



# DIGITALEUROPE



## Digital Trade Workshop

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# DIGITALEUROPE

- DIGITALEUROPE represents the **Digital Tech Industry in Europe**.
- Our membership includes **62** global companies (IT, telecoms & consumer electronics) & **37** national ICT associations from every part of Europe.
- DIGITALEUROPE is also a proud member of the **World Information Technology and Services Alliance (WITSA)** and of the **European Services Forum (ESF)**.



# Digital Trade Rules at WTO

Scope (*DIGITALEUROPE position for the Trade in Services Agreement, 2013*):

- Rapid advances in information and communications technology create special challenges in scheduling trade commitments in computer and related services
- Technological innovation moves much faster than trade negotiations.
- Trade commitments in computer and related services must provide certainty in coverage for evolving, network-enabled IT services and must not become obsolete as technology for delivery of these services advances (review clause?).
- Clarity is crucial to provide greater legal certainty for service providers and to enable access to our services by all users

# Digital Trade Rules at WTO

- First milestones at plurilateral level:
  - Expansion of the Information Technology Agreement
  - New Track on NTBs in the IT sector
  - Trade in Services Agreement with ambitious chapters on e-commerce, telecoms and localisation discipline
- Next steps at multilateral?
- Collaborations with other global institutions? G20/G7, OECD, UN(CTAD), WEF, World Bank, ICTSD etc.

# Recommendations of the Global ICT Industry

## ITI – JEITA – DIGITALEUROPE Recommendations for the G7 ICT Ministerial



### 2016 G7 Summit and ICT Ministerial

*Recommended Outcomes for Promoting Innovation, Development, and the Digital Economy*

The Internet and information and communication technologies (ICT) are vital to the growth and development of the global economy. The G7 is a critically important setting for the world's leading governments to outline approaches to managing 21<sup>st</sup> century global ICT policy challenges and advancing the world's digital economy. This would involve outcomes that simultaneously advance privacy protections, enhance national security and data security, and enable the cross-border data flows that power growth and innovation.

The G7 can demonstrate global leadership on ICT priorities if it agrees on the following outcomes in 2016:

#### **Recommended Outcomes:**

1. **Data flows and localization measures.** Promote the principle that nations should allow and facilitate cross-border data flows as the foundation of innovation and efficient development. To expedite broader adoption and benefit of these technologies, countries should not impose measures requiring the local storage or processing of data or the use of local facilities, hardware, or services.
2. **Cybersecurity.** Ensuring that measures they take to enhance cybersecurity reflect the global nature of cyberspace, rely on risk management-based approaches that avoid prescribed standards for individual technologies, and incorporate meaningful consultation with the private sector to encourage innovative, flexible, and cost-effective solutions.
3. **Privacy/data protection.** Acknowledging the importance of protecting the privacy of personal information and data to build trust and confidence in the digital economy and committing to pursue privacy and data protection policies that draw on existing multi-stakeholder frameworks and international norms of interoperability and promotion of commerce.
4. **Standards and technical regulations.** Using global, voluntary, industry-led standards and technical regulations in the development of new products and services; refraining from mandating the transfer, disclosure, or use of technologies, production processes, development methods, or other proprietary information as a condition for doing business.
5. **Transparency and stakeholder consultation.** Undertaking transparency measures and consultation with industry and other stakeholders – including through advance notice of, and an opportunity to comment on, draft laws, regulations, and other measures affecting ICT.
6. **Commitment to open markets.** Recognizing that free trade and open markets are the foundation of economic development and innovation, and to allow for non-discriminatory access to their markets for ICT goods and services, whether provided on a cross-border basis or through an investment.

# Internet openness, Free Flow of Information

- Decoding Free flow of information ([video](#)) – courtesy of ITI.
- Data fundamental for Internet of Things/M2M and Global Value Chains.
- At last TiSA Ministerial, Global ICT Industry issued a strong statement to urge Trade Ministers to advance a digital trade agenda in TiSA negotiations.
- « Privacy Shield » now agreed. See DIGITALEUROPE statement 13/07 *Green light to start talking about data flows* .
- Recognising the principle of free flow of information would not prevent WTO members from pursuing legitimate public policy objectives such as national security, cybersecurity, consumer protection and privacy policies as stated in Art 14 of GATS.

# Intermediary Liability Protections in TiSA

## TISA Should Address Intermediary Liability Protections – A Cornerstone of the Digital Economy



Internet services have transformed trade and enabled small and medium-sized businesses to reach global audiences in ways never possible in the past. A fundamental reason that services have been able to play this role is their open nature: online services and/or intermediaries can facilitate transactions and communications among millions of businesses and consumers, enabling buyers and sellers to connect directly on a global basis.



This model works because intermediaries can host these transactions without being held liable for the vast amounts of content surrounding each transaction. As such, TISA should make clear that in order to allow global e-commerce, TISA parties must ensure that online services are not automatically considered liable for third-party content. This is a core principle necessary for digital trade today and tomorrow, recognized by most (including the U.S. and the EU) if not all TISA parties already, and should be memorialized in TISA. Intellectual property is outside the scope of TISA, and is often subject to different rules in TISA countries, so should be excluded.

### The Internet's Role in Unleashing Innovation, Investment, and Cross-Border Trade

Over the last decade, the internet has created new opportunities for cross-border trade and investment, enabling small businesses around the world to connect with customers and suppliers in the global market without building their own multinational supply chains. At the click of a button, an internet-connected entrepreneur can now sell products and services across borders.

### Internet Services Depend on User Reviews and Other Mechanisms to Build Trust

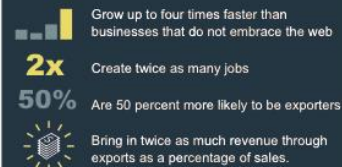
Internet services enable small businesses to build trust and customer relationships in new markets. A decade ago, building global trust required companies to create a global marketing and customer support team – something that was out of reach for all but the wealthiest businesses. Today, a local business can build brand awareness by tapping into social media, search, and marketing tools.

Small businesses now compete internationally based on the strength of their products, as new services like eBay, Mercado Libre, Rakuten, Allegro, Zalando, and Vinted offer the opportunity to gather positive customer feedback and spread awareness through user reviews and positive word of mouth – at a global scale. With these user review systems, a business can leverage an entire suite of integrated feedback, review, and support mechanisms to manage its relationship with global customers and validate its products in new markets.

Consumers in turn use these tools to gain familiarity with new products and services and ensure they are making the right decision before traveling to a new location, purchasing a hand-made item from another country, visiting a new restaurant, or buying a piece of clothing. Local entrepreneurs are increasingly developing new apps and platforms that empower users to collaborate, communicate, or sell across borders, often scaling up quickly to reach millions of global users.

In short, small businesses, consumers, and startups have a common interest in the availability of services that enable buyers and sellers to connect directly on a global basis. Liability safe harbors are an essential precondition for these services, and the connections they facilitate, to scale and prosper. However, some of today's best known brands and companies have proven that limited liability does not keep them from acting responsibly and joining hands with public authorities to ensure a safe and trustworthy online environment.

### With the help of internet platforms, small businesses:



# Intermediary liability Protections in TiSA provisions

- Online services and/or intermediaries facilitate transactions and communications among millions of businesses and consumers, enabling buyers and sellers to connect directly on a global basis.
- As TISA is looking at easing online sales for all businesses, it should make clear that in order to allow global e-commerce, TISA parties must ensure that online services are not automatically considered liable for third-party content.
- This is a core principle necessary for digital trade today and tomorrow, recognized by most TISA parties already, and should be memorialized in TISA.



# 21<sup>ST</sup> century threat is Digital Protectionism

- Digital protectionism = data localisation, but also disclosure of very critical information such as source code or IPR, adoption of local algorithms or domestic standards instead of internationally recognised standards, outdated copyright rules, geoblocking, forced transfer of technology, transmission of content, etc.
- Could strongly disrupt the good processing of Global value chains and M2M which require full interoperability.
- Transparency, regulatory cooperation necessary to tackle digital protectionism
- Launch of Digital Trade Database in September by Independent think tank ECIPE (European Centre for International Political Economy).

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Thank you!

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