

Summary

“The Digital Single Market Strategy (“DSMS”) initiative represents a unique opportunity to unify regulation across the EU’s member states around policies that promote transparency, stability, free trade, innovation and global economic growth. As the Commission undertakes to integrate the digital economy into the EU’s single market strategy, however, care should be taken to assure that the principles driving the explosive growth of the Internet are encouraged and not suppressed.

As companies contemplate new business models, new content distribution services, new uses for data and new opportunities for valuable data exchange, it is important that regulation not create a legal environment in which valuable products are inefficiently delayed, degraded or abandoned. Effective and efficient policies flow from basic, well-established economic and legal principles that maximize welfare by, among other things, minimizing error costs, promoting innovation, encouraging voluntary and self-help remedies, prioritizing self-regulation, minimizing institutional and bureaucratic costs, and capitalizing on the incentives and informational advantages of market participants...”

“Importantly, the decision with respect to a new regulatory regime for online platforms is not made in a vacuum; rather, it is a choice between existing rules and the proposed alternatives. Justifying new rules demands a comparison to existing rules, meaning rigorous evidence not only that there is a problem, but also that any problems will be better addressed by new rules than current rules. No regulatory regime is perfect. Even if there are some identifiable problems with the current rules, that alone does not mean that any particular proposed new rules are preferable. The Commission should carefully consider existing law (like competition and consumer protection laws at both the EU and member-state levels) and whether new rules will bring the overall regulatory scheme closer to the optimal level.”