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From: Presidency
To: Permanent Representatives Committee/Council

Subject: Leveraging European Union's competitiveness and global influence
through an ambitious Digital Services Package
- Policy debate

Delegations will find in Annex a Presidency Note on Leveraging European Union's competitiveness and global influence through an ambitious Digital Services Package, in view of the Competitiveness Council on 27 May 2021.

Leveraging European Union's competitiveness and global influence through an ambitious Digital Services Package

Presidency note

1. The Portuguese Presidency has been impacted by the economic and societal consequences of the ongoing COVID-19 pandemic, and by the ensuing process of recovery. This has, in turn, proven the need for Europe to build on the momentum of digitalisation, in particular with a view to enhance the European Union's competitiveness. To that end, the Presidency has tasked itself to promote the digital transition of the economy, society and public administration, also with a view of contributing to Europe's digital sovereignty.
2. The meeting of the Competitiveness Council is a great opportunity for a discussion on the progress achieved in the area of digital transition of our economy, as well as an occasion to reflect on future developments and priorities, namely when it comes to reinforcing the Single Market, which is one of our most valuable assets in enhancing Europe's digital sovereignty.
3. To fully reap the opportunities of digitalisation, it is necessary to ensure the right conditions to keep the Single Market open and seamless, to attract and retain investment and talent, to allow digital entrepreneurs and SMEs to enter in the market, scale up and grow in a fair environment, and to make the EU the most competitive digital market in the global economy.
4. In their statement of 25 March 2021, the Leaders invited the co-legislators to work swiftly on the Digital Services Package – comprising the proposal on the Digital Services Act and the proposal on Digital Markets Act – with a view to strengthening the Single Market for digital services, by creating a secure and safer digital space, with conditions to foster innovation and competitiveness.

5. The Digital Services Package aims to establish a framework of harmonised rules for the digital economy across the Union, therefore strengthening a Single Market for digital services. With the proposed regulation on the Digital Services Act, platforms will be subject to harmonised due diligence obligations related to their role in hosting or disseminating content through their services and to their moderation policies in accordance with fundamental rights (notably, the freedom of expression), contributing to a safer and predictable online environment. Furthermore, the proposal on the Digital Markets Act aims to ensure fair and contestable market conditions so that companies and consumers can benefit from digital opportunities, allowing for innovation, growth and the creation of jobs.
6. The rules governing the digital services need to be up-to-date to face the challenges of the current digital environment, and they also need to be future-proof to provide for predictability and respond to new types of services and players entering the internal market. In order to enable companies and business to scale up and profit from a market with 450 Mio users, the rules need to be harmonised and clear at Union level. At the same time, the EU regulations must ensure a level playing field for all businesses, no matter where they are established, if they want to do business in the European Single Market.
7. The Digital Services Package also has an important geopolitical aspect: it has the potential to make the Union once again the pioneer in creating a modern, balanced and sustainable regulatory environment, by setting up a framework of rules and due diligence obligations for online platforms in accordance with fundamental rights, as well as by putting in place a set of rules complementary to competition law and aligned with the evolution of digital markets.

8. Both legal instruments of the package are key elements to leverage the Union's digital sovereignty and global influence, as stated in the Commission's Communication on Digital Compass¹, which positions the EU as global leader in the digital economy and society through its network of international digital partnerships, in which regulatory cooperation is one of the key elements.
9. The analysis of the two proposals made good progress in the Council and showed broad alignment on the objectives and key elements. Therefore, starting from the two progress reports on the Digital Services Package that Ministers will endorse during the Competitiveness Council meeting, the Presidency believes it is timely and politically relevant to hold a policy debate linked to the Digital Services Package, focussing particularly on its strategic importance for
 - (i) the Single Market in the digital era and
 - (ii) for Union's open strategic autonomy.
10. The members of the High Level Group on Competitiveness and Growth discussed in an informal meeting the ways towards European digital sovereignty and generally supported the objectives and targets of the Digital Compass.
11. Ministers are thus invited to engage in a policy debate at the Competitiveness Council on 27 May 2021 and to discuss the following question:

Which specific aspects of the future legislative rules governing digital services and markets should be considered paramount to guarantee an ambitious regulation that ensures a level playing field and that is truly effective?

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2030 Digital Compass: the European way for the Digital Decade, COM/2021/118 final.