AT A GLANCE : COUNCIL ADOPTS NEGOTIATING GUIDELINES ON BREXIT – DIGITAL SINGLE MARKET WITHOUT DIGITAL SKILLS? - MEP CALLS ON EU POLICYMAKERS TO EMBRACE EVOLVING TECHNOLOGIES?

BREXIT

Council adopts negotiating guidelines

"We are ready," the EU's chief negotiator on Brexit, Michel Barnier, told reporters upon his arrival at the General Affairs Council meeting in Luxembourg on April 27, where national ministers in charge of Brexit talks were refining draft negotiating guidelines prior to their formal adoption by EU leaders at a summit on April 29. Questioned on the impact the outcome of the UK general elections of June 8 might have on the EU's negotiating stance, Commission Vice-President Frans Timmermans stated that it is of utmost importance that the EU27 remain united going into upcoming Brexit negotiations. Furthermore, he said the results of the British elections would in no way change anything from the Union's perspective, as the move by Mrs May was purely an internal matter for the UK and that *"our [the EU's] position is determined by the interests of the EU27".*
Source: Dods

DIGITAL SINGLE MARKET

Digital Single Market without digital skills?

In the European Parliament MEP Marlene Mizzi (S&D,MT) put the finger on one of Europe's main issues when implementing the Digital Single Market: the lack of digital skills. She introduced the topic by stating that information and communication technologies (ICT) play an increasingly important role in our professional and private lives, and in the future nearly all jobs will require digital skills.

"However," the MEP continued, *"Commission figures show that two-fifths of the EU workforce have few or no digital skills. In addition, despite continued high levels of unemployment, there could be up to 756 000 unfilled jobs in the European ICT sector by 2020."*

The question then arises as to what action is being taken by the European Union to encourage people to acquire the right skills, and particularly as regards to the promotion of ICT skills among disadvantaged groups such as young people, women or unemployed people?

Commissioner Ansip, responsible for the Digital Single Market, responded that the Commission *"is determined to tackle the digital skills gaps and to ensure that Europeans are equipped with adequate digital skills for a competitive economy and an inclusive society."*

In the Commission's leaked version of the mid-term review document on the Digital Single Market, the Commission announced that a *"Digital Opportunity"* scheme will be launched in 2017, which is a pilot project aiming at giving graduates hands-on experience through cross-border

internships in the digital domain. This scheme would be operated along with the Digital Skills and Jobs Coalition, aimed at mobilising business, social partners and public authorities to improve digital skills and maximise the use of EU funds to raise skills levels and employability, especially of the young.
Source: European Parliament + Interel

# Internet of things and product liability

The Commission's **public consultation** on the Directive on liability for defective products closed earlier this month. This consultation was part of a larger evaluation exercise the Commission is conducting on the Directive throughout 2017. The Commission's evaluation will assess if the Directive is fit-for purpose vis-à-vis the new technological developments such as the Internet of Things and autonomous systems. Where appropriate, the evaluation should identify possible issues in the application of the Directive and, depending on the conclusions, new legislation could be envisaged.

In its **response** to the consultation, BusinessEurope made clear that the

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current Directive's provisions are flexible enough to cover new technological developments, such as the Internet of Things, smart devices and the cloud. BusinessEurope however believes that adapted or dedicated liability rules might be appropriate for completely autonomous automated systems such as, for example, self-driving cars.

Label for internet of things

This month the unit dealing with Internet of Things (IoT) within European Comission's DG Connect said that the Commission will put forward a package of measures in the autumn of 2017 to update the 2013 Cybersecurity Strategy, which would include a certification program that would allow companies to affix safety labels to devices and applications used in the IoT field declaring them safe and trustworthy.
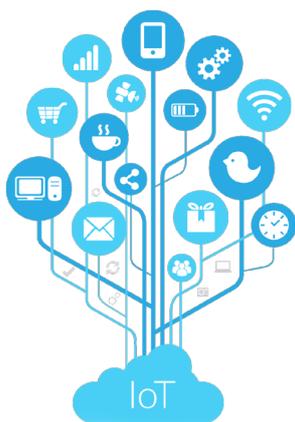
This could be modelled on the 'CE' mark that labels consumer goods as safe to use or draw on the EU system that grades the energy efficiency of washing machines and other white goods and assigns them labels with a range of colours and letters.

This IoT model and certification program would fall into the category of *"policy actions to facilitate the single market".*

The Commission is currently working on an impact assessment for the upcoming policy and is looking into different policy options, going from soft-law and non-binding recommendations to legislation which would harmonize the different certification schemes across Member States.
Source: M-Lex + Interel

CYBERSECURITY

Report reveals lack of clear approach on cybersecurity

In its **report** *"Europe's digital power: from geo-economics to cybersecurity",* the European Council on Foreign Relations highlighted that the digital space is highly contested, with many competing strands and areas of activity.

According to the Council, within the EU and among Member States there is no clear approach as to how to govern this space. The report puts forward an understanding of digital power which rests on, first, the strength of the digital economy and, second, cyber capability.

The report also finds that Europe's faltering progress towards the completion of the digital single market and its sluggish response to cyber threats are *"unfortunately suggestive of a reluctance to get fully to grips with digital as a medium".*
Source: ECFR

DATA PROTECTION

MEP calls on EU policymakers to embrace evolving technologies

At an event organized by **ISACA** in Brussels earlier this week, Axel Voss MEP called on the EU policymakers to push for policies that drive growth and innovation in the digital world: *"Currently, several political groups in the Parliament hold on to a concept of data protection from the 1980s. It is time for them to understand that privacy protection needs to evolve with and adapt to changing technologies and realities."*

Mr Voss found that the concepts of protection of privacy and data would have to adapt to the evolving technologies. EU policymakers, according to Mr Voss, still refer to the same concept of privacy protection as 30 years ago. Their too rigid and strong focus on privacy protection could hamper the growth of technologies as well as the innovation they bring to our society to combat cyberthreats.

He added that EU legislation should be thriving innovation. He reiterated his earlier point by stating that the EU is strong in upholding data protection, yet performing worse when it comes to pushing growth and innovation. He concluded by saying that he believed *"consent"* was the wrong element for the consumer to have his data protected, as he would always "consent" in order to make use of the service subsequently.
Source: Interel

European Data Protection Supervisor (EDPS) comments on proposed Regulation on Privacy and Electronic Communications

In its **opinion,** the European Data Protection Supervisor outlines its position on the proposal for a Regulation on Privacy and Electronic Communications, which is to repeal and replace the ePrivacy Directive.

The EDPS has concerns whether the proposal, as it stands, can in fact deliver on its promise to ensure a high level of protection of privacy in electronic communications: *"We need a new legal framework for ePrivacy, but we need a smarter, clearer and stronger one. There is still a lot to do: the complexity of the rules, as outlined in the Proposal, is daunting. Communications are sliced into metadata, content data, data emitted by terminal equipment. Each being entitled to a different level of confidentiality and subject to different exceptions. This complexity may bring a risk of -perhaps unintended- gaps in protection."*

The EDPS finds that most of the definitions on which the proposal relies will be negotiated and decided in the context of a different legal instrument: the European Electronic Communications Code. There is no legal justification today for linking the two instruments so closely, the supervisor finds, and the competition and market-focused definitions from the Code are simply not fit for purpose in the fundamental rights context. The EDPS therefore argues for including a set of necessary definitions in the ePrivacy Regulation, taking into account its intended scope and objectives.

The EDPS also calls on policymakers to pay particular attention to the question of processing of electronic communications data by controllers other than providers of electronic communications services. The additional protections offered to communications data would be pointless if they could easily be circumvented by, for example, transferring the data to third parties. Finally, it should also be ensured that the ePrivacy rules do not permit a lower standard of protection than that enshrined in the GDPR, according to the European supervisor. For example, consent should be genuine, offering a freely given choice to users, as required under the GDPR.
Source: EDPS
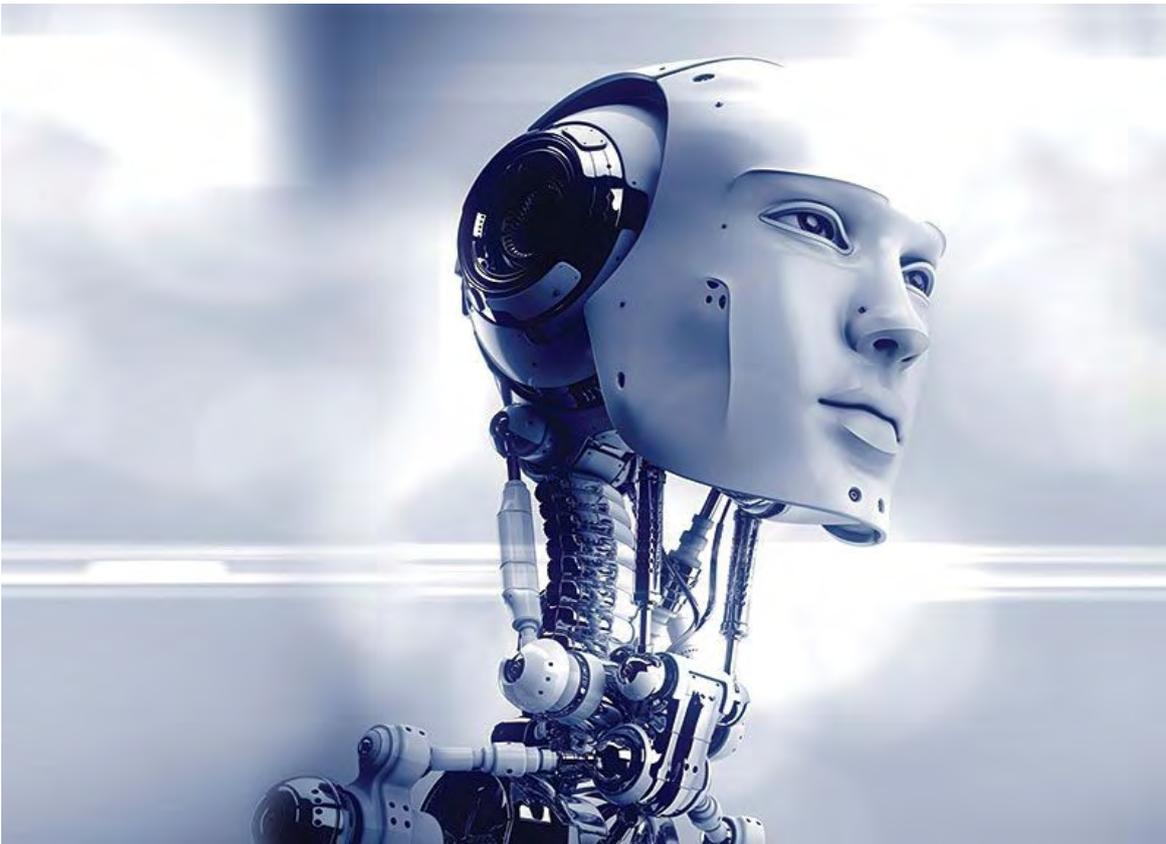
AI & ROBOTICS

Commission proposes strategic vision on AI by end of 2017

According to a leaked version of the Commission's Digital Single Market mid-term review, the Commission will propose its *"strategic vision"* on AI by the end of this year. The final mid-term document is due for publication on the 10th of May.

Besides highlighting the role of AI as a *"key driver to obtain fewer fatalities on roads, less pesticide use in farming, better healthcare outcomes and a more competitive manufacturing sector"*, the Commission is very much aware that the arrival of AI might lead to conflicts with the current regulatory framework which was developed for a different, more predictable and controlled technology. Finally, the Commission also voiced some concerns about the employment effects of AI and how this can be balanced with the improvements expected for dirty, dull and dangerous jobs.

Source: Interel