

The Role of Online Platforms

The Confederation of British Industry

The CBI is the UK's premier business lobbying organisation, and is a confederation of 140 trade associations, representing mostly smaller firms, alongside medium-sized and larger businesses who tend to join the CBI directly.

Together the 190,000 businesses we represent employ nearly 7 million people, about one third of the private sector-employed workforce.

Our members come from every sector of the economy, including agriculture, automotive, aerospace and defence, construction, creative and communications, financial services, IT and e-business, management consultancy, manufacturing, professional services, retail, transport, tourism and utilities.

Key Messages

- Platforms are important to the success of the EU digital single market, and will continue to be in the future
- There are measures that the EU should take to improve the digital business environment to ensure that platforms can continue to provide benefits for consumers and non-platform businesses as they grow in scale
- Platforms are not homogenous, so blanket regulation will not work to manage the various markets they impact – but we must update and enforce existing legislation and continue to develop robust competition frameworks

Platforms are important to the success of the EU digital single market, and will continue to be in the future

Online platforms have been and continue to be a central facet of the EU digital economy, contributing to economic growth, providing new services for consumers, and driving innovation in digital products and services. Their continued ability to play this important role will be vital to the success of the digital single market.

In many sectors – particularly ecommerce - when it comes to economic growth, the contribution of online platforms is not only tied to their own success, but to the success of a range of businesses that operate 'on' platforms to reach customers. Such businesses range from start-up, small and medium sized businesses

that otherwise might not be able to take their product or service to market, right through to larger established businesses that wish to take advantage of platforms' online infrastructure. The OECD has identified some key benefits for many of these businesses when using online platforms that include lowering transaction costs for businesses by providing ready-made infrastructure; collecting, organising and evaluating data to eliminate search costs; facilitating interactions with a larger base of consumers.¹

Other benefits for many CBI businesses are platforms' ability to help boost cross-border activity and stimulating the growth of new and diverse business models. This is echoed in research by Oxera² earlier this year, which conducted interviews with business leaders across Europe that demonstrated the importance of platforms to overcoming the impact of physical geographical barriers when doing business in overseas markets, together with opening up access to a wider range of consumers for what might have otherwise been quite niche and fledgling businesses. With a host of promising start-ups based here in Europe, and thirteen European 'unicorns' – or billion dollar companies – together with a market of 500 million consumers across the continent alone, platforms operating in a competitive and well-managed market present a real opportunity to smaller businesses looking to reach out beyond their home state. This will be important to achieve a digital single market in Europe, as well as ensuring that Europe is a base from which to do business globally.

Across the majority of markets, these benefits for businesses can translate into ultimate benefits for consumers, and make it easier for them to actively engage in the digital economy. Here, the OECD has identified the wider availability of more – and tailored – products and information to customers, often at lower prices, and conveniently aggregated and presented in one place. Furthermore, the nature of feedback facilitated through online platforms can encourage increased customer interaction. For example, the ability to feedback through peer reviews as part of sharing economy platform infrastructure promotes the need for businesses to continually meet rising demands for excellence.

With consumer-intuitive designed services at the heart of most online platforms, the last decade and a half – and the last five years in particular – has seen an uptick in innovative applications and interfaces as part of everyday life. In fact, previously analogue activities are now accessed across a range of platforms by customers – from streaming film, music and TV to ordering dinner to the door, services have been revolutionised by online platforms in terms of availability, convenience and price. It is important that Member States encourage platforms to keep consumers at the heart of these new business models by enabling them to make informed decisions based on their preferences.

The aim of the Commission should therefore be to facilitate the development of platforms in such a way that consumers and businesses can extract these benefits. As with the offline world, where businesses have an established presence and considerable market power it is important that markets are monitored and managed to protect consumers and smaller companies. Where a platform has a substantial market share or has control over pricing through the use of price parity clauses, the benefits of lower prices to the consumer

¹ OECD (2010), 'The economic and social role of Internet intermediaries', April, p. 15.

² Oxera (2015), 'Benefits of online platforms'

may not be felt. In such cases, and as with offline markets, it is justified for national and international competition authorities to investigate and use the tools already at their disposal.

There are measures that the EU should take to improve the digital business environment to ensure that platforms can do even more for consumers and non-platform businesses as they grow in scale

Benefits to businesses and customers could be enhanced by targeted improvements to the operating environment in the EU. In some instances, platforms are restricted from reaching their full potential as a result of barriers that the digital single market should seek to remove, whilst in other instances improvements are needed to the way the EU enables transparent and competitive markets in an online and global economy. With the right improvements - in the short term and the long term - the EU could harness the benefits and potential of online platforms to much greater effect for consumers and business-users of platforms, and to aid Europe's competitiveness globally. Successful delivery of the digital single market should be the main focus to achieve this, but there are other environmental factors to consider like fostering the right finance culture in the business community and in the immediate term, providing clarity and certainty on regulatory responsibilities and informing consumers.

The potential of a borderless digital single market in which businesses & consumers can buy and sell more easily across borders – from the seamless transfer of online digital content to the sale of physical goods online – is vast. To successfully deliver on this potential, the Commission has been right to focus on connectivity for consumers, facilitating access to digital and tangible goods online, and the potential of data in the digital economy. Connecting more businesses to the best possible internet speeds and technologies is the starting point to enabling the creation of more new internet businesses and models, enabling businesses to more effectively use them to disseminate their own content, products and services, and enabling customers to access them. Having identified these areas for improvement in its digital single market strategy, the Commission must now focus on delivering on its proposals in a workable way, focussing on removing barriers and facilitating markets over and above regulatory intervention.

Cultivating the right financing culture in Europe will also ensure that the EU can keep up in the global race to provide online services and create new fast-growth business models. Europe currently accounts for only 15.3% of global venture capital activity compared to the US share which stands at 68.2%. Growing small and medium sized firms increasingly rely on alternative sources of finance like venture capital or peer-to-peer lending, but they need long-term growth capital as well as short-term wealth capital, and this is in shorter supply on this side of the Atlantic. More than half of CBI medium sized technology members have identified this shortage as a barrier to their growth that needs to be more adequately addressed, whilst 22% of scale-up CEO's in the UK cite venture capital as one of their top three issues / priorities. Whilst the solution to this should be largely business-led, it will be important to remember that it is a huge factor for European start-ups and platforms, before jumping to conclusions about the need for regulatory intervention elsewhere.

Finally, online platforms are 'disruptive' to markets by their very nature, and the EU should provide regulatory clarity on both sides of the debate. Platforms' innovation of the customer experience through data-analytics has revolutionised the way that businesses and consumers interact in a range of sectors, from ecommerce

to travel to takeaways, and their high IP value, strong social curation and international capabilities often put them at an advantage compared with their more traditional competitors. Importantly, the role for the EU is not an automatic preference for new regulation to address such issues, but to review whether existing tools and legislation remain fit for purpose in the modern operating environment, and to clarify, update and enforce them in a future-proof, targeted and evidence-based way. For example, the Commission's plan to issue new guidance on enforcement of the Unfair Commercial Practises Directive will be a welcome contribution where sector-specific concerns exist, particularly in the hotels sector, without introducing new legislation.

Platforms are not homogenous, so blanket regulation will not work to manage the various markets they impact – but we must update & enforce existing legislation and continue to develop robust competition frameworks

Platforms exist in a variety of sectors and markets, each with different service and product offerings, and different outcomes for the consumer and for different businesses. What is clear, is that platforms are not a homogenous group, and there will be no one-size-fits-all way to promote their growth, or remedy any perceived harm resulting from their presence in a marketplace; what presents itself as a cause for concern in one market, may not be an issue in another. An overarching regulation of all 'platforms' and their activities would therefore be a blunt and ineffective instrument and should not be considered by the Commission. In fact, given that platforms and other intermediaries have existed in one form or another for a considerable period of time – predating *online* platforms – there is already a vast base of legislation that applies to a range of companies and situations that arise in a digital age. In fact, most of the legislation is being consulted upon as part of the Commission's digital single market strategy – for example, the ecommerce directive, audio-visual media directive and others are applicable to many online platforms, and are currently under review.

This is why the EU institutions should continue to work in keeping with Vice President Timmermans' principles of 'better regulation' in all aspects of the digital single market strategy, and in drawing any conclusions about online platforms and new business models. All applicable legislation will need to be audited and any updates will need to be suitably evidenced; there should be no automatic move toward new regulation if the desired outcome can be achieved by other means. The UK government's approach to 'watch now, regulate later' in relation to new and disruptive business models has been particularly welcome, giving time for innovative businesses and ideas to flourish and get off the ground.

Where particular markets are found to be operating sub-optimally – for example, where market dominance or lack of transparency are limiting benefits to consumers - effective use of the Competition framework should be the tool for filling any regulatory gaps that remain. Aside from the reasons already outlined, the fast-paced nature of technological innovation and disruption makes it increasingly difficult to regulate for change. There is a need for nimble and focussed ex-post proceedings to tackle any issues, rather than relying on regulation that has thus far proven to be fast to prescribe but slow to pass through the legislative process. However, more reliance on the competition framework will not work without a review to identify any improvements that may be required for its effective implementation – at the European level and in individual member states.

The Commission's ongoing consultation into European Competition Authorities should therefore inform the results of this review of online platforms. As part of that consultation the Commission should look at a range of factors; the speediness of proceedings, the skills and resources of national regulators, the independence and objectivity of EU case selection, the scope of competition decisions, better co-ordination between regulators, and establishing a best practise approach to cases regarding online platforms that promotes innovation over protection.