

I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

481ST PLENARY SESSION HELD ON 23 AND 24 MAY 2012

Opinion of the European Economic and Social Committee on 'The digital market as a driver for growth' (exploratory opinion)

(2012/C 229/01)

Rapporteur: **Ms BATUT**

On 11 January 2012, the Danish EU Presidency decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

The digital market as a driver for growth

(exploratory opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 141 votes to 7 with 5 abstentions.

1. Introduction

1.1 The digital economy profoundly alters habits and affects the entire social and economic fabric of our societies. Its security and interoperability are crucial. The Union's Digital Agenda is one of the flagship initiatives of the EU 2020 strategy. The Committee has already adopted many opinions on the consequences of ICTs⁽¹⁾ in our societies.

1.2 Aware of the challenges, the Danish presidency has asked the EESC to identify what needs to be done in order to make it

a driver of growth. The Committee believes that any consideration of the digital economy should involve social and civil dialogue, as well as agreements and partnerships.

1.3 The market for the market's sake⁽²⁾ is not an end in itself. ICTs must be a means to serve the economy and must not threaten our economic, social, human and cultural gains. Producing and trading on line and developing the digital economy changes the employment market. The EESC **would like more visibility and information** for entrepreneurs and consumers, and **appropriate safeguards** for all.

⁽¹⁾ Key EESC opinions on the subject:

OJ C 318, 23.12.2006, p. 20 – OJ C 157, 25.5.1998, p. 1 – OJ C 376, 22.12.2011, p. 62 – OJ C 143, 22.5.2012, p. 69 – OJ C 318, 29.10.2011, p. 99 – OJ C 318, 29.10.2011, p. 105 – OJ C 68, 6.3.2012, p. 28 – OJ C 248, 25.8.2011, p. 144 – OJ C 97, 28.4.2004, p. 21 – OJ C 175, 27.7.2007, p. 91 – OJ C 77, 31.3.2009, p. 60 – OJ C 175, 28.7.2009, p. 8 – OJ C 218, 11.9.2009, p. 36 – OJ C 277, 17.11.2009, p. 85 – OJ C 48, 15.2.2011, p. 72 – OJ C 54, 19.2.2011, p. 58 – OJ C 107, 6.4.2011, p. 44 – OJ C 107, 6.4.2011, p. 53 – OJ C 107, 6.4.2011, p. 58 – OJ C 376, 22.12.2011, p. 92 – OJ C 24, 28.1.2012, p. 40 – OJ C 318, 29.10.2011, p. 9 – OJ C 143, 22.5.2012, p. 120.

1.4 The EU is lagging behind the great designers and providers (United States) and the great manufacturers (Asia). It should **urgently** implement the whole of its digital strategy and shift its approach towards confronting the challenges, both short-term (for example IPRs) and long-term (ageing of the population). The EESC's priorities are: focusing on economic intelligence, developing European leaders and ensuring that

⁽²⁾ OJ C 175, 28.7.2009, p. 43.

their decision-making centres and R&D are based in the EU and that they benefit all citizens, building confidence and increasing the capacities of everybody by developing productivity and including ICTs in the sustainable growth strategy.

The paragraphs below set out the EESC's recommendations:

2. Triggering growth through ICTs

2.1 Appropriate **infrastructures** must quickly cover the whole of European territory, including overseas territories⁽³⁾. Operators must guarantee **universal access** for all areas, including isolated areas. The EESC believes that communication COM(2011) 942 on building trust in the digital single market may not be sufficient.

2.2 **Accessibility for everybody**⁽⁴⁾ to **hardware and software and training in their use** are essential pre-requisites. A quarter of the population are senior citizens. Their economic strength must be incorporated. The Committee believes that accessibility must be a priority on the agenda.

2.3 **ICTs (information and communication technologies)** should be subject to standards defined with the industry, SMEs and all other civil-society stakeholders⁽⁵⁾, with the aim of ensuring that ICT applications and services are fully interoperable and compatible and establishing an ICT standardisation policy to support the Union's other policies (European Parliament Resolution of 21 October 2010⁽⁶⁾, points 69 and 72. The EESC considers financial aid for SMEs and societal stakeholders participating in standardisation to be useful.

2.4 **European networks must be interconnected** in order to expand the digital economy and increase the supply of goods and services (opinion CESE 490/2012 – TEN/469).

2.5 The Committee believes that the **interoperability** of supply should be coordinated at EU level. **Standardisation** will provide European stakeholders with access to new international markets.

2.6 The Committee has already expressed its **support for a neutral and open internet**⁽⁷⁾.

2.7 The single market must provide **all possible guarantees of use**, in order to release the potential demand through the use of **free and open software**.

2.8 The EESC supports the development of common interface standards.

2.9 The EESC considers it essential to ensure **administrative cooperation** between Member States and to open up cross-border e-Government services, which could be facilitated through the generalised use of the IMI system (internal market information system). This could be developed within the framework of European multilateral governance⁽⁸⁾.

2.10 **E-commerce points towards the harmonisation of national VAT rates**. The EESC believes that this would be a real advantage for companies and for citizens, provided that it is not used as a pretext to harmonise rates upwards.

2.11 Operators and citizens should **have easy access to all information** regarding their rights, so that they can carry out their cross-border operations with total confidence.

2.12 The Committee takes the view that **representatives of civil society must be involved** (see EU 2020 Strategy *Stakeholders and civil society*) in the creation of the European digital economy, and that their participation should be requested in negotiations and partnerships. Given its inevitable tendency to spread, it becomes diffused throughout society. All projects should have a digital and social dimension.

2.13 ICTs favour a service economy, which can lead to **de-industrialisation**, and even the destruction of European jobs. In the search for new markets, the EESC believes that technological innovation and manufacturing should be linked in Europe. Start-ups in the ITC sector should be able to realise their potential for rapid growth. The EESC believes that the question of why the situation is not conducive to the emergence of major European access providers and world-famous European shopping sites should be addressed as a matter of urgency.

2.14 Life-long **training and learning** help workers to remain employed. ICTs can facilitate this process, particularly for population groups in isolated areas or who are vulnerable. Training in ICTs leading to qualifications is necessary for everybody.

2.15 By 2015, 95 % of **jobs** will require internet-related **skills**. The Committee believes that the measures taken must have no negative impact on the working environment, such as:

- workers under constant 'urgent' pressure, subject to 'quasi-police' monitoring;
- teleworking paid at rock-bottom rates, and sidestepping the mediators in social conflicts, such as trade unions, to the detriment of both individuals and collective rights.

⁽³⁾ OJ C 44, 11.2.2011, p. 178.

⁽⁴⁾ OJ C 318, 29.10.2011, p. 9.

⁽⁵⁾ OJ C 376, 22.12.2011, p. 69.

⁽⁶⁾ OJ C 70E, 8.3.2012, p. 56.

⁽⁷⁾ OJ C 24, 28.1.2012, p. 139.

⁽⁸⁾ OJ C 376, 22.12.2011, p. 92.

The EESC believes that, in the digital economy as elsewhere, all jobs should be decent jobs, since this increases global demand.

3. Creating growth by means of confidence in the digital economy

3.1 Fundamental rights

3.1.1 The Committee wishes to protect the rights and security of citizens without reducing their freedom. In 2012, an overall **internet security** strategy will be examined in Europe. The establishment by 2013 of the European cybercrime centre will be of particular importance. **The EESC would like the EU finally to promote the emergence of a powerful European search engine comparable to Google.**

3.1.2 The Committee is drawing up an opinion on the protection of personal data, which is a crucial issue (COM(2012) 10 final). It has already spoken in favour of the 'right to be forgotten' ⁽⁹⁾ and the rights of internet users, particularly for the young and the most vulnerable. It would like the Commission's proposal to be adopted as soon as possible and for its comments to be taken into account, despite the opposition expressed by ISPs from outside the EU.

3.1.3 The EESC expects the Union to promote innovation and **protect its own creative products**. The European patent is urgently needed and represents an opportunity for the single digital market.

3.2 Developing e-commerce

3.2.1 Fragmentation in the **supply of commercial goods** must be eliminated and borders opened to professionals and consumers so that they can access goods at competitive prices (http://ec.europa.eu/consumers/consumer_research/editions/cms6_en.htm).

3.2.2 The Committee believes that the **interoperability** of supply should be coordinated at EU level. **Standardisation** will provide European stakeholders with access to new international markets.

3.2.3 **The EESC believes that on-line purchasing problems need to be resolved urgently, eliminating discrimination** on the grounds of nationality or place of residence and creating the conditions for equal access rights for everybody.

3.2.4 Users should have easy access to information regarding their rights (COM(2011) 794 final) and opportunities to defend themselves. On-line one-stop shops need to be created. The Committee ⁽¹⁰⁾ is delighted that the Commission specifies that such a system should not deprive consumers or traders of their

rights to seek redress before the courts. The Commission should incorporate smart interfaces, such as BATNA (Best Alternative to Negotiated Agreement) into its Directive No 2000/31/EC, in order to keep up to date in terms of 'first generation' regulations. In order to increase on-line demand, it is important that consumers can obtain **proper resolution of disputes** ⁽¹¹⁾ arising from commercial relations. Users should be **clearly and easily informed of their rights**. All types of on-line dispute should be covered.

3.2.5 The EESC believes that European texts should provide citizens with the same degree of **confidence** in the digital market as they expect in their own countries. Consumers need information regarding market opportunities if they are to be well-informed users. To this end, a **guide to digital services for consumers** could be distributed widely.

In the framework of draft Directive No 2011/942, the EESC calls upon the Union's authorities to take initiatives in relation to:

- information for operators of on-line services and the protection of internet users;
- inadequate payment and delivery systems;
- combating the excessive number of cases of abuse.

3.2.6 Means such as:

- secure e-signatures;
- electronic time-stamping of operations;
- interoperability of e-signature systems;
- mutual recognition of certification bodies (SSCD - 'Secure Signature Creation Devices'), together with accreditation for providers of electronic certification services (PECS);
- the consumer protection system and harmonisation of redress procedures (Directive No 2011/83/EU and document COM(2012) 100 final)
- the report on the application of Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws;
- the Regulation on consumer protection cooperation

should create confidence amongst stakeholders, as their use becomes widespread.

⁽⁹⁾ OJ C 143, 22.5.2012, p. 120.

⁽¹⁰⁾ OJ C 162, 25.6.2008, p. 1.

⁽¹¹⁾ EESC Opinion on the Proposal for a Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes (Regulation on consumer ODR) (not yet published in the OJ).

3.2.7 The EESC remains consistently in favour of **collective action in order to seek effective compensation** for damages in the event of violations of collective rights. This would complement the protection already afforded by both legal and alternative remedies ⁽¹²⁾ (see Directive 98/27/EC of 19 May 1998). The conditions for fair competition within the internal market must be met (fourth paragraph of the Preamble to the TFEU). The principle of the right to an effective remedy is enshrined in the Charter of Fundamental Rights of the European Union (Article 47).

3.2.8 The Committee welcomes the Commission's communication on a **sales law** ⁽¹³⁾. Consumers need legal security. The EESC is delighted that the Commission has taken up its 'second regime' proposal, although it would prefer two separate texts (one for B2B and one for B2C).

3.2.9 **The Committee eagerly awaits the European consumer agenda** (COM(2011) 777 final/2) announced by the Commission, which will assess the impact of the digital revolution on consumer behaviour. A pan-European framework for electronic identification, authentication and signature is needed in order to double the volume of e-commerce and make it a lever for growth (COM(2011) 942 final).

3.3 Making exchanges secure

3.3.1 In order to **combat piracy and counterfeiting**, the FISCUS customs programme ⁽¹⁴⁾ sets out to establish on-line controls throughout the EU. The EESC believes that customs should be reinforced, in terms of staff and of the controls carried out. The European counterfeiting and piracy observatory should be given a higher profile and be provided with the tools it needs to meet the economic and public security challenges.

3.3.2 The legislation should assist administrations in their investigations of suspicious financial movements on the internet. Customs could be given the task of protecting European cultural and intellectual heritage and the role they play in assisting SMEs by means of databases such as the market access database, the export helpdesk and the single virtual gateway to information should be strengthened.

3.4 **The Committee wants** citizens to have a **charter of governance** and of **transparency**. It considers it urgent to regulate e-commerce, including e- and m-payments.

3.4.1 The EESC believes that the security of new means of digital payment should be guaranteed by means of public standards. At the moment, only private operators create and control

their standards and interoperability. The EESC considers the situation in which a third country might be able to control any European financial movements to be harmful.

4. Developing productivity and inclusive growth

4.1 A context helpful to growth

4.1.1 The digital market needs **European governance** which is fair and respects the rights of citizens. After 2015, the one-stop shop for goods and services should provide assistance for European economic stakeholders. Digital enterprises must conform to the principles of corporate social responsibility and social dialogue.

4.1.2 The single digital market is still fragmented into national markets. **Harmonised legislation** would enable economic actors to create economies of scale. In the EESC's view, the Commission should increase the synergy between the work of its directorates in order to develop the powerful leadership that is needed to promote ICT throughout the EU and to address all development deficits; it is urgently necessary for the EU to create the equivalent of a European Silicon Valley to bring together talent and public/private capital to embark on promising joint ventures.

4.1.3 The Committee would recall its opinion on e-inclusion, in which it discusses how to overcome the inequalities in ICT access; it wants the Union to recognise access to infrastructure and tools as a fundamental right and to make **ICT** a tool for inclusion.

4.2 Enterprises in 'digital' action for growth

4.2.1 The digital economy must target rapid GDP growth, in particular by financing start-ups. A certain US start-up is now worth EUR 75 billion ... **Promoting innovation** requires knowledge-based economic models and increases on-line supply.

4.2.2 The market's acceptance of new services depends upon **SMEs' capacity** to commit to ICTs ⁽¹⁵⁾ and to be interoperable. They should therefore receive assistance in their specific projects. **The EESC calls upon the Presidency to consider the results** of the following measures:

- the launch of the partnership between the public authorities of each Member State and the key stakeholders in ICTs;
- the use of the EUR 300 million allocated to companies developing infrastructures dedicated to energy savings and related smart technologies.

⁽¹²⁾ OJ C 162, 25.6.2008, p. 1.

⁽¹³⁾ EESC Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Common European Sales Law to facilitate cross-border transactions in the single market, OJ C 181, 21.06.2012, p. 75.

⁽¹⁴⁾ OJ C 143, 22.5.2012, p. 48.

⁽¹⁵⁾ OJ C 80, 3.4.2002, p. 67.

4.2.3 **Electronic payments by card and mobile.** Europe should maintain a position as leader in these fields, as in the case of the smart card, which has led to a considerable reduction in fraud.

4.2.4 The SEPA project (Single Euro Payments Area, regulation of February 2012, setting the date of 1 February 2014 for the replacement of national credit transfers and direct debits with their European equivalent) covers the main retail payment instruments. The EESC believes that commissions should be harmonised between banks and between Member States. Competition should not prevent innovation or create additional costs for the consumer.

4.2.5 The EESC believes that an appropriate framework is needed to help SMEs to access the digital market as well as other markets.

4.2.6 a) Internally:

4.2.6.1 The EESC recommends that the **scope of the digital economy** be established at European level, and that it be integrated into accounting standards. This scope could encompass digital and digitisable assets as well as assets which are in need of digitisation.

4.2.6.2 The Committee believes that companies should incorporate **their digital assets** into their valuation.

4.2.6.3 The true impact of the ICT sector on companies and on national wealth should be measured on the basis of criteria set at European level.

4.2.6.4 **The establishment of the European Company Statute** (2008) ⁽¹⁶⁾ (legislative proposal COM(2008) 396 final) would enable SMEs to develop by facilitating their cross-border trade activities.

4.2.7 b) Externally:

4.2.7.1 A supportive industrial environment is useful to the knowledge-based economy. It facilitates investment, the cross-border use of ICT and digital activity. **However, SMEs suffer firstly from legal and technical fragmentation**, a lack of transparency and often unsuitable delivery methods.

4.2.7.2 Successful models, such as DiSCwise (DG TREN, In Freight Transport Logistics Action Plan), could inspire other companies with a view to creating jobs and growth (intelligent transport).

4.2.7.3 **Globalisation:** In order for its products with high added value to be competitive, the EU needs export consortia, **clusters** supporting R&D, to be created, which are recognised in the Member States, in order to promote the internationalisation of SMEs (http://ec.europa.eu/enterprise/newsroom/cf/itemlongdetail.cfm?item_id=4968).

⁽¹⁶⁾ OJ C 125, 27.5.2002, p. 100.

4.2.8 **Cloud computing** can help SMEs ⁽¹⁷⁾ provided that data security, which is a major challenge to both the 'giants' of on-line services and the 'ISPs' (internet service providers), is truly guaranteed. The European Commission should focus on the 'cloud' and its benefits for SMEs, and help them to access it (through training and funding).

4.2.9 The Union should place more emphasis on information for companies regarding the **funding** opportunities available to them, and disseminating the idea of **project bonds** ⁽¹⁸⁾.

4.2.9.1.1 The EESC recommends **facilitating capital risk investments** to assist researchers and innovative companies (COM(2011) 702 final – Small Business, Big world).

4.2.10 The Committee recommends producing a guide for companies on accessing the cross-border digital economy.

4.3 Intellectual property

4.3.1 The EESC considers it crucial for the Union to protect creativity, which is its safeguard for the future, both internally and externally. The **'cultural exception'** should be preserved, since it reflects European diversity. The protection measures under consideration should not place this exception in jeopardy, to the advantage of American creative products.

4.3.2 Internally, Article 118 of the TFEU now guarantees the protection of intellectual property rights within the Union, but the 27 Member States control internet use in differing ways.

4.3.3 Externally, the Union is re-examining the policy on the application of IPRs (intellectual property rights) in third countries, incorporating the idea of reciprocity and multilateral negotiations, as in the case of ACTA (the Anti-Counterfeiting Trade Agreement, separate from the WTO, signed by the Commission and 22 Member States in January 2012.).

4.3.4 **The Committee has adopted an opinion on IPRs**, recommending that they not be dealt with according to a purely asset- and finance-based approach ⁽¹⁹⁾.

4.3.4.1 With a view to the Commission's future legislative proposal (2012), the Committee would insist that organisations representing the rights and interests in question must be consulted ⁽²⁰⁾. It would stress the need for transparency and for monitoring of bodies managing copyright and related rights. The Committee believes that the **tax on private copying is unfair** since this copying is a clear example of fair use. A distinction must be made between a citizen who has downloaded for their own use and a person running a profit-making activity based on large-scale counterfeiting. Cultural industries must not become money-making machines or the web an instrument for privatising culture and knowledge.

⁽¹⁷⁾ OJ C 24, 28.1.2012, p. 40.

⁽¹⁸⁾ OJ C 143, 22.5.2012, p. 116 and OJ C 143, 22.5.2012, p. 134.

⁽¹⁹⁾ OJ C 68, 6.3.2012, p. 28.

⁽²⁰⁾ See previous footnote.

4.3.4.2 The European Parliament has received a European petition with more than 2 million signatures (website - AVAAZ.org) calling on MEPs to 'stand for a free and open internet and reject the ratification of ACTA'. It is important to note that the signatories to ACTA do not include China, Russia, Brazil or India, which are the sources of many counterfeit products.

The Committee feels that its views regarding the **ACTA** international agreement have not been heard. It proposes that, if ACTA ⁽²¹⁾ is implemented, the Commission should ensure that the freedom of citizens and their creative capacities are protected.

4.3.5 The EESC believes ⁽²²⁾ that **in order to prevent deflection of digital trade and dumping, while protecting copyright**, the creation of a European Copyright Code could eliminate any doubts regarding the applicable fiscal legislation.

4.4 The public sector

4.4.1 **Public contracts**, representing 20 % of GDP, also need to be secured.

4.4.2 The EESC believes that **public administrations** must be quickly accessible on line through secure electronic identification and electronic signatures for all – private individuals, administrations, companies, public contracts.

4.4.3 **For the public sector**, the Member States carry out 'mutual evaluation' with the Commission of the implementation of the services directive. The Committee recommends an evaluation of the **services directive** in terms of the opportunities created for the single digital market.

4.4.3.1 The EESC is convinced that the single digital market can develop public services through legal certainty and technology: the savings resulting from smart public service solutions can create 'seamless' cross-border public contracts.

4.4.4 The Commission's revision of the directive ⁽²³⁾ on the **re-use of public sector information (PSI)** can simplify the work of companies and private individuals (see opinion TEN/478 – in preparation).

5. ICTs as a lever for sustainable growth

5.1 Creating a sustainable and highly competitive social market economy requires creativity and innovation on the part of the EU. ICTs are a means but also an asset, which goes beyond merely the commercial sphere.

5.2 The Committee believes that a specific strategy is needed aimed at guaranteeing **the 'sustainable' nature** of the single digital market.

5.3 Studies should be carried out to measure the carbon footprint of companies operating in this market, and in which they are expanding. The Committee believes that smart technologies can optimise global energy consumption and thus reduce CO₂ emissions.

5.4 Digital equipment must be de-carbonised; the **treatment in Europe of waste** from data processing systems (with recovery of rare metals) is an **important potential market** and would prevent pollution in third countries.

5.5 The Committee calls upon the Presidency to ensure that during 2012, the year of **active ageing**, the productive potential of ICTs for the management of medical and social care is highlighted, particularly in the case of demographic ageing: remaining in work through the lightening of workloads, and, in general terms, through communication, combating isolation, telemedicine, robotics, personal security etc. All of these areas offer market opportunities and opportunities for creating new forms of employment and growth.

5.6 **Space projects need to be completed** in order for the Union to be able to integrate its digital market. The necessary resources must be allocated. The EESC regrets that Galileo and its GNSS are not yet in operation, when the American GPS model is used throughout Europe and the world ⁽²⁴⁾.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽²¹⁾ OJ C 24, 28.1.2012, p. 139.

⁽²²⁾ OJ C 143, 22.5.2012, p. 69.

⁽²³⁾ EESC opinion on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information, OJ C 191, 29.06.2012, p. 129.

⁽²⁴⁾ EESC opinion on the Proposal for a Regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems, OJ C 181, 21.06.2012, p. 179.