

***Polish contribution on Digital Agenda
ahead of the European Council of 24-25 October 2013***

The importance of the digital agenda has in recent years shifted from a topic for specialists to the policy area that is widely recognised as the cornerstone of Europe's competitiveness. Still, Europe is for now lagging behind in some important indicators of digital economy and we are still far away from having a digital single market. Improving e-skills, removing red tape for the Internet economy and bridging the gap with the US in terms of ICT investment, can increase EU GDP by 5% up to 2020, and generate millions of high-value jobs, spurring innovation and alleviating EU job market problems. Therefore, digital agenda requires a particular attention. For this reason, the Polish government established a separate operational programme Digital Poland dedicated to supporting the development of infrastructure, enhancing e-competences, and developing further e-services available online. But we need European action to advance the digital single market.

The Polish government believes digital Europe needs more from the October European Council than an overall review of the Digital Agenda for Europe. It needs strategic decisions and a political impetus to key digital dossiers that are on the table. The European Council should give a clear sign that Europe is ready to act to remove obstacles to growth and innovation.

The European Union has been the standard-setter for data protection far beyond its borders but now data protection laws need adapting to the digital reality. The work on the General Data Protection Regulation is very advanced – but will we be able to mobilise the political will to finalise the process? “The Connected Continent Package” contains elements that would allow consumers to benefit from European Single Market – whereas the package is complex, will we be able to adopt some key points of it during this term? High VAT rates on e-books is an impediment to Europe's taking advantage of the new market trend – but more than that it is a symbol that Europe may not yet be ready to embrace the new economy. Let's remove this symbol and make it real clear that Europe stands for digital growth and innovation.

1) Privacy and Data Protection

Every day European businesses, public authorities and individuals transfer vast amounts of personal data across borders. Technological progress and globalisation have profoundly changed the way our data can be collected, accessed and used. High level of data protection in Europe will contribute to creating trust among service providers and consumers, while increasing global competitiveness of European economy. The European market based on digital information can deliver annually 330 billion EUR benefit for private and public sector

organisations and 670 billion EUR for consumers by 2020. The combined value could amount to roughly 8% of the EU GDP¹.

The PRISM case has shed new light on the privacy of European citizens. Therefore, it is also important to ensure that the regulation provides a high level of protection of personal data of EU citizens in case of data transfers to third countries. We must ensure that European rules apply to service providers not established in the EU. The Polish government strongly supports the adoption of adequate solutions.

The European Council could give a political push to accelerate the works on the regulation with the aim to finalise it by the end of March 2014.

- (1) The European Council could give the priority to one regulation for the whole EU that will provide a legislative framework that, on the one hand, will increase the trust among customers and ensure the high level of protection of European citizens' personal data and, on the other hand, will allow innovative business models to develop. In particular it will enhance the functioning of European enterprises, especially those operating across borders, without significantly extending the administrative burdens on the business side. What is also very important - the same rules on data protection will be applicable to non – EU companies, provided that they offer their products or services on the EU market or monitor EU citizens' behaviour.*
- (2) In this context, the European Council could encourage the Member States to accelerate works on the EU personal data protection regulation and develop a common position on key issues of the reform, and in particular on: the definition of personal data, the consent to data sharing and rules regulating profiling during the December 2013 JHA Council meeting. Further, the European Council could invite all stakeholders to put significant effort into completing legislative works at the beginning of 2014 so that it is adopted during the current legislative period.*

2) Accomplishing the Connected Continent

The European Commission's "Connected Continent" contains many significant points that, on one hand, allow the consumers to benefit from the European Single Market also when communicating across borders, on the other hand, could build long-term competitive advantages for Europe on the global market. Pro-active approach to the European telecommunications market is needed and Commission's proposal may play a central role in creating a single telecommunications market.

The proposal comes in a legal instrument of a regulation, which should be welcomed.

The Polish government welcomes the proposal for roaming as particularly advantageous, holding the promise of bringing concrete results in the market. However equally important is reliable infrastructures of tomorrow, both mobile and fixed, apt for high-tech technologies.

¹ *The Value of Our Digital Identity, Boston Consulting Group, November 2012*

Recalling the Council of the European Union's conclusions on the Digital Agenda² (May 2010), we take note of the fact that there are still considerable differences as regards the roll-out of the fixed type of broadband infrastructure across EU countries. Therefore, the Council should facilitate that all measures (including but not limited to incentives for investment) are at hand to complete the EU process of the roll-out of fixed high-speed infrastructures.

Finally, we emphasize the need of a further multi-stakeholder dialogue and open and public consultations. It is necessary to continue the legislative work but at the same time to continue dialogue with stakeholders who will be impacted by the proposal.

- (1) In particular, the European Council could endorse the commencement of work on the proposal "Connected Continent" and could encourage the initiatives that aim at further developing a strongly competitive and innovative EU telecoms market offering competitive infrastructure and connectivity, and cutting-edge services to consumers at affordable prices.*
- (2) The European Council could support the work towards eliminating mobile roaming charges. It could put emphasis on accelerating the roll-out of infrastructure capable of achieving the Digital Agenda for Europe broadband speed targets and speeding up of new technologies, such as 4G. In doing so, the Commission should build upon its experience, support EU countries' efforts and fully use its existing powers to advance the allocation of spectrum but without affecting the competencies of Member States in this area.*

3) Adopting reduced VAT rates on digital content (e-books)

Differentiated VAT rates on paper books and e-books are unjustified. In the USA, e-books already constitute 28% of the book market sales³. Higher tax rates for e-books lead to distortions of the internal market and impede Europe's competitiveness: why should European companies face higher tax rates when entering e-book market? Europe should be at the forefront of this and other technological developments, and there is no reason why our tax policy should make it harder. We also have to keep in mind that facilitating access to creative works at a fair price contribute to eliminating illegal sources of content.

Recognizing the importance of the digital content and in order to create an equal level playing field for European companies in the global competition, the European Council could invite the Commission to address the issue of differentiated tax rates for digital and physical

² "The Council Of The European Union acknowledges that differences exist between Member States in the development of the information society, in particular with regard to broadband networks, as indicated in "Europe's Digital Competitiveness Report 2010"; Doc. 9981/10

³ United States : e-books takes off thanks to e-commerce <http://www.atelier.net/trends/articles/etats-unis-livre-numerique-prend-envol-grace-e-commerce>

products by adopting equal VAT rates on e-books and paper books, as a pre-step to the on-going holistic review of VAT regime.

4) Promoting open access and access to digital content

The Polish government welcomed the adoption of the recently revised Directive on the re-use of public information sector. Open data and open access to public sector information can be used in innovative ways to create new markets, business models, jobs and services. In order to assist MSs in implementing the Directive in a consistent way the European Commission may issue guidelines, particularly on recommended standard licences, datasets and charging for the re-use of documents. Only by making re-use conditions more consistent across Member States will it be possible to utilise the full potential (currently latent) of public sector information.

The European Council could invite the European Commission to provide a framework to adopt solutions laid down in the Open Data Charter agreed upon during the G8 summit in June 2013 and propose initiatives to create pan-European platforms making available public sector information.

While open access to public sector information is an important step, we should remember that also copyright should go hand in hand with technological development. Entrepreneurs and citizens should have better opportunities to use digital content in accordance with law in digital products they are creating. In this context the need to adapt the current legislative framework to the reality of a digital economy is very relevant.

Poland is convinced that these proposals are key measures towards the accomplishment of a truly digital single market and it is necessary to put our utmost efforts to take these policies forward during the October European Council. The European Union has a unique chance to facilitate solutions for the fast growing market of digital economy and thereby securing new growth opportunities. We should not lose this opportunity.