully functioning digital single market has been estimated to contribute between €260 and 340 billion to European GDP⁷. However the full potential of our single market remains untapped.

Innovations in cloud services, data analytics and intelligent connected machines could add more than €2 trillion to Europe's GDP by 2030. The OECD, WTO and UN have highlighted the importance of Global Value Chains (GVCs) to trade, investment and jobs. Cross-border data flows are a key element of GVCs and have become a core part of day-to-day business activity. It is estimated that a failure to complete the digital market in the EU would cost 4.1% of GDP or €1,000 per EU citizen between now and 2020⁸.

Digitalisation also complements other strategic infrastructural investment and other EU policy objectives in areas like transport, energy, education and health systems by making them 'smarter' in order to improve efficiencies⁹ and benefit European citizens¹⁰.

Digital can be a tool for health, a growing array of digitally enabled health applications have the potential to transform healthcare delivery models across the EU, improving health services for citizens, supporting new models of care for an ageing EU population and driving efficiencies in increasingly overburdened healthcare systems.

The smart use of information communication technology by public bodies can reduce costs of public administrations by 15-20%. A digital by default strategy in the public sector in the EU could result in around €10 billion of annual savings¹¹.

Research, development and innovation in the digital economy will ensure that Europe remains competitive in the mid to longer term¹².

In short, an effective digital single market matters to Europe as it offers our businesses, both big and small, opportunities to invest, grow, scale, create jobs and offer new products and services to consumers.

4. From 1999 to 2012 alone, foreign direct investment climbed from €62 to €230 billion. As a percentage of GDP it rose from 75 to 142%.

5. Offers access to some 500 million consumers across 28 member states with a combined GDP of €12.6 trillion (http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-EI-13-001/EN/KS-EI-13-001-EN.PDF)

6. It adds 2.1% per annum to Ireland's GDP, equal to €3.2 billion (http://ec.europa.eu/internal_market/publications/docs/20years/achievements-web_en.pdf)

7. European Parliamentary Research Service (2014) Mapping the Cost of Non-Europe.

8. http://www.epc.eu/dsm/2/Study_by_Copenhagen.pdf

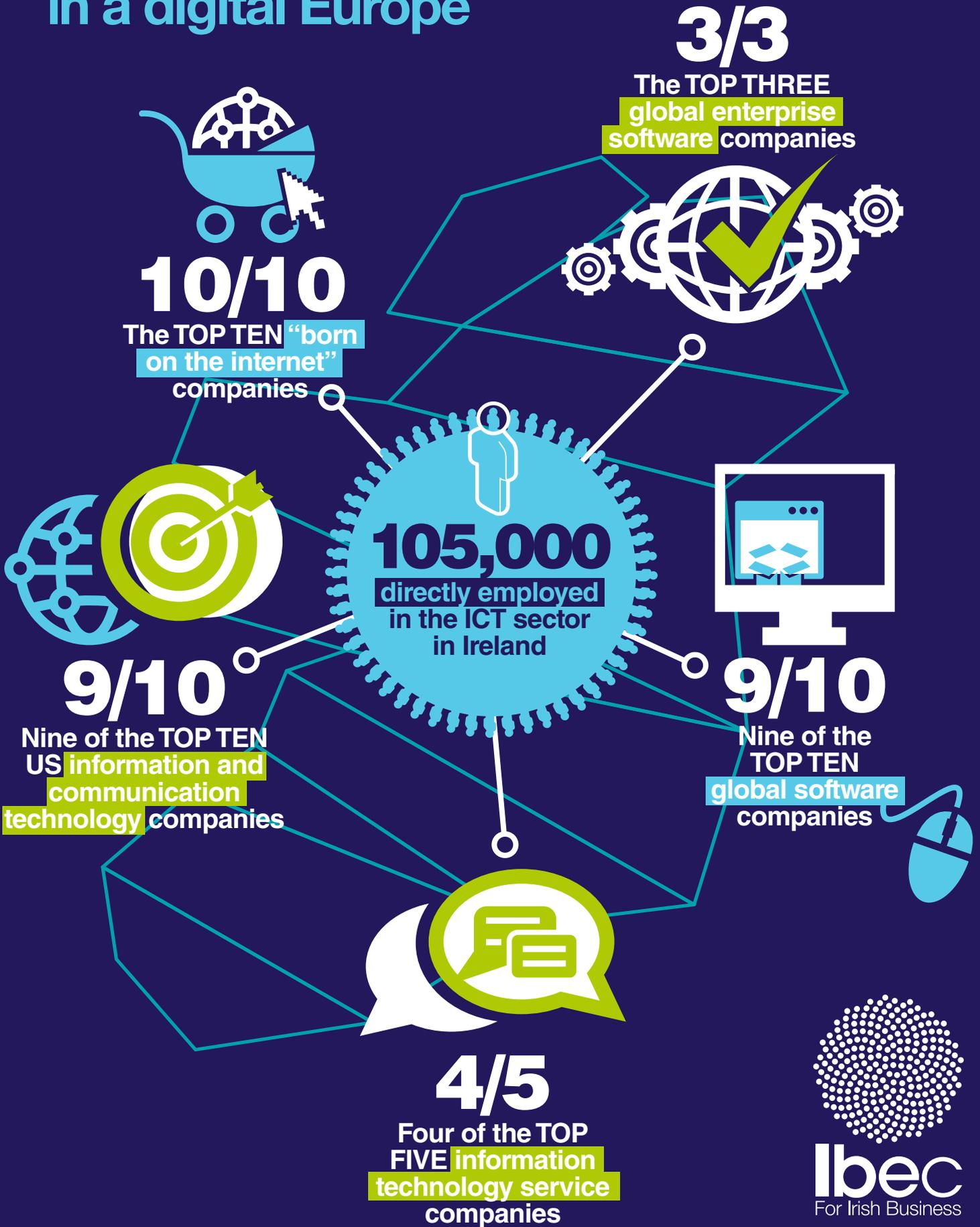
9. For European examples, visit <http://smartercitieschallenge.org/smarter-cities.html>

10. <https://ec.europa.eu/digital-agenda/en/smart-cities>

11. European Commission (March, 2015) Why we need a single market.

12. <http://ec.europa.eu/digital-agenda/en/pillar-i-digital-single-market/action-9-updating-ecommerce-directive>

Ireland's place in a digital Europe



Being digital in Ireland - an opportunity for Europe

Ireland is working to establish Europe as a global technology hub and is home¹³ to:

- nine of the top 10 global software companies;
- the top 10 'born on the internet' companies;
- nine of the top 10 US information and communication technology companies;
- the top three global enterprise software companies; and
- four of the top five information technology service companies.

Ireland has also moved up two places to 9th in the EU's recent composite index of digital performance across the 28 member states¹⁴. Ireland is seen as performing slightly above the cluster of medium performance countries and ahead of the EU average.

While over 105,000 people are directly employed in the information and communication technology sector in Ireland¹⁵ it provides many **positive spill-over effects** in other companies, sectors and in the broader European economy.

Digital can be a **tool for marketing, connecting people** and businesses and as a platform for App developers and stimulating innovation. In this regard, it is estimated¹⁶ that Facebook has benefitted Europe to the tune of €44 billion and 783,000 European jobs¹⁷.

Apple's investment in Ireland and Europe **supports several value chains** and created an 'App economy' that now employs around 530,000 people across Europe¹⁸, with 53,000 App developers in Germany and 31,000 in France alone¹⁹. Such developments support the growth of SMEs and have for example allowed the Irish SME, Soundwave reach 1 million users in 190 countries.

Established technology companies such as IBM are **mentoring start-ups**, like Profitero – a pricing intelligence company, allowing them to innovate in their markets²⁰. Digitalisation is also **enabling an economic ecosystem** that can help both Irish and European SMEs, to grow, create new jobs and export to new markets²¹.

It is acknowledged that the European single market is incomplete. The EU needs a policy framework that breaks down remaining barriers and unlocks the greater potential of a digital economy for our businesses and consumers alike. Developments in technology can drive changes in business, consumers and policy makers alike. How policy makers react to these changes must be carefully considered in order to maximise the positive outcomes for our businesses' and citizens' welfare alike. Regulation that inadvertently inhibits innovation or competition will prevent the realisation of opportunities presented by a digital single market for consumer choice, jobs and growth. Care must be taken to ensure that the proposed policy framework does not remove national barriers to businesses and consumers in the single market, only to inadvertently replace it with a supra-national barrier.

13. IDA (2015) <http://www.idaireland.com/business-in-ireland/industry-sectors/ict/>

14. Digital Economy and Society Index (DESI, 2015) <https://ec.europa.eu/digital-agenda/en/digital-economy-and-society-index-desi>

15. ICT Ireland (2013) http://www.ictireland.ie/Sectors/ICT/ICT.nsf/vPages/Papers_and_Sector_Data-the-global-technology-hub-28-11-2013?OpenDocument

16. Deloitte (2015) Facebook's global economic impact – A report for Facebook.

17. The same report also estimates that €12 billion (and 162,000 jobs) of this overall economic impact was in Germany and France.

18. To read more, visit <https://www.apple.com/ie/job-creation/>

19. Since 2008, European App developers have gained \$7.5 billion in revenues from Apple's digital platform.

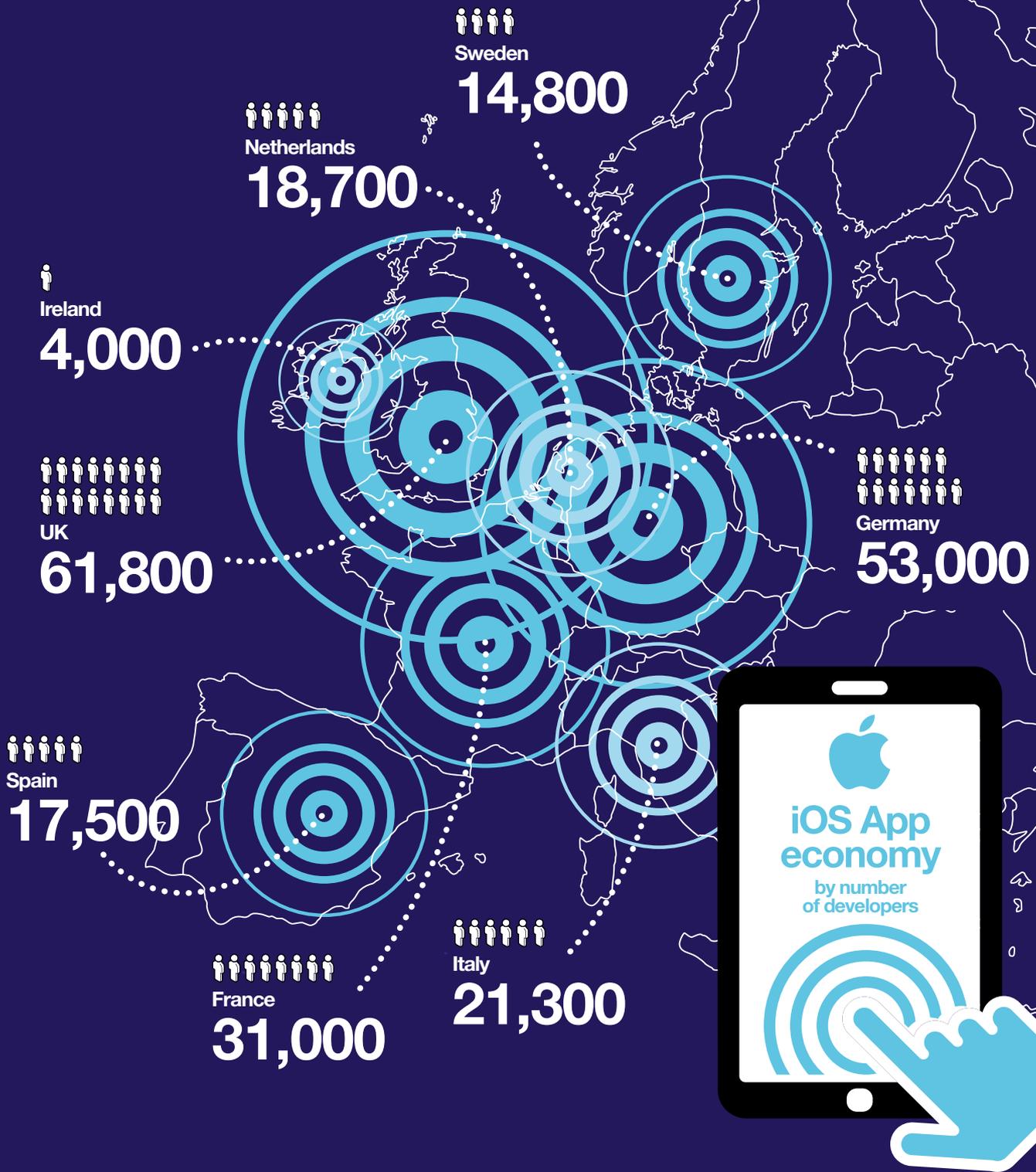
20. IBM's smart camp initiative: <http://www.enterprise-ireland.com/en/News/PressReleases/2012-Press-Releases/Pricing-Intelligence-Firm-Profitero-Named-IBM-Global-Entrepreneur-Of-The-Year-2012.html>

21. To read about a broad range of case studies where SMEs from across the EU have used Google's digital platform to successfully grow, create jobs and export to new markets, visit <https://customers.withgoogle.com/intl/en-gb#cards>

A public debate has developed in Europe on digital platforms such as internet search engines and social networks. A fear of market dominance has led to calls in some quarters for regulation, often specifically targeted at certain businesses and sectors, without clarity on what Europe wants to achieve, or the evidence on how it could achieve it. Given the ongoing integration of digital into our economy, such an approach would set a precedent by censoring innovation and success in the single market and producing unintended spill-over effects that harm European jobs, start-ups and SMEs that we need to support. If there are genuine concerns about market abuse, they should be solved through careful analysis of the issues and a balanced application of existing regulatory oversight and competition rules. If needs be, a review of the existing framework of competition rules to ensure it meets the requirements of digitalisation, would be welcome. But creating 'one-size fits all' or inflexible regulation is not the right approach to encourage innovation and start-ups.

We need to harness the strengths of Europe and its single market. Given the global nature of today's business and digital technology, Europe needs an outward looking policy framework, if we wish to continue to attract the mobile talent, investment and innovation necessary to foster the desired economic ecosystem necessary to help our businesses, particularly SMEs, to innovate, scale up, compete and expand into new markets.

A digital ecosystem: app developers



Ibec's priorities for the digital single market

Securing trust in the digital single market

The long term sustainability of the digital single market will be bolstered by securing the trust of businesses and consumers alike.

Data protection

The EU should:

- ensure an effective and coherent data protection regime that fosters innovation in data-use while protecting the fundamental rights of citizens and boosting consumer confidence. Furthermore the framework must be technology neutral and provide clarity and transparency to data subjects as well as data controllers and processors. In this regard, proposals restricting “profiling” and creating “joint processor-controller liability” risk creating heavy administrative burdens on companies and make some data-based innovations in Europe more costly, more time consuming or even impossible;
- ensure that the right to obtain rectification or deletion of personal data that is inaccurate or not compliant with legislation does not result in excessive burdens on controllers who lawfully process personal data. In the case of published information, clear guidance should be available on how to balance the “right to be forgotten” with the rights to freedom of expression and access to information;
- ensure that the legal regime fully embodies the principle of the single market by avoiding potential fragmentation pitfalls in the implementation and the enforcement of the rules i.e. commitment to a proper and true one stop shop mechanism; and
- ensure a balanced approach to sanctions for data breaches, ensuring proportionality to the damage incurred.

Cloud computing

There are several benefits to the use of Cloud Computing, which will be fundamental to the digital economy. Cloud provides the computing capacity required to run big data analytics. Businesses can make better decisions with insights gained through big data and analytics. It can allow businesses to use resources more effectively within and outside an enterprise. Developers can also use Cloud Computing to innovate, creating new apps in a secure way that helps businesses. Trust in Cloud computing is essential for Cloud to reach its full potential and trust in Cloud providers is the prerequisite to increased Cloud adoption and Cloud growth.

The EU should:

- promote the free flow of data and ensure that consumers and clients are offered a choice on where their data is stored. Governments should not mandate data storage in certain locations;
- finalise the Industry Code of Conduct and allow for a speedy approval by European data protection authorities. Cloud service providers that adhere to the code, commit to implementation and good governance of robust privacy and security policies. This will be a valuable reassurance to Cloud users; and
- promote the use of cloud computing. The Cloud Code of Conduct, a voluntary instrument, being developed by industry and the Commission, must remain implementable by different kinds of cloud services.

Cybersecurity

The EU should:

- build trust in cybersecurity through private sector innovation. Legislation must be proportional and risk based to foster this innovation;
- avoid a rigid one-size-fits all approach to cybersecurity, which would harm innovation. In this regard, the Network and Information Security (NIS) Directive is welcome but should not result in a static, “check the box” compliance regime that may encourage some firms to invest only in meeting static standards or practices that are outmoded. Any legal infrastructure should focus on critical infrastructure only and be risk-based;
- support international and industry driven standards in cybersecurity. European businesses can make use of these;
- improve cyber-resilience through best practice sharing and showcasing success. Cyber security can be improved by cooperation and exchange of best practices between public and private sectors (e.g. financial services information sharing centre); and
- increase user awareness and educate consumers on rights and cybersecurity risks.

Boost awareness of the positive potential of data usage

The EU should:

- encourage the smart use of ICT by public bodies to reduce the costs of public administration through interoperability and efficiency; and
- work with business to broaden the scope of the current policy debate on data usage in Europe beyond security. Data is already used positively by businesses in meeting customer demands and in improving our healthcare, education and public services. Trust can be engendered in a digital single market if these positive elements are also highlighted to EU citizens.

Enabling access and connectivity in the digital single market

The digital single market must enable access and connectivity for business and consumers by ensuring the free flow of data and addressing barriers to investment in infrastructure. A strong digital single market and a strong telecoms single market go hand in hand. Europe needs a pro-investment climate.

Ensuring the free flow of data

The EU should:

- ensure the internet remains open and accessible in a transparent and non-discriminatory way. This is important for all sectors of the economy and for all sizes of business;
- avoid the imposition of forced data localisation requirements. Such restrictions on cross-border data flows must be avoided as they would negate the competitive advantage that technology can deliver and reduce the benefit of technology for consumers. The EU should also promote such principles globally;
- enable consumer choice from a range of different services, including specialised services with different characteristics. Specialised services should not be a substitute for general internet access or have a negative impact on the quality of the general internet access service;
- provide relevant and flexible guidance on digital traffic management to advise on principles such as equal treatment for equal kinds of traffic but to allow network operators and regulators room to respond to emerging challenges;
- avoid a divergent EU approach to the global approach to net neutrality – to avoid distortions to innovation and competition for business inside and outside the EU; and
- accelerate the deployment of large-scale diffusion of eHealth tools, solutions and databases at EU level and beyond. For example, full global traceability will underpin the safety of medical technologies in the digital age, building a global standardised, searchable database to support future regulatory frameworks is imperative, a first step in this ambitious roadmap is urgent implementation within the EU of Unique Device Identification through EUDAMED.

Unlocking investment in digital infrastructure to improve access and connectivity

The EU should:

- encourage private sector investment in digital infrastructure across the EU by leveraging the use of existing EU funding mechanisms;
- ensure the new EU strategic investment plan will also support investment in the digital economy at large, not just in infrastructure;
- ensure that a digital single market for healthcare can be expanded into the future by implementing cross-border healthcare interoperability across the EU which will promote competition and reduce costs for healthcare businesses;
- ensure competition policy does not have an adverse impact on investment capacity, innovation, employment and growth. Merger reviews must be kept open to all kinds of efficiencies, be assessed on their own merits and with realistic and achievable standards of proof; and
- co-ordinate spectrum across all member states to promote investment certainty. Differences between member states in spectrum hampers the roll out and completion of the single market for wireless broadband communications. The detailed terms of licensing and timetables should remain under national powers.

Enabling investment, talent, innovation and trade in the digital single market

The digital single market must enable investment, talent, innovation and trade by encouraging continued investment in quality digital content for consumers; talent and the development of skills and innovation; and e-commerce by boosting awareness of its benefits and by cutting red tape.

Encourage continued investment in quality digital content for consumers

The EU should:

- ensure EU copyright rules avoid efforts to extend the scope of copyright and strike a proper balance between intellectual property rights and the further development and provision of innovative services in the digital economy;
- promote better repertoire transparency. Fragmentation of rights ownership is still one of the main bottlenecks in content distribution. The market needs a reliable mechanism to enable rights holders to aggregate their repertoires so that the number of licenses needed is reasonable while at the same time avoiding the creation of super-monopolies;
- support direct licensing. Direct licensing can fairly remunerate right holders while allowing a fluid circulation of content. Collective licensing of copyrights should be developed in order to make it more open, transparent, efficient and fairer for the contracting parties e.g. through high quality implementation of the recently adopted Directive on Collective Management of Copyrights;
- revise the system of copyright levies to ensure compensation is based on actual demonstrable harm, taking into account remuneration from direct licences with rights holders;
- reforms to copyright should preserve provisions in the 2009 Software Copyright Directive that underpin existing software development principles; and
- enforce existing single market requirements on a case by case basis to address established discriminatory practices. Geo-blocking – a measure to limit or block access to product or service or somehow discriminate on the nationality or residence of a consumer, may arise for a number of reasons including: diverging rules imposed across member states (e.g. VAT, excise, payment, compliance costs); a divergence in market conditions or cultural and consumer tastes; and the economic viability of delivering certain products and services across borders. Geo-blocking may not be caused by companies but by deficits in the implementation or interpretation of single market rules at member state level across the EU. Policy makers should not seek to force companies to sell across borders at any cost but rather to identify and address the underlying reasons behind barriers to entry for businesses and consumers.

Develop skills, encourage talent and innovation in the digital single market

The EU should:

- continue to stimulate digital entrepreneurship and develop a policy framework that will promote ICT skills in conjunction with companies' needs. Business, academia, schools, government and organisations should collaborate to develop a high level digital skills strategy that would facilitate global talent mobility;
- create a coherent EU strategy for digital learning;
- continue to work to improve Europe's attractiveness to mobilise innovation based investment and global talent;
- facilitate access to finance for digital innovation and entrepreneurship;
- seize opportunities in cloud computing, data analytics and intelligent connected machines to maximise job creation and growth potential. Dynamic ICT and software clusters can help drive economic growth, to the benefit of consumers and business, but must be globally orientated not EU-centric;
- provide incentives for companies and research institutes to cooperate in networks and clusters in order to facilitate the commercialisation of innovations;
- address operational challenges faced by e-procurement, namely interoperability and security of sensitive data;
- work ambitiously toward reaching the Europe 2020 target of 3% of the EU's GDP invested in research and development – to reach its EU 2020 target it will need to be spending at least an additional €500 billion per annum by 2020;
- ensure the expected mid-term review of the multi-annual financial framework (EU budget for 2014 – 2019) maintains a strong orientation towards the promotion of research, development and innovation activities; and
- support best practice and reduce the cost, complexity and length of the procurement process, which are detrimental to bidders and authorities. The public procurement legal framework should safeguard the principles of transparency, market openness and competitive tendering, vital for a healthy internal market. European governments should also swiftly transpose new governing rules for public procurement.

Encourage e-commerce by boosting awareness of its benefits and by cutting red tape

The EU should:

- address barriers that hamper cross-border e-commerce, from fragmented consumer legislation, such as online divergent guarantee periods, to issues with cross border payments, delivery and VAT;
- clarify and harmonise excise rules across member states. Unclear rules on excise payment liability prevent the development of online businesses in excisable goods;
- encourage more businesses of all sizes to engage in cross-border trading by promoting the benefits of e-commerce and providing support to ease the transition to digital;
- avoid special tax rules for the digital economy. Taxes applied to digital goods and services should be consistent with taxes applied in the non-digital area. Rules should be universal, fair, effective and neutral. The internet has changed how business is conducted. It enables companies of all sectors and sizes to more efficiently deliver goods and services. We favour a broad based consumption tax that does not differentiate between domestic or foreign providers or specifically target digital goods and services; and
- apply new VAT rules consistently. VAT rules on the supply of telecommunications, broadcasting and electronic services to consumers must be applied consistently in line with single market principles. The so-called 'mini one-stop shop' must be easy to use, to limit additional administrative costs arising from the new rules.

Conclusion

Europe has an opportunity to unlock the potential of the digital economy. An effective digital single market matters. It can create up to €340 billion in additional growth to the EU economy.

Developing a balanced EU policy framework that harnesses the full potential of the ongoing global revolution in digital technology and data usage will bolster the European single market. The digital single market (DSM) policy framework should enable our businesses, both big and small, to compete globally, innovate, invest, create jobs and grow. The DSM policy framework should provide European citizens with: opportunities to start their own businesses; better health; greater connectivity; and greater choice in goods and services.

Our vision for a digital single market

A digital single market where policy makers understand and respond to the needs of business is more important than ever if Europe is to return to a path of strong economic growth that creates opportunities and choice for our citizens. Europe needs an accessible, secure, outward looking single market that embeds and encourages digitalisation as an enabler of greater connectivity, innovation, investment, competitiveness, growth, global trade and greater choice in goods and services.

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For further information

Ibec is working on behalf of its members at home and abroad to extend the global reach of its members. If you are interested in finding out more about the issues raised in this paper or Ibec's EU and international policy activities, please see attached contact information below.

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