

13 December 2016

Mr Donald Tusk
President of the European Council

Dear President

Unlocking the vast potential of the Digital Single Market (DSM) is a major opportunity to boost the dynamism and competitiveness of the European economy, significantly reduce transaction costs for business, and provide a real dividend for consumers. That is why we need to give clear political priority to creating the right conditions across Europe for innovation, investment and entrepreneurship, including by recognising the crucial role of fast-growing young firms in employment growth. This was the vision which the European Council set out in our *Strategic Agenda for the Union in times of change*, which we agreed in June 2014 and which inspired the European Commission's framework of Ten Priorities at the start of its current mandate.

We commend the Commission for the strong progress it has made in translating the DSM Strategy it presented last year into concrete proposals for legislative action, reinforced by the strong focus on implementation in the Commission's Work Programme for 2017. Last week's VAT package is the most recent example, and the proposals expected in January in relation to the review of the e-Privacy Directive will bring us one step closer to having a comprehensive legislative underpinning of the DSM.

However we note with concern the risk of serious delay with the presentation of a legislative proposal in relation to data localisation under the European 'free flow of data' initiative. The DSM Strategy set very clear expectations for presentation in 2016 of an initiative "that tackles restrictions on the free movement of data for reasons other than the protection of personal data within the EU and unjustified restrictions on the location of data for storage or processing purposes". In our view an early legislative proposal providing for the free flow of data is crucial to avoid market fragmentation and further obstacles to the development of the data economy in the EU.

There should be no doubt that Member States retain the right to require data localisation where this can be objectively justified, such as for national security and law enforcement reasons. But there must be a common approach and this will clearly require EU legislation. The credibility of our political commitment requires explicit recognition that barriers to doing business digitally and across borders are now barriers to growth and jobs. We therefore endorse strongly the recent calls that have been made for resolute Commission action to keep the DSM 'free flow of data' initiative on track, in particular through early presentation of a legislative proposal to prevent unjustified data localisation requirements.

More generally, the key challenge we face is pressing ahead with conviction to execute the DSM legislative programme: stretching our political ambition, agreeing concrete timelines, and delivering early and practical results, particularly for European consumers and SMEs. We agreed in June that all DSM measures should be completed and implemented by 2018. Delivering on this commitment will clearly require further stepping up of our work in the Council, and setting stronger expectations for effective engagement with the European Parliament. Otherwise we risk missing our deadline and jeopardising our ambition to establish a dynamic Digital Single Market in the Union.

In adapting our shared market rules to the digital realities of the early twenty-first century, we will either create the right economic environment here in Europe or accept that the most promising digital opportunities are beyond our grasp.

Yours sincerely

Charles Michel
Prime Minister, Belgium

Boyko Borrisov
Prime Minister, Bulgaria

Bohuslav Sobotka
Prime Minister, Czech Republic

Lars Løkke Rasmussen
Prime Minister, Denmark

Jüri Ratas
Prime Minister, Estonia

Enda Kenny
Taoiseach, Ireland

Māris Kučinskis
Prime Minister, Latvia

Dalia Grybauskaitė
President of the Republic, Lithuania

Xavier Bettel
Prime Minister, Luxembourg

Joseph Muscat
Prime Minister, Malta

Mark Rutte
Prime Minister, Netherlands

Beata Szydło
Prime Minister, Poland

António Costa
Prime Minister, Portugal

Miro Cerar
Prime Minister, Slovenia

Stefan Löfven
Prime Minister, Sweden

Theresa May
Prime Minister, United Kingdom

cc President Juncker and European Council