

**EDRi recommendations to improve the draft
Compromise Amendments (CAMs) to
the draft report "Towards a Digital Single Market Act"**

European Digital Rights (EDRi) is grateful for the Rapporteurs' efforts to reach compromises amongst the numerous amendments tabled by all political groups. In this document, EDRi welcomes most of the draft CAMs proposals and would like to recommend improvements to some of the CAMs which fall within our scope of work. Our **editorial suggestions** are highlighted in yellow.

SUMMARY

In view of the analysis below, EDRi recommends you to please:

Draft CAMS on...	DRAFT CAMS		
	 SUPPORT	 RECONSIDER certain aspects of	NO POSITION
Paragraph	1, 3b, 4, 5, 6, 7, 13, 19, 22, 22a, 26, 29, 31, 36a	2, 3, 16, 20, 23, 24, 28, 30, 34	8, 9, 14, 15, 17, 18, 19a, 21, 27, 33, 35, 35a, 36, 37
Recital	A, D		B, C
Other	CAM on "accessibility for all"	- CAM "proposed by FEMM" - CAM on "Internet governance"	- CAM on ODR - CAM "proposed by EMPL, IMCO and ITRE rapporteurs"

DETAILED ANALYSIS

 **SUPPORT** **Compromise proposal on paragraph 1 (general DSM) 1st batch 04/12/2015 (no changes)**
Covering AMs 166, 167, 168, 170, 172, 173, 175, 180, 329,

Welcomes the Communication on 'A Digital Single Market Strategy for Europe'; ***considers that achieving a Digital Single Market, based on a common set of rules, could foster EU competitiveness, have positive effects on growth and jobs, relaunch the Single Market and make the society more inclusive offering new opportunities to citizens and businesses, especially by exchanging and sharing innovation***, believes that the horizontal approach taken needs ***now*** to be strengthened in its implementation, ***including the timely adoption of the 16 initiatives***, as the digital drivers affect each citizen and every dimension of society and the economy

Comments: This CAM improves the original wording.

RECONSIDER **Compromise proposal on Paragraph 2 (Better regulation, digital by default, technologically neutral, reduce red tape)** 4th Batch 04/12/2015
Covering AM 160, 189-192, 194 partly, 195, 196, 199-205, 208-210, 214, 670

Believes that better regulation *requires to take an approach to legislation that is ~~to apply digital by default, principle-based,~~ and technologically neutral approach to legislation, in order to provide room for innovation , thereby requiring to assess whether existing legislation, complementary non-regulatory actions and enforcement frameworks, following necessary consultations and impact assessments, are fit for purpose in the digital age,* in light of new technologies and new business models, with the aim to *overcome legal the* fragmentation of the single market, *reduce administrative burden, boost growth and innovation;*

Comments: This CAM is broadly positive, aiming for an evidence-based and comprehensive approach. However, whether or not a principle-based approach is the right one depends on circumstances and evidence, so it makes little sense to call for consultations and impact assessments. Also, if we want a single market, then any fragmentation is a problem, not just “legal fragmentation”.

RECONSIDER **Compromise proposal on Paragraph 3 (Trust)** 4th Batch 04/12/2015
Covering AM 215, 217, 220, 222, 223, 224, 227,

Considers that trust *of citizens and businesses (220) in the digital environment and (215, 217) services* is vital *to fully unlock* innovation and growth in the digital economy ~~and a precondition to fully unlock the potential of a Digital Single Market (217, 223);~~ *is convinced that* reinforcing *their that* trust, *e.g. i.e. through data protection and security standards (222, 224), a high level of consumer protection and empowerment as well as up-to-date legislation for businesses (227),* should be at the basis of public policy, *while recognises that business models of digital businesses are built on should regain* the trust of their users (AM 215);

For AMs 232, 233, 234 the following text should serve as a basis for further discussion on where to include these three amendments:

~~*Considers that a competitive broadband environment is a crucial precondition to the achievement of the goals of a Digital Single Market insofar it enables consumers take-up, business diversity, economic pluralism, choice and ultimately the fundamental rights in the digital environment (232, 233, 234); included in CA on digital society*~~

Comments: Evidence shows that a lot of digital businesses models are not not respectful of users' interests. Trust must be regained by, for example, business models built on services that respect users' rights.. Data protection and privacy are not a burden for the economy, but an asset

for economic growth.

 **SUPPORT** Compromise proposal on Paragraph 3 b (competition) 4th Batch 04/12/2015
Covering AMs 215-217, 219 – 226, 227, 229, 236, 237-233, 241

Supports the Commission's plan to ensure that EU competition policy fully applies to the digital single market as competition gives consumers more choice but will also provide a level playing field between large and small providers; stresses that this process can be aided by accelerator programmes for digital start-ups and regrets that the current lack of a European digital framework has highlighted the failure to reconcile the interests of large and small providers; (237, 238);

To be voted as an addition:

encourages the Commission furthermore to conduct a comprehensive analysis of the quantitative and qualitative effects of digitalisation on employment conditions as those are important to establish the reasons why some business in the digital economy thrive and others do not (235); to be voted as a separate AM

Comments: Without a competitive environment, fundamental freedoms and rights online cannot be enjoyed appropriately.

 **SUPPORT** Compromise proposal on paragraph 4 (DSM general, innovation friendly framework, SME)

1st batch 04/12/2015

Covering AMs 161, 245, 246, 248, 250 partly covered, 252, 253, 255, 257-260 (first part), 261, 263, 264-266, 274, 1085

Stresses the urgent need for the Commission and Member States to promote a more dynamic economy for innovation to flourish *and remove barriers for businesses, in particular innovative ones, SMEs, start-ups and scale-ups, access markets in a level playing field*, through the development of e-government, a *future-proof and integrated* regulatory *and non-regulatory* framework, *access to finance including new funding models for EU start-ups, SMEs and civil society's initiatives*, and a long term investment strategy in *digital* infrastructure, skills, *digital inclusion*, research and innovation; *Reminds that the basis of innovation-friendly policy that fosters competition and innovation should include the possibility for projects to access financing possibilities; therefore calls upon the Commission to ensure that crowdfunding can be done seamlessly across borders and encourages Member States to introduce tax incentives for crowdfunding*

Comments: Efficient EU-wide crowd-sourcing would also help civil society fundraising.

+ SUPPORT **Compromise proposal on paragraph 5 (Entrepreneurship and Innovation) 1st batch**
04/12/2015 (no changes)
Covering AMs 279-283, 285-288, 290 2nd part

Calls on the Commission, in cooperation with Member States, to further develop initiatives to boost entrepreneurship *in particular innovative business models* that *will help* changing the mind-set on how success is defined *and promote an entrepreneurial and innovation culture*; believes, in addition, that the diversity and specific attributes of the different national innovation hubs *can* be turned into a real competitive advantage for the EU *on the global market; therefore they should be interconnected and innovative ecosystems where different sectors and businesses cooperate should be strengthened*;

Comments: This CAM raises no problems from our perspective.

+ SUPPORT **Compromise proposal on Paragraph 6 4th Batch 04/12/2015**
Covering AM 212, 213, 299 - 307, 309, 310, 312, 313, 315, 316, 317, 320 - 327, 344, 347, 363,

Is concerned by the different national approaches taken *so far by Member States* on regulating the internet and the sharing economy; urges the Commission to take *initiatives, in line with EU competences, to support innovation and fair competition, remove barriers to digital trade, to preserve economic and social cohesion and the integrity of the single market: Calls also on the Commission to preserve as well as* the internet as an open, *neutral, secured inclusive* and global platform for communication, *production, participation, creation, cultural diversity* and innovation, *in the interest of citizens, consumers, and the success of European companies to succeed globally*;

Comments: This CAM improves the original wording greatly and offers good recommendations.

+ SUPPORT **Compromise proposal on paragraph 7 (Consumer protection concerning digital protection) 2nd batch 04/12/2015**
Covering AMs 366-368, 371, 372, 376, 377-383, 443

Welcomes the Commission's *commitment to adopt a strong proposal on online contracts covering digital content purchased online and to improve consumers' legal protection in this sphere; believes any such improvements must be targeted and that differences between digital content on the one hand, and tangible goods on the other should be carefully analysed*; points out that while consumers buying *digital content on a tangible medium* are protected by consumer protection laws, consumer rights when buying digital content *online* remain largely unregulated *and unclear, particularly with regard to legal guarantee, defective content and specific unfair terms regarding digital content, highlights that the current classification of all digital content as services may raise*

*concerns as it may ~~does not conform to consumer expectations, since by not distinguishing between streaming service subscriptions are not distinguished from and downloadable content purchases~~; agrees that consumers should enjoy **an equivalent and future-proof** level of protection regardless of whether they purchase digital content online or offline;*

Comments: It would have been helpful if concerns on personal data collection had been included in this amendment. However, overall, it is acceptable.

NO POSITION Compromise proposal on paragraph 8 (e-commerce legal framework) 2nd batch
04/12/2015 (no changes)

Covering AMs 404 - 410, 413 - 416, 419 - 423

Believes that **further** harmonisation of the legal framework governing **business - to - consumer** online sales **of digital content and tangible goods** irrespective of whether they are cross-border or domestic **transactions**, while maintaining the coherence of online and offline rules, **avoiding a race to the regulatory bottom, closing legislative gaps and building upon existing consumer legislation**, constitutes **a practical** and proportionate approach; **emphasises that this should be done in a technology neutral manner and not impose unreasonable costs for business**;

Comments: This CAM falls outside our scope of work.

NO POSITION Compromise proposal on paragraph 9 (e-commerce legal framework) 2nd batch
04/12/2015

Covering AMs 378-381, 411, 430, 432 - 432, 434 - 441, AMs 446 - 450

Considers that the Commission's proposals **for cross-border contract rules for consumers and businesses should avoid the risk of a** growing disparity between the applicable legal standards for offline and online purchases **and believes that online and offline sales should be dealt with coherently and treated equally as different legal standards might be perceived by consumers as denial of their rights; insists that any new proposal should observe Article 6 of the Rome I Regulation and points out that the Commission is planning a REFIT of the whole consumers 'acquis for 2016; calls on the Commission in this context to consider whether the Commission's planned proposal for tangible goods ought not to be launched at the same time as the REFIT;**

Co-rapporteurs have agreed not to propose a CA on §10 and §11 and to delete the paragraphs as obsolete.

Comments: This CAM falls outside our scope of work.

 **SUPPORT** Compromise proposal on paragraph 13 (Trustmarks) 2nd batch 04/12/2015
Covering AMs 472 – 482

Calls on the Commission to *assess, together with stakeholders the feasibility, usefulness and potential opportunities and weaknesses created by the*—introduction of *sector-specific EU trustmarks* for online sales, *drawing from best practices of existing trustmark schemes in the Member States* in order to induce *consumers' trust and quality*, particularly in relation to cross-border online sales *and to end the possibly confusing large numbers of existing trustmarks, alongside assessing other options, such as self-regulation or the setting-up of stakeholder groups to define common principles of customer service;*

Comments: Trustmarks, particularly in relation to data protection, are very complex. This amendment is limited, but not problematic.

NO POSITION Compromise proposal on paragraph 14 (Implementation of consumers' acquis and service directive) 2nd batch 04/12/2015 (no changes)
Covering AMs 492 - 494

Calls for an ambitious enforcement framework *of the consumers' acquis and of the Services Directive*; encourages the Commission to make use of all means at its disposal to ensure the full and correct implementation of existing rules, infringement procedures whenever incorrect or insufficient implementation of the *legislation* is identified;

Comments: This CAM falls outside our scope of work.

NO POSITION Compromise proposal on paragraph 17 (Geoblocking, Article 20 of service directive) 1st batch 04/12/2015 (no changes)
Covering AMs 601-603, 607-609

Supports in particular the Commission's planned scrutiny of the practical enforcement of Article 20(2) of the *Directive 2006/123EC on services in the internal market* in order to analyse possible patterns of *unjustified* discrimination against consumers *and other recipients of services* based on *their nationality or* their country of residence; calls on the Commission to identify and define concise case groups of justified discrimination under Article 20(2) of the Services Directive in order to *clarify what is* unjustified discriminatory behaviour by private entities and in order to provide interpretative assistance to authorities responsible for applying Article 20(2) in practice *as referred to in Article 16 of the Services Directive*; calls on the Commission to make concerted efforts to add the provision of Article 20(2) to the Annex of Regulation (EC) No 2006/2004 in order to utilise the Consumer Protection Cooperation Network's investigation and enforcement powers;

Comments: This CAM falls outside our scope of work.

NO POSITION Compromise proposal on paragraph 18 (Geoblocking) 1st batch 04/12/2015 (no changes)

Covering AMs 615-618, 623, 624

Further points out the importance of the ongoing competition sector inquiry into the e-commerce sector in order to investigate, inter alia, whether *unjustified* geo-blocking restrictions, *such as discrimination on the basis of IP address, postal address or country of issue of credit card*, infringe the rules of EU competition law; stresses the importance of increasing consumer and business confidence by *taking into account the sector enquiry results and assessing whether targeted changes to the Block Exemption Regulation are necessary, including Article 4a and Article 4b* in order to limit undesirable re-routing and territorial restrictions;

Comments: This CAM falls outside our scope of work.

 **SUPPORT** Compromise proposal on paragraph 19 (Private Investments) 2nd batch 04/12/2015 (no changes)

Covering AMs 348, 639, 644, 646, 648-650, 653-657, 660- 662, 664, 665, 668, 669, 671, 674 and 836

Emphasises that private investments in fast and ultra-fast communication networks, *are* a requirement for any digital progress, *that must be incentivised by a stable EU's regulatory framework enabling all players to make investments including in rural and remote areas; Considers that more competition has been associated with higher levels of infrastructure investments, innovation, choices-and lower prices for consumers and businesses*; considers that little evidence exists, of a link, between consolidation of operators and increased investment *and output* in networks, *that should be carefully assessed, and competition rules enforced to avoid excessive market concentration, the creation of oligopolies at European level, and a negative impact for consumers*;

Comments: Competition should be the overriding principle. There seems to be little extra meaning in the final section of the amendment, but is not objectionable. For more information, please read the NetCompetition principles we support: www.savenetcompetition.eu

NO POSITION Compromise proposal on paragraph 19 a (Public Investments) 2nd batch 04/12/2015

Covering AMs 178, 183, 255, 256, 257, 260, 273, 290, 295, 332, 333, 349, 350, 363, 672, 678, 680-688, 753, 754, 761, 801, 961, 959, ~~963~~, 987, 1008, 1043, 1044, 1046, 1047, 1080, 1085

Highlights the importance of a successful implementation of EFSI to maximise investments, by targeting projects with higher-risk profiles, boosting economic recovery stimulating growth, the and incentivising private investments, inter alia microfinancing, venture-capital, to support innovative companies at different funding stages of their development; Stresses, where there is market failure, the importance of fully exploiting the public funds already available for digital

investments, of enabling synergies between EU programmes, such as Horizon 2020, CEF, other relevant structural funds and other instruments; including community based financed projects and state aid in compliance with state aid guidelines;

Reminds the Member States of their commitment to reach by 2020 full deployment of at least as a minimum target, {30 Mbps} speeds; calls on the Commission to evaluate if the current broadband strategy for mobile and fixed networks, including targets, is future-proofed, meet the conditions for high connectivity for all to avoid the digital divide, for the needs of the data-driven economy, and the rapid deployment of 5G;

Comments: This CAM falls outside our scope of work.

 **RECONSIDER** **Compromise proposal on paragraph 20 (OTT) 2nd batch 04/12/2015 (no changes)**
Covering AMs 391, 699, 700, 702, 703, 705-717, 719-723, 725, 726, 728, 731, 796, 797, 799, 800
Covering (Universal service directive): 367 partly, 637, 673, 675, 676, 677, 689, 690, 691, 692, 693, 727, 728, 758, 760, 663, 689, 793, 794,

Stresses that the development of *digital, including* over the top (*OTT*), services has increased demand and competition to the benefit of consumers *and the need for investments in digital infrastructure; considers that* the modernisation of the telecommunication framework should *not lead to unnecessary regulatory burdens, but guarantee non-discriminatory access to the networks and implement future-proof solutions, based where possible on similar rules for similar services* that foster innovation, fair competition, and ensure consumer protection;

Stresses the need to ensure that end user rights laid down in the Telecoms Framework are coherent, proportionate and futureproofed, and include, following the adoption of the Connected Continent package, further measures for intra- EU phone calls, easier switching, and transparency of contracts for end-users. Welcomes the upcoming review of the Universal Services Directive alongside the review of the telecommunication framework, to ensure the requirements on high-speed broadband internet access are fit for purpose to reduce the digital divide and examine the availability of the 112 service;

Comments: It is far too early in the telecoms review process for the Parliament to take stand positions on how these quite diverse markets should be regulated.

NO POSITION Compromise proposal on paragraph 21 (Spectrum) 2nd batch 04/12/2015 (no changes)

Covering AMs 2nd part AM 70, 73, 74, 78, 94, 331, 332, 361, 390, 738, 739, 741 -757,

*Highlights that Radio spectrum is a critical resource for the internal market for mobile, wireless broadband communications and essential for the future competitiveness of the European Union; calls as a priority for a harmonised and pro-competitive framework for spectrum **allocation and effective management** -to prevent delays in spectrum allocation, and a level playing field for all market players and in light of the Lamy report*, set a long-term strategy for the future uses of the various bands of spectrum, necessary in particular for 5G deployment;*

* Report on the results of the work of the High Level Group on the future use of the UHF band (to be added as a footnote)

Comments: This CAM falls outside our scope of work.

 **SUPPORT** Compromise proposal on paragraph 22 (Connected Continent Package) 2nd batch 04/12/2015 (no changes)

Covering AMs 299, 302, 357, 361, 663, 691, 692, 727, 728, 730, 766, last part 768, 770, 771, 775, first part 776, first part 778, first part 781, 787, 786, 789, 790, 792, 794, 794, 844

Stresses that the *timely implementation and* uniform, *transparent* enforcement *across Member states of EU telecommunication rules* such as the 'Connected Continent package', is a crucial *pillar for establishing* a Digital single market, ensure the *rigorous* application of the net neutrality principle and *in particular with a timely wholesale review*, deliver the end of roaming charges for all European consumers by 15 June 2017;

Comments: This CAM recommends an adequate implementation of Regulation 2015/2120.

 **SUPPORT** Compromise proposal on paragraph 22 a (BEREC) 2nd batch 04/12/2015 (no changes)
Covering AMs 772 -778, 780, 789-791

Calls on the Commission, in order to further integrate the Digital single market, to ensure that a more efficient institutional framework is in place by strengthening the role, capacity and decisions of BEREC, to achieve a consistent application of the regulatory framework, ensure an oversight and the development of the single market and the resolution of crossborder disputes; In this regard, stresses the need to improve the financial and human resources and further enhance the governance structure of BEREC accordingly;

Comments: BEREC's role needs to be strengthened.

NO POSITION Compromise proposal on paragraph 33 (Interoperability and ICT standardization) 1st batch 04/12/2015 (no changes)

Covering AMs 1017, 1170- 1183, 1186-1189, 1198, 1178 first part, 1191, 1195-1198

Considers that the *European* ICT standardisation plan and revision of the interoperability framework, *including the Commission's mandates to European standardisation organisations*, should be part of a *Digital European strategy* to create economies of scale, *budget savings, improved competitiveness for European companies*, and increase *cross-sectoral and cross-border interoperability of goods and services, through the faster definition, in an open and competitive way of open, voluntary, market-driven, and global standards, easily implementable for SMEs; Encourages the Commission to ensure that standardisation processes include all relevant stakeholders, attract the best technologies, avoid the risk of creating monopolies or closed value chains especially for SMEs and start-ups, , and to actively promote European standards internationally in light of the global nature of ICT standardisation initiatives;*

Comments: This CAM falls outside our scope of work.



RECONSIDER Compromise proposal on Paragraph 34 (e-government, once only principle) 4th

Batch 04/12/2015

Covering AM 184, 226, 1207, 1210-1213, 1215,1218, 1220-1227,1229, 1230, 1234 partly, 1236, 1241, 1242, 1284, LIBE 13, LIBE 14

Believes that the development of e-administration is a priority for *innovation, having a leverage effect on all sectors of the economy and enhancing efficiency, interoperability, transparency, reducing costs and administrative burden , better cooperation between public administrations, and providing better, more user-friendly and personalised services for all citizens and businesses*; urges the Commission *to lead by example in the field of e-government and to develop, together with the Member States, an ambitious and comprehensive e-government action plan; this action plan should be based on users needs and best practices including benchmarks for progress, a step-by-step sectoral approach to apply the "once only principle" in public administrations, according to which citizens and businesses should not never be asked for information that is already in the possession of a already provided to a public authority;* *emphasises, however, that this plan should also consider the potential increase in the cost of protecting personal data in the systems infrastructure needed to support 'once only', and the implications of 'once only' for the new privacy and security by design requirements in the proposed General Data Protection Regulation;* *should also ensure* the full *crossborder* deployment of highly encrypted e-ID and e-signatures, *in particular with the rapid-swift implementation of the eIDAS regulation and the increased online availability of the most-used public services, whilst ensuring citizens' privacy and protection of their personal data whilst ensuring citizens' privacy and high level of data protection in compliance with the requirements and principles of EU Data Protection Reform package and fully in line with the Charter of Fundamental Rights, as well as high level of security of these initiatives (from LIBE 13, 14)*

Comments: The “once-only principle” raises serious trust, privacy and security issues. The reference here takes no account of the real concerns that exist about this approach and that were however addressed in several amendments.
Good amendments that should be reflected in this CAM are 1208, 1210, 1214, 1216-1219, 1221, 1228-1234, 1239, 1240, 1242 and 1243.

NO POSITION Compromise proposal on Paragraph 35 (Single digital gateway) 4th Batch 04/12/2015
[no changes]

Covering AMs 1250, 1255, 1256, 1257, 1258, 1259, 1262, 1275

Calls for the development of a comprehensive **fully accessible (1256)** single digital gateway, **building upon already existing initiatives and networks (1262)**, as a single end-to-end digital process for businesses, **in particular for SMEs (1255, 1258) as well as social enterprises (1257)** to set up and operate across the EU, **including the** online set-up of the business **as well as** domain names, the exchange of compliance information, recognition of e-invoices, filing taxes, a simplified online VAT scheme, online information on product compliance, **hiring resources and (1250)** the posting of workers, consumer rights, access to consumer and business networks, notification procedures and dispute settlement mechanisms;

Comments: This CAM falls outside our scope of work.

NO POSITION Compromise proposal on Paragraph 35a (Points of Single Contact)
4th Batch 04/12/2015 [no changes]

Further calls on the Commission to ensure the full implementation of the Points of Single Contacts, as established by the Service Directive and to take all necessary measures in order to guarantee their efficient functioning, unlocking their full potential (1262);

Comments: This CAM falls outside our scope of work.

NO POSITION Compromise proposal on paragraph 36 (R&D&I, technologies, open science cloud)
1st batch 04/12/2015 [no changes]

Covering AMs 1074, 1120, 1265-1266, 1267, 1167

Is concerned that cloud infrastructures for researchers and universities **are fragmented**; calls on the Commission, in cooperation with **all relevant stakeholders** to **set up** an action plan **to lead to** the establishment of **the European Open Science Cloud** by end of 2016, which **should seamlessly integrate existing networks, data and high-performance computing systems and e-infrastructures services across scientific fields,-within a framework of shared policies, and standards and investments**; believes that it should serve as a stimulus to the development of clouds beyond science, **for** better interconnected innovation centres, start-up ecosystems, and

improved universities and industry *cooperation* in commercialising technology, *in compliance with relevant confidentiality rules, and for facilitating international coordination and cooperation in this field;*

Comments: It is not clear that that the Commission has yet made a compelling case for this initiative.

 **SUPPORT** Compromise proposal on Paragraph 36 a new (open innovation, Research&Innovation) 4th Batch 04/12/2015

Covering AMs partly 226, partly 258, 268, 270, 274, 293, 962, 1010, 1019, 1123, 1157, 1164, 1165, 1184, 1190, 1193, 1198, 1199, 1201, 1269, 1271

Calls on the Commission and Member states to renew their commitment towards the EU 2020 strategy's research and innovation targets, as building blocks of a competitive Digital Single Market, with a comprehensive approach to Open Science, Open innovation, Open data and knowledge transfer. This should include a revised legal framework for text and data mining for scientific research purposes, an increased use of open source software and easier access for SMEs and start ups to Horizon 2020 funding, adapted to the short innovation cycles of the ICT sector; Stresses in this respect the importance of all relevant initiatives, from public-private partnerships, innovation clusters to European technology and science parks, notably in less industrialised European regions, accelerator programmes for start-ups and joint technology platforms, as well as the ability to obtain licences or enforce for standard-essential patents, under FRAND licensing terms, in order to preserve R&D and standardisation incentives and foster innovation,

Comments: Open data, open source software and data mining should be encouraged. If Text and Data Mining (TDM) is positive, however, it is not clear why it should be restricted to scientific research.

NO POSITION Compromise proposal on Paragraph 37 (e-procurement) 4th Batch 04/12/2015

Covering AMs: 1273, 1274, 1277, 1280, 1284

Urges the Commission to focus on the implementation of the e-procurement provisions, as well as the European Procurement Single Document (PP passport), in order to facilitate *overall economic benefits (1274) as well as* EU market access for all economic operators in compliance with all selection, exclusion and award criteria; ~~*stresses the importance of encouraging the division of contracts the obligation for procuring authorities to division contracts into lots in coherence with existing legislation to improve access of innovative companies and SMEs in procurement markets (1273, 1274);*~~

Comments: This CAM falls outside our scope of work.

 **SUPPORT** Compromise proposal on Recital A (Digital revolution) 4th Batch 04/12/2015

Covering AMs 37, 38 (first part, second moved to CA on digital changes and society), 39 - 44, 47 - 49, 91, 117

Whereas the *rapidly evolving (91)* use of the internet and mobile communications has changed the way *citizens, companies and their employees (39)* communicate, *access information and knowledge (40)*, invent, consume, share, *participate and conduct business-work (39, 40)*; whereas this has expanded *and changed (41, 117) the economy*, facilitating access by small *and medium* sized companies to a *potential (37)* customer base of 500 million customers *within the EU, as well as to global markets (47)*, and *allowing individuals the opportunity to develop new, entrepreneurial ideas and business models (39, 41, 42)*;

Comments: The Internet has brought many opportunities to both citizens and companies of all sizes.

NO POSITION Compromise proposal on Recital B (Adapted policies and legislation, holistic approach) 4th Batch 04/12/2015

Covering AM 68, 69, 70, 71, 76, 77, 79, 81, 83, 84, 85, 87, 207, 328,

whereas all Union policies and *legislations* in the area of the Digital Single Market should allow new opportunities and *innovative online services*, for users and businesses, and *new innovative crossborder online services at competitive prices*, to emerge and grow, *remove barriers between Member states, and facilitate access for European businesses, in particular for SMEs and start-ups to cross-border markets, as key for growth and employment in the EU whilst recognising that these opportunities will* inevitably involve structural changes *and* taking a holistic approach *including the social dimension, and the need for the digital skills gap to be filled quickly*;

Comments: This CAM falls outside our scope of work.

NO POSITION Compromise proposal on Recital C (Digitalization of Industry) 1st batch 04/12/2015
[no changes]

Covering AMs 96, 97, 99, 100, 101

whereas 75% of the value added by the digital economy comes from traditional industry,—*the digital transformation of traditional industry* remains weak, with only 1.7% of EU enterprises making full use of advanced digital technologies and *only* 14% of SMEs using the internet as a sales channel; *whereas Europe must use the great potential of the ICT sector to digitise the industry and maintain global competitiveness*;

Comments: This CAM falls outside our scope of work.

 **SUPPORT** Compromise proposal on Recital D (Consumer protection in Digital market) 1st batch
04/12/2015

Covering AM 118 – 122, 124 – 132,

whereas a high **and consistent** level of consumer protection, **empowerment** and satisfaction necessarily entails choice, **quality**, flexibility, **transparency**, information, **interoperability and an accessible**, secure online environment **with a high-level of data protection**;

Comments: The CAM is self-explanatory.

NO POSITION Compromise proposal on online dispute resolution (ODR) 3rd batch 7/12/2015 (no changes)

Covering AM 387, 472, 486, 487

Welcomes the Commission's overall efforts in establishing the EU-wide online dispute resolution (ODR) platform and calls on the Commission to work towards the timely and correct implementation of the ODR Regulation, especially concerning the translation facilities, as well as the ADR directive, together with the Member States; calls on the Commission and the relevant stakeholders to consider how access to information on common consumer complaints could further be improved;

Comments: This CAM falls outside our scope of work.

NO POSITION Compromise proposal on Paragraph 15 Parcel Delivery 3rd batch 7/12/2015

Covering AM 505, 506, 507, 508, 510, 511, 512, 513, 514, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 538, 539, 542, 543 fall

Highlights that while parcel delivery services work well for consumers in some Member States, inefficient delivery services, especially concerning the final mile delivery, are a main barrier to cross-border e-commerce and one of the most reported reasons of withdrawing from online transactions for both consumers and businesses; believes that inadequacies of crossborder parcel delivery can be solved only with a European single market perspective and underlines the importance of competition in this sector as well the need for the parcel industry to adapt to modern living patterns and offer flexible delivery options, such as networks of collection points, parcel points and price comparators;

Stresses that accessible, **affordable** efficient and high-quality delivery services are an essential prerequisite for a thriving cross-border e-commerce, **therefore** supports the proposed measures

to improve price *transparency in order to increase consumer awareness of the price structure, information on liabilities in case of loss or damage* , interoperability as well as the regulatory oversight that should target **both** the smooth functioning of cross-border parcel delivery markets, *including promoting cross-border track-and-trace systems*, allowing enough flexibility for the delivery market to evolve and adapt to technological innovations;

Calls on the Commission and Member States to actively share best practices in the parcel delivery sector and on the Commission to report to the European Parliament on the public consultation on cross-border parcel delivery as well as presenting the results of the self-regulation exercise; Welcomes the creation of an ad-hoc working group on cross-border parcel delivery;

Calls in addition on the Commission to propose a comprehensive action plan, including guidelines for best practices, in cooperation with operators, to find innovative solutions to improve services, lower costs and the environmental impact, to further integrate the single market for parcel delivery and postal services, to dismantle barriers postal operators encounter in crossborder delivery, to strengthen the cooperation between BEREC and ERGP, and to propose if necessary a revision of the relevant legislation;

Comments: This CAM falls outside our scope of work.

NO POSITION Voted as addition (two separate additions):

Stresses that the further harmonization on parcel delivery by the Commission should not lead to lower social protection and working conditions of the parcel deliverers irrespective of their employment status; calls on the Commission and the Member States to ensure that workers' rights in this sector concerning the access to social security systems and the right to exercise collective actions are respected; highlights that the provision of social security is a Member States' competences;

Comments: This addition falls outside our scope of work.

 **RECONSIDER** Compromise proposal on Paragraph 16 Geoblocking 3rd batch 7/12/2015
Covering AM 551-567,570, 573, 574, 577-583, 585-590, 594 (partially), 611

Considers that *ambitious, targeted* actions are needed to improve access to *goods and services purchased online* in particular by ending *unjustified* geo-blocking practices and unfair price discrimination based on geographical location *or nationality, which often have the effect of building monopolies and consumers resorting to illegal content might even help to conceal protectionist measures;*

Supports the Commission's plan to address unjustified geoblocking in an effective manner by complementing the existing e-commerce framework and enforcing the relevant provisions of existing legislation ; considers it vital to focus on business to business relations that lead to geo-blocking practices, such as selective distribution where not in accordance with competition law

and market segmentation, as well as on technological measures and technical practices (such as practices like IP tracking or the deliberate non-interoperability of systems) resulting in unjustified limitations on access to information society services provided across border, on the conclusion of cross-border contracts to buy goods and services, but also on adjacent activities, such as payment and delivery of goods , taking into account the principle of proportionality, in particular for small and micro businesses;

Comments: This CAM incorrectly categorises unauthorised content as “illegal content”.

Compromise proposal on Paragraph 23, 24, 25 on online platforms, sharing economy (as a block)
3rd batch 7/12/2015

 **RECONSIDER Paragraph 23**

Covering AM 807, 808, 809, 810, 813 814, 815, 817, 818, 819, 821, 822, 823, 824, 825, 833, 835, 836, 837, 840, 841, 842, 874, 854

Urges the Commission to *examine whether potential issues related to online platforms could be resolved by proper and full implementation of existing legislation and effective enforcement of EU competition law , to ensure a level playing field , and fair and effective* competition between online platforms *and avoid creation of monopolies ; calls on the Commission to maintain* an innovation-friendly policy, towards online platforms, that *facilitates market entry and fosters innovation*; considers that transparency, *non-discrimination*, facilitation of switching between platforms or online *enabling consumer choice*, access to platforms, *and* identifying and addressing barriers to the emergence and scale up of platforms, should be priorities;

Notes in addition that provisions of the E-Commerce Directive have been subsequently enhanced by the Unfair Commercial Practices Directive, the Consumer Rights Directive and other components of the consumer acquis and that these directives need to be properly enforced and apply as much to traders using online platforms as to traders in traditional markets. Calls on the Commission to work with all stakeholders and the European Parliament to introduce clear guidance on the applicability of the consumer acquis to traders using online platforms and, where necessary, assistance to Member State consumer protection authorities to properly enforce consumer law;

To discuss the correct positioning within the compromise:-

~~Reminds that the basis of innovation friendly policy that fosters competition and innovation should include the possibility for projects to access financing possibilities; therefore calls upon the Commission to ensure that crowdfunding can be done seamlessly across borders and to facilitate tax-deductible crowdfunding for social and other public interest causes, including by giving advice to the Member States;(moved to CA 4)~~

Comments: The reference to a “level playing field” adds no additional meaning to the text.

 **RECONSIDER Paragraph 24**

Covering AM 729, 840,846, 850,853,856, 857, 858, 859, 860, 862, 864, 865, 866, 870, 871, 872, 827, 828,830, 831,838, 839, 911, 910, 914, 999

Appreciates the Commission’s initiative to analyse the role of *online* platforms in the Digital Economy as part of the *Digital Single Market Strategy as it will affect several upcoming legislative proposals; believes that the analysis should serve at identifying confirmed and well-defined problems, within specific business areas, possible gaps in terms of consumer protection and distinguish between online services and online service providers;*

Asks the Commission to report to the European Parliament in the first quarter of 2016 on the results of the relevant consultations and to ensure a consistent approach in upcoming legislative revisions; Cautions against creating market distortions or barriers to market entry for online services by introducing new obligations to cross-subsidise particular legacy business models;

Stresses that the limited liability of intermediaries is essential to the protection of an open the openness of the internet, fundamental rights, legal certainty and innovation; recognises in this respect the provisions on intermediary liability in the Ecommerce directive as an example for being futureproof and technological neutral; legislation

Reminds that to benefit from a limitation of liability, the provider of an information society service, upon obtaining actual knowledge or awareness of illegal activities has to act expeditiously to remove or to disable access to the information concerned; asks the Commission to ensure uniform implementation of this provision in respect to the Charter of Fundamental rights to ensure adequate and reasonable measures are taken against the sales of illicit content and goods.

Considers that in view of rapidly evolving markets and the diversity of platforms, from non-profit platforms to B2B platforms, encompassing different services, sectors, and a vast variety of actors, there is no clear and enforceable definition of platforms and a “one size fits all” approach could seriously impede innovation and put European companies at a competitive disadvantage in the global economy;

~~Voted as an addition~~

~~*Calls for the establishment of an independent rating agency of online services provided by digital platforms assessing their activities to establish a flexible framework that would guide investors, businesses and allow consumers to better acknowledge the conditions applicable to the use of digital services offered by these platforms;*~~

Comments: CAM on para. 24 is very good. We suggest minor edits to address the following issues:

- delete “distinguish between online services and online service providers”, as this is unclear
- delete “uniform”. The purpose of the E-Commerce Directive is to ensure a harmonised approach, not an identical approach to this issue.
- Delete the “first quarter” deadline, it is more important for the Commission to work well than to work quickly.

NO POSITION Paragraph 25

Covering AM 855, 873, 882, 884-890, 892-896, 899-902, 904, 906, 907, 909, 897, 891

New 3.3.2 New opportunities offered by the collaborative economy (new subtitle)

Welcomes the increased competition and consumer choice due to the collaborative /sharing economy as well as opportunities for job creation , economic growth, competitiveness , a more inclusive job market and a more circular EU economy through the more efficient use of resources, skills and other asset; urges the Commission and Member States to support the further development of the collaborative /sharing economy by identifying artificial barriers and relevant legislation hindering its growth;

Encourages the Commission to analyse ***in the framework of the collaborative /sharing economy how to balance between empowering and protecting consumers, and where clarification is needed*** to ensure the adequacy of the consumer related legislation framework in the digital sphere, including ***in cases*** of possible abuses, ***and where ex-post remedies, are sufficient or more effective;***

Notes that these companies utilising these new business models, based on reputation and trust have a self-interest to adopt measures to prevent fraud, and are discourage illegal activities while providing new consumers' safety features;

Encourages the Commission ***to set up a stakeholder group in charge of promoting best practices in the collaborative/sharing economy sector***

Comments: CAM on para. 25 falls outside our scope of work.

NO POSITION Proposed as addition by EMPL, IMCO and ITRE rapporteurs (EMPL 10 first part , 12, 35 , 34 , 41 49)

Calls on the Member States to ensure that employment and social policies are fit for purpose for digital innovation, entrepreneurship, the growth of the collaborative economy and its potential for more flexible forms of employment by identifying new forms of employment , and assessing the need for modernisation of social and employment legislation so that existing employment rights and social welfare schemes can also be maintained in the digital world of work.; Highlights that the provision of social security is a Member State competence; Asks the Commission to identify

and facilitate the exchanges of best practices in the EU in these areas and at international level;

Comments: This CAM falls outside our scope of work.



SUPPORT Compromise proposal on Paragraph 26 Cybersecurity 3rd batch 7/12/2015

Covering AM 354 partly, 451, 798, 919, 921, 922, 924-,926, 928, 930, 931, 934-936, 938, 939, 941-944 , 947 - 951, 953-956, 960, 964, 966, 1072

3.4. Reinforcing trust and security in digital networks, services and infrastructures and in the handling of personal data

26. Considers, in order to ensure trust *and security* in digital services, *data-driven technologies*; IT and *payment* systems, *critical infrastructure*, online networks, *increased resources and cooperation are* required *between the European cybersecurity industry*, the public and private sector, *in particular via ~~public-private partnerships and research cooperation including Horizon 2020, and public-private partnerships~~*; *Supports the sharing of Member's states best practices in PPPs in this area (LIBE 8)*;

Calls to improve resilience against cyber-attacks, with in particular an increased role of ENISA, increase awareness of risks and knowledge over basic security processes among users in particular SMEs, and to ensure -companies to have basic levels of security such as end-to-end encryption of data and communication and updating software and encourage the use of the security by design concept (LIBE 8)

26a Considers that software providers should better promote to users security advantages of open source software and security-related upgrades of software. Calls in addition on the Commission to explore a EU-wide coordinated vulnerability disclosure initiatives programme, including the ~~of and~~ repair of known software vulnerabilities, as a remedy against the abuse of software vulnerabilities and security and personal data breaches;

26b Believes that the swift adoption of a fit for purpose NIS directive is needed to provide an EU coordinated approach on cybersecurity including the swift adoption of a fit for purpose NIS directive, considers that a more ambitious level of cooperation between Member states, and relevant institutions and bodies in the EU, and exchange of best practices is essential for the further digitalisation of the industry; while ensuring the protection of EU fundamental rights, in particular ~~and citizens privacy data protection (LIBE 5) and the protection of fundamental rights and citizens privacy data protection;~~

Comments: We support this Directive but do not share the analysis of the NIS Directive.

NO POSITION Compromise proposal on Paragraph 27 on Digital transformation of the industry 3rd batch 7/12/2015

Covering AMs 82, 96, 99, 100, 271, 272, 291, 354, 973, 975, 976, 977, 978, 981, 982, 983, 984, 985, 986, 990, 992- 997, 1001, 1002, 1006, 1010, 1011, 1016, 1022, 1031, 1079, 1105, 1113

Believes that *in light of the central importance of European industry, and of the digital economy growing much faster than the rest of the economy*, the digital transformation of industry is essential for the competitiveness of the European economy *and its energy transition, but can only be successful if European companies understand its significance*, in terms of increase of efficiency, and access to untapped potential *with more integrated and ,connected value chains, able to respond quickly and flexibly to consumer demands;*

Calls on the Commission to develop a digital transformation plan *without delay*, including targets, modernisation of legislation, *and the use of relevant instruments for investments in R&D and infrastructure, to support the digitalisation of the industry of all the sectors, such as manufacturing, energy, transport, retail sectors, by encouraging* the adoption of digital technologies and end-to-end connectivity in value chains *as well as innovative services and business models*

Considers that the regulatory framework should enable industries to embrace and anticipate those changes to contribute to job creation, growth, and regional convergence

Calls in addition for a special focus on SMEs, by in particular a possible review of the Small Business Act, as their digital transformation is imperative to competitiveness and job creation in the economy and for closer cooperation between established companies and start-ups, that could lead to a more sustainable and competitive industrial model, and the emergence of global leaders;

Comments: This CAM is market-centred and thus falls outside our scope of work.

 **RECONSIDER** Compromise proposal on Paragraph 28 on Internet of Things 3rd batch 7/12/2015

Covering AMs 908, 1048, 1049, 1051, 1052, 1053, 1055, 1056, 1062, 1069, 1067, 1072, 1076, 1079, 1081, 1086

Considers that data driven economy is a key to economic growth; Emphasises the opportunities of new ICT technologies such as big data, cloud computing, the Internet of things, *3D-printing* and other technologies can bring to the economy and the society, especially if integrated with other sectors *e.g energy, transport and logistic, financial services, education, retail, manufacturing, research or health and emergency services, and if used by public authorities to develop smart cities, better manage resources, and improve environmental protection ; Highlights in particular the opportunities of energy sector digitalisation, with smart meters, smart grids and datahubs for a more efficient and flexible energy production; Underlines the importance of public-private*

partnerships and welcomes Commissions' initiatives in this respect:

Comments: This amendment duplicates points made elsewhere in the report, fails to address privacy and takes a very unnuanced approach to the issues at stake.

+ SUPPORT **Compromise proposal on Paragraph 29 on Big data** 3rd batch 7/12/2015 (no changes)
Covering AMs 695, 958, 959, 1087, 1089, 1091, 1092, 1093, 1094, 1095, 1097, 1071, 1072

1065 covered on data access

Calls on the Commission to carry out a broad and transparent review on Big data, ***with all relevant experts including researchers, civil society***, the public and private sector, by March 2016, aiming at anticipating the needs of big data technologies ***and for computing infrastructure, including better conditions under the non-regulatory and the existing regulatory framework, for growth and innovation in this sector ,at maximising the opportunities*** and addressing potential risks and challenges ***to build trust, for instance related to access to data , security, and data protection;***

Comments: This CAM takes into consideration both the benefits and risks of big data. The report could be improved by referring to the recent Opinion of the European Data Protection Supervisor on big data of 19 November 2015. For more information, read <https://edri.org/edps-opinion-calls-for-effective-data-protection-big-data/>

- RECONSIDER **Compromise proposal on Paragraph 30 Internet of Things** 3rd batch 7/12/2015
Covering AMs 843, 929, 991, 1075, 1079, 1106, 1107, 1108, 1112, 1114, 1115, 1102 1121 partly (rest to be covered under PARA 32) 1126, 1113

Calls for the development of ***a future-proof and technologically neutral*** European approach and further integration of the single market related to the Internet of things ***and the Industrial Internet*** with a ***transparent*** standard-setting ***and interoperability*** strategy, the reinforcement of trust in these technologies through security, transparency, and ***privacy by design and by default*** ; ***Welcomes*** through ***Notes*** the “free flow of data” initiative ***that should, following a comprehensive assessment, clarify*** rules on the use, access and ***ownership control*** of data, taking ***into account the concerns over the impact of data localisation requirements on the functioning of the single market***, and ***facilitate*** switching between data service providers to prevent lock in ***and market distortions*** ; ***Underlines the importance of public-private partnerships in this sector and welcomes Commissions' initiatives in this respect;***

Comments: As evidenced by the confusion evident in the Commission's questions in the Platforms Consultation, it is far too early to offer unequivocal support for current work on free flows of data.

 **SUPPORT** Compromise proposal on Paragraph 31 Open data 3rd batch 7/12/2015
Covering AMs 1130, 1131, 1132, 1134, 1135, 1136, 1137, 1138, 1140, 1123, 274

Believes public administrations should have open *Government* data by default ; *Urges for* progress to be made on the degree *and pace of releasing information as opening open* data , on identifying key datasets to be made available *due and on promoting the re-use of open data -in an open form*, due to their value for development of innovative *services, including crossborder solutions, transparency, and benefits for the economy and the society;*

Comments: We support this compromise, but suggest minor grammatical edits.

 **RECONSIDER** Compromise proposal on women's rights 3rd batch 7/12/2015 (no changes)
Covering AMs 154, 155, 337, 1038, 1203 (and FEMM)

Notes that the internet and ICT have an enormous impact on the emancipation of women and girls; acknowledges that increased female participation in the EU digital sector would have an positive impact on the European GDP; recognises the important potential of female innovators, entrepreneurs and the role they can play in digital transformation; underlines the need to overcome gender stereotypes, fully supports and encourages a digital entrepreneurial culture for women as well as their integration and participation in information society;

Comments: The aims of the proposal are laudable. However, the text “female participation in the EU digital sector would have an positive impact...” suggests that this is not already the case. Perhaps it is meant to say “increased female participation”?

 **SUPPORT** Compromise proposal on accessibility for all 3rd batch 7/12/2015 (no changes)
Covering AMs 63, 90, 102, 109, 114, 185, 243, 225, 275, 278, 334, 335, 659, 845, 869, 1007, part of 1173, 1204, 1216, 1217, 1219, 1231, 1260, 1261, part of 1263, 1278,

Recognises the potential of the Digital Single Market to ensure accessibility and participation for all citizens, including people with special needs, elderly people, minorities and other citizens belonging to a vulnerable group to all aspect of the digital economy, especially by the development of an inclusive e-society and ensuring that all e-government and e-administration programs are fully accessible; underlines in this context the urgency of a swift adoption of the proposal for a directive on web accessibility of public sector bodies' websites;

Comments: Accessibility should indeed be taken seriously.

 **RECONSIDER** Compromise proposal on International governance 3rd batch 7/12/2015 (no changes)

Covering AMs AM 345, 356, 1122, 1176, 1279, 1281, 1287, 1278, 59 and 61 digital society

*Stresses the importance of a fully independent internet governance structure to maintain the internet as transparent and inclusive model of multi-stakeholder governance, based on the principle of Internet as a unique, open, free(345) and stable platform; considers essential to use the delay in the transition of stewardship of ICANN to serve this purpose; strongly believes that the global dimension of the internet needs to be taken into account in all relevant EU policies and requires for the EEAS to make full use of opportunities offered by digitalisation for the development of a coherent external policy, ensure EU's representation in internet governance platforms and be more vocal in global fora, in particular in standard-setting, **on data flows**, the preparations for 5G deployment and cybersecurity;*

Comments: The reference to "data flows" is inappropriate in this context.