

## EUROPEAN DIGITAL SINGLE MARKET

*BT input to the policy debate*

The Digital Single Market offers an opportunity for a comprehensive review of EU policy-making, to assess what the 'digital' economy and society offer Europe in terms of economic growth, competitiveness and a better future, and to address the key policy challenges in areas such as innovation and investment in networks and services, choice and competition for consumers and businesses, strength and competitiveness of EU companies, and skills training and employment for citizens.

The shifts in technology potential and use, the convergence of previously distinct sectors, and the interplay of national, European and global trade require a renewed emphasis on the strengths of a properly enforced and open Internal Market, and the leverage of European strengths on the global stage.

The policy approach should support growth in the communications sector and the broader EU economy, boost innovation and creativity, maintain global competitiveness and ensuring the EU realises the benefits of a world class infrastructure. This will require facilitation and encouragement of efficient private sector investment in infrastructure, and enabling the evolution of a fair, consistent and equitable converged regulatory framework.

### Trust and Confidence

*EC: "More and more of us manage our lives online, and we need know that we are fully protected, and we are getting what we expect: high quality service throughout the EU. We want be confident in carrying out online transactions cross-border; we want to know what's happening to our personal data; and we want to know that our consumer rights are the same in all EU countries."*

**Data** rules should maintain a balanced privacy policy to protect consumers and support innovation. The EU should seek to avoid new national/regional barriers to data transfer.

**Cyber Security** rules should encourage the development of national cyber strategies and these should be market-led, supported by public/private cooperative frameworks and promoting innovation and investment.

**Consumer rights** rules should reflect need for certainty by both businesses and consumers alike. BT would be supportive of reviewing the impact of the Consumer Rights Directive and its operation in relation to other EU consumer protection legislation, before proceeding to introduce a new legislative instrument. BT would oppose any new legislative instrument that introduced burdens on business more onerous than those already in place. BT is supportive of the innovative approach represented by CESL whereby business could opt into providing services to consumers under a 28<sup>th</sup> jurisdiction.

**IPR/Copyright** policy should maintain fair balance and protection for intermediaries. BT supports the focus on commercial-scale IP infringement as a priority area for further work.

### Removing Restrictions

*EC: "EU law gives us the right to travel, work or trade anywhere in the EU – whether we're going on holiday or setting up a business. The Internet does not stop at the border. We should benefit from the best content, deals and services, wherever we are in the EU; and businesses should be able to market and share their bright ideas across the EU."*

BT shares the Commission's vision of a more effective Digital Single Market, but we would like to warn of the unintended consequences – in terms of reduced competition, undermining the strength of the creative industry and impeding innovative business models – through harmonisation of copyright arrangements, up to and including a single EU copyright title.

We do not see current copyright arrangements as undermining the Digital Single Market – indeed, presently citizens across the EU are overwhelmingly able to access the content they desire. BT is concerned about the potential to disrupt or undermine the creative industries that are so vital to Europe's economic prosperity. We oppose any departure from the existing approach to territoriality which would impose requirements for cross-border sales, because this enables rights holders maximum flexibility and efficiency to invest, distribute and monetize their work. Restricting the freedom of right holders to make commercial decisions will ultimately penalize citizen consumers, artists and rights-holders, while also putting regional/local European distributors at a disadvantage to global distributors which in general tend to come from the United States. However, we do empathize with the desire of consumers to who would like to access the content they have paid for in their home country while travelling throughout the EU and are considering the possibility of solutions such as subscription-linked portability, which would have customer benefit without undermining territoriality.

### Access and Connectivity

*EC: "We need fast, reliable services for every home; boosting productivity and performance for every business which means more investment in broadband. We want to feel comfortable going online and communicating from a different Member State; we need a free and open Internet; and we should maximise our wireless capacity across the EU".*

The principles underlying EU telecoms regulation and EU competition law are basically sound. However, the challenges of consolidation, convergence and of cross-border business service provision, require adjustments to the Electronic Communications Framework to deliver a more aligned, consistent regulatory treatment of converging markets and sectors. This should be underpinned by non-discriminatory wholesale access, and with focus on active rather than passive products.

**Fibre** deployment is best served by a policy framework which maintains the pro-competitive and technology-neutral principles of the EU Framework, and the approach laid out in the EC

Recommendation allowing price flexibility in return for strong non-discrimination, with price stability for copper. An emphasis on local access based on active fibre access products helps drive vibrant retail competition which in turn encourages take-up. Excessively broad approaches to margin squeeze protection will contaminate unregulated markets.

Achieving the digital single market is dependent upon achieving the Commission's goals for near-universal fibre coverage. However, a key barrier to achieving the Commission's goal is the state aid rules imposing burdensome access terms on public support for fibre deployment in the white areas of cities. While the reasons there are white spaces in urban areas (high cost, low density, poor demand) are the same as those in rural areas, the differing access conditions effectively discriminate against EU citizens living in urban white areas, who in the UK already tend to be economically disadvantaged

We are determined that this barrier should be addressed. Otherwise countries such as the UK will experience the perverse outcome of higher fibre coverage in rural areas than in cities and will be stymied in achieving the targets in the Digital Agenda for Europe.

**Convergence** between telecoms and media gives rise to a similar need for policy consistency. Asymmetries between telecoms operators and Pay TV providers are distorting the market and jeopardize the effective competition and consumer benefit in the market for broadband as bundling becomes ever more important, and as content represents the most compelling element of the bundle for consumers.

The ongoing dominance of Sky's vertically integrated pay TV platform poses a number of challenges to the long-term health of many actors in the UK media and telecoms sector while also undermining long-term outcomes for consumers in respect to competition, pricing and innovation. Pay TV continues to grow overall penetration, now reaching over 60%<sup>1</sup> of UK households and Sky's share of the overall pay TV market has remained in excess of 65% over, a super-dominant retail market share, larger than any other player in UK media and telecoms despite the fact that reviews by competition authorities (Ofcom and the Competition Commission) since 2007 have consistently highlighted the existence of market failure in Pay TV. Sky's high and persistent market share at the retail level in pay TV and its persistent near-monopoly of premium sports and movie channels at the wholesale level, creates a self-reinforcing vicious circle as its scale reinforces its ability to outbid all competitors consistently for exclusive control of key content. Its enduring bottleneck in rights for key content poses risks for competition in markets for pay TV and broadband.

By extending the access principles of the Electronic Communications Framework to content bottlenecks, the EU can level the playing field across sectors, achieve a better deal for consumers and help stimulate fibre demand.

**Internet and Net Neutrality** - EU policy should drive progressive internet take-up, with a balanced approach to Open Internet and Net Neutrality which prevents anti-competitive blocking but encourages innovation. Proposals by the European Parliament in April 2014 are incoherent, extreme and would threaten legitimate and essential traffic management practices (including protection of

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<sup>1</sup> In this context we mean platform pay TV where an operator provides a platform over which pay-TV content is sold (video on demand or linear). This includes YouView (BT and TalkTalk), Sky satellite (i.e., excluding NowTV only customers), and Virgin Media customers

minors) while undermining investment and innovation in improved services owing to unacceptable legal uncertainty and constraints. The EC should take a balanced approach.

### Digital Economy

*EC: "Entrepreneurs and small businesses in Europe are the lifeblood of our economy: they need to be able to start up, scale up, and take advantage of having a market of 510 million people at their fingertips. They want clear rules to allow them to operate cross border."*

**Cross-border service provision** should of course be a key focus of the Single Market. BT is a significant player in this market, providing service to businesses across the EU, but regulatory inconsistency and non-availability of key wholesale access inputs mean large business customers are still missing out on the full productivity benefits of ICT. What is needed is effective wholesale access to business connectivity products (leased lines and Ethernet) across all EU markets. This is the key solution for the achievement of genuine pan-EU competition in telecoms and the completion of the provisions necessary for the single market.

### e-Society

*EC: "All of us in the EU should benefit from e-services and e-solutions, in order to make our lives easier, more efficient, and less reliant on paper. We are starting in-house, making the EU institutions a pillar for e-government. Having digital skills and knowledge is essential in the modern age."*

BT has ambitious education engagement objectives for digital skills. We aim to help inspire the next generation of children to study computing and enter careers in ICT, and to ensure schools are prepared to deliver the new Computing Curriculum. Our involvement includes:

**Barefoot Computing:** A national programme to develop & disseminate teaching resources to Primary School Teachers <http://barefootcas.org.uk/>, with 1000 workshops being delivered by volunteers (BT + others), and led by the BCS & in partnership with BT

**Scratch Jr:** focus on the early years (5-8) and a version of Scratch from MIT. BT is sponsor & lead test partner in the UK.

**TechFuture Girls** (formerly CC4G) - A coding club specifically for girls, developed by The Tech Partnership.

**National "Teaching Computing" MOOC** - free online course specifically for teachers preparing for the new curriculum. BT is sponsor & co-developer for course, led by University of East Anglia.

BT's "Better Future" programme is our commitment. It's a promise to use the power of communications to improve lives and ways of doing business - without it costing the earth. We have set ourselves three goals to achieve by 2020 that will help us to grow sustainably in the years to come. <http://www.btpic.com/Betterfuture/>

## **Innovation & Research**

*EC: "Europe should invest in world-class ICT research and innovation in order to boost growth and jobs. We continue to set up innovative Public-Private Partnerships to encourage innovation in Europe; and exploit the opportunities available through Horizon 2020 research funding programs."*

Participation in European and UK government funded collaborative programmes is an integral part of the BT research programme. The programmes establish a useful framework to undertake open innovation on issues that are more than two years before they will be ready to influence the market.

BT invested £544 million in research and development in 2012/2013 to support our drive for innovation - we are the third largest investor in R&D in the UK over the past 5 years - and we have development centres, located in the UK, US and Asia. BT sponsors the yearly Young Scientist and Technology Exhibition in Ireland. See: <http://www.btyoungscientist.ie/>.

We also encourage innovation culture through initiatives such as BT Infinity Lab SME Award: Digital Innovation for the Public Sector (a £15,000 prize and six months of support from BT plus membership of TechHub's innovation space), and the 'Great British Invention Index', which recommends ways to inspire the nation's future inventive thinkers: 'Generation I'.

We're proud to say that every one of our 89,000 people is driven by a desire to make a difference in the world. There's a passion for new ideas deep down in our DNA. . Our network delivers the world live to our customers. It helps moments of genius happen. And as we communicate better and faster, more new connections are made, new ideas sparked, new inventions created. BT Ingenious is celebrating this creativity. We're bringing great thinking from across the company together here at <http://www.btplc.com/Innovation/> and via Twitter @BTIngenious.

**BT Group plc**

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