



Digital Services Act Package

21st meeting of the eCommerce Expert Group

26 May 2020

Outline

I. Context and framing

II. Process update

- Open public consultation
- Engagement opportunities and next steps

III. Digital Services Act Package - current thinking on:

1. Ex-ante rules for fair and competitive platforms' markets
2. Measures to deepen the Single Market for digital services

I. Context and framing

SHAPING EUROPE'S DIGITAL FUTURE

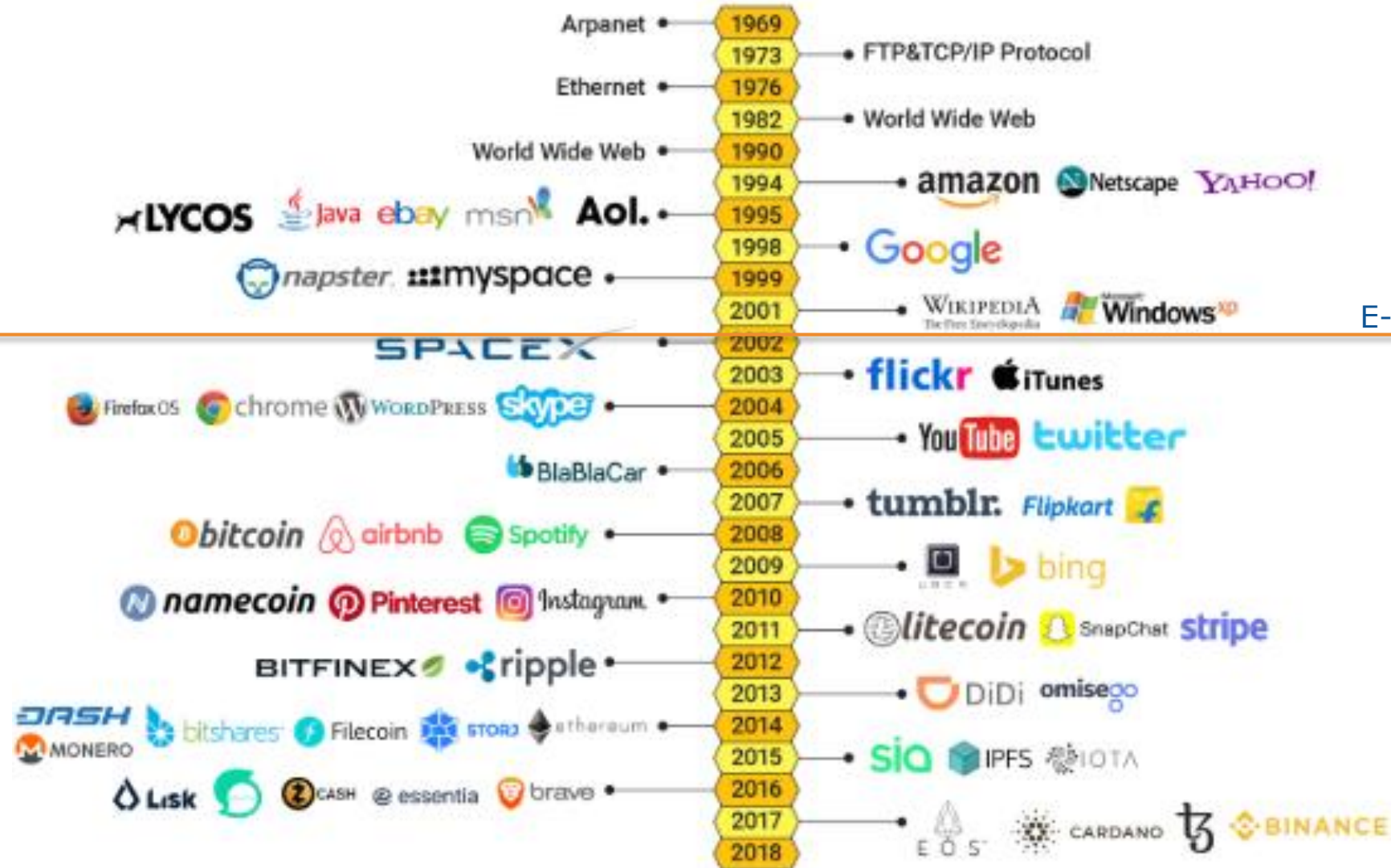
1

New and revised rules to deepen the Internal Market for Digital Services, by increasing and harmonising the responsibilities of online platforms and information service providers and reinforce the oversight over platforms' content policies in the EU.

2

Ex-ante rules to ensure that markets characterised by large platforms with significant network effects acting as gatekeepers, remain fair and contestable for innovators, businesses, and new market entrants.

Commission's Communication on Shaping Europe's Digital Future, 19 February 2020
https://ec.europa.eu/info/sites/info/files/communication-shaping-europes-digital-future-feb2020_en_4.pdf

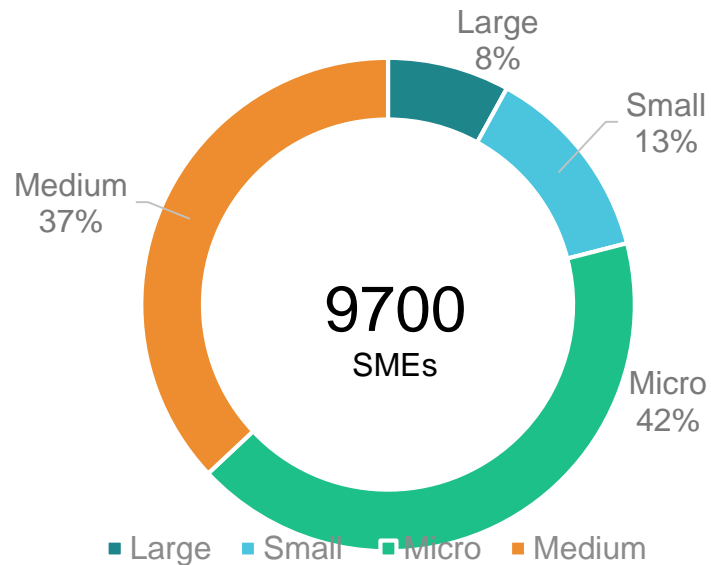


E-Commerce Directive
adopted in the EU

Digital services today

There is a large diversity of online platforms in Europe, with almost 10,000 high-growth SMEs trying to scale up in the Single Market. However, American, and, increasingly so, Chinese companies cover the larger share of the market.

High-growth hosting services in the EU



Source: Estimates based on the Dealrom database – 'hosting services' having received venture funding in 2018

At the same time:



The combined market capitalisation, in 2019 of the five leading platforms was

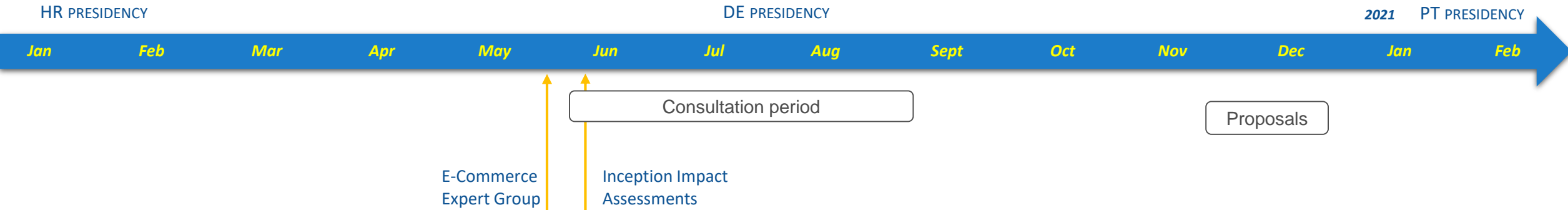
over \$4 trillion

=

1/4 of EU's GDP (\$18.8 trillion in 2018)

II. Process update

Process leading to the Commission proposals



- Preparatory work, following Better Regulation steps for evidence-based policies, including an open public consultation and an impact assessment process
- Several relevant separate work-streams on-going on complementary initiatives
- Workshops and engagement opportunities – some already completed, others still to take place
- How to best engage within Member States? Are you conducting national consultations to reach out to local champions, start-ups and civil society? Do you plan any engagement around the Commission's consultation?

Stakeholder consultation

Exploring more broadly challenges and opportunities in the online environment:

- I. How to effectively keep users safer online?**
- II. Reviewing the liability regime of digital services acting as intermediaries?**
- III. What issues derive from the gatekeeper power of digital platforms?**
- IV. Other emerging issues and opportunities, including online advertising and smart contracts**
- V. How to address challenges around the situation of self-employed individuals offering services through online platforms?**
- VI. What governance to reinforce now to complete the Single Market for digital services?**

III. Digital Services Act package - legal instruments addressing:

1

Ex-ante rules for a fair and competitive environment of platform markets

2

A competitive Single Market for digital services, including online platforms

1. Ex-ante rules for a fair and competitive environment of platform markets



A FAIR AND COMPETITIVE ECONOMY

- *The Commission will further explore, in the context of the **Digital Services Act package**, **ex ante rules** to ensure that markets characterised by large platforms with significant network effects acting as gatekeepers, remain fair and contestable for innovators, businesses, and new market entrants.*
- *Ongoing evaluation and review of the **fitness of EU competition rules** for the digital age (2020-2023), and launch of a sector inquiry (2020).*

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Ex-ante rules for a fair and competitive environment of platform markets – context I.

- The Platform to Business Regulation —→ first step to establish the ground rules on fairness and transparency for all online platforms, establishing trust and remedies in the system
- **Large players** continue setting the rules of the game within the platform and leverage their advantages (data, consumer base, ...) to expand to other markets as well, and can raise systemic issues
- These large online platform companies act as **gatekeepers** to critical online activities and large population of private and business users —→ leading to increased dependency and limited bargaining powers

Ex-ante rules for a fair and competitive environment of platform markets – context II.

- **Opacity and complexity** of these platforms' ecosystems + lack of **regulatory oversight** → **leveraging of economic power to other services**, including possibility to absorb competitors
- The **contestability** of platform markets needs to be preserved, ensuring that markets remain **open, fair** and enable **innovative solutions**
- Number of reports pointed out that competition policy alone cannot address all the problems that may arise in the platform economy

Ex-ante rules for a fair and competitive environment of platform markets – context III.

- This set of challenges is not addressed by any regulatory framework at EU level
- Some Member States have launched **initiatives at national level** in **narrower** ways vs. cross-border nature of gatekeeping platforms → risk of regulatory fragmentation
- **Health crisis deepened dependency of smaller players on established online platform ecosystems**
- IIA will set out the initial range of possibilities to target **large online platforms** benefiting from **significant network effects**

Questions & Answers

2. A competitive single market for digital services, including online platforms



New and revised rules to deepen the Internal Market for Digital Services, by increasing and harmonising the responsibilities of online platforms and information service providers and reinforce the oversight over platforms' content policies in the EU.

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Digital Services Act Package

- An opportunity for an ambitious reform for the EU to **re-structure its own informational space** and **set global standards for Internet regulation**
- An upgraded legal framework to establish clearly **the responsibilities we expect online platforms to abide by when they enter the Single Market**
- They have to **act responsibly**:
 - Towards all European citizens, ensuring their safety online when they buy products or share information online, and preserving their fundamental rights.
 - As economic players in a fair ecosystem, where everybody has their fair chance and the contestability of the digital market is preserved.
- **Effective supervision** of digital services. Ensuring **trust** across Member States, and supporting **cross-border cooperation of national authorities**

A competitive single market for digital services, including online platforms – context

- Need to **modernise** the rules governing digital services across the EU
- Need an **upgraded online governance**, with clear **responsibilities, transparency and accountability**
 - To ensure the **online safety of all citizens** and address the **sale of illicit, dangerous or counterfeit goods**, and **dissemination of illegal content**
 - To **protect citizens' rights**, not **least their freedom of expression**
- Effective **supervision** of digital services across the entire single market & **trust across Member States**

A competitive single market for digital services, including online platforms – towards the IA

- **Evaluation report** of the e-Commerce Directive - did the Directive fulfilled its main objectives?
 - Strengthen the single market via internal market principles
 - Harmonisation of liability exemptions
 - Trust in the digital services
- **IIA** will set out the initial range of possibilities how to proceed towards updated and modernised framework for digital services

Some questions for you

Targeted consultation for public authorities

- To complement data gathered via open public consultation
- Questionnaire for national authorities on cooperation between MS in the framework of the e-Commerce Directive
- Experience of MS with particular provisions of the e-Commerce Directive

Update by Member States on national activities around Digital Services Act

- Ongoing consultation on national level – to reach SMEs, academics, civil society,...?
- Liaison to the open public consultation/IIA?
- How can we engage and help in this process?

Discussion



Thank you!

PS: Don't forget to celebrate 20th
anniversary of the e-Commerce
Directive on 8 June!

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Commission team