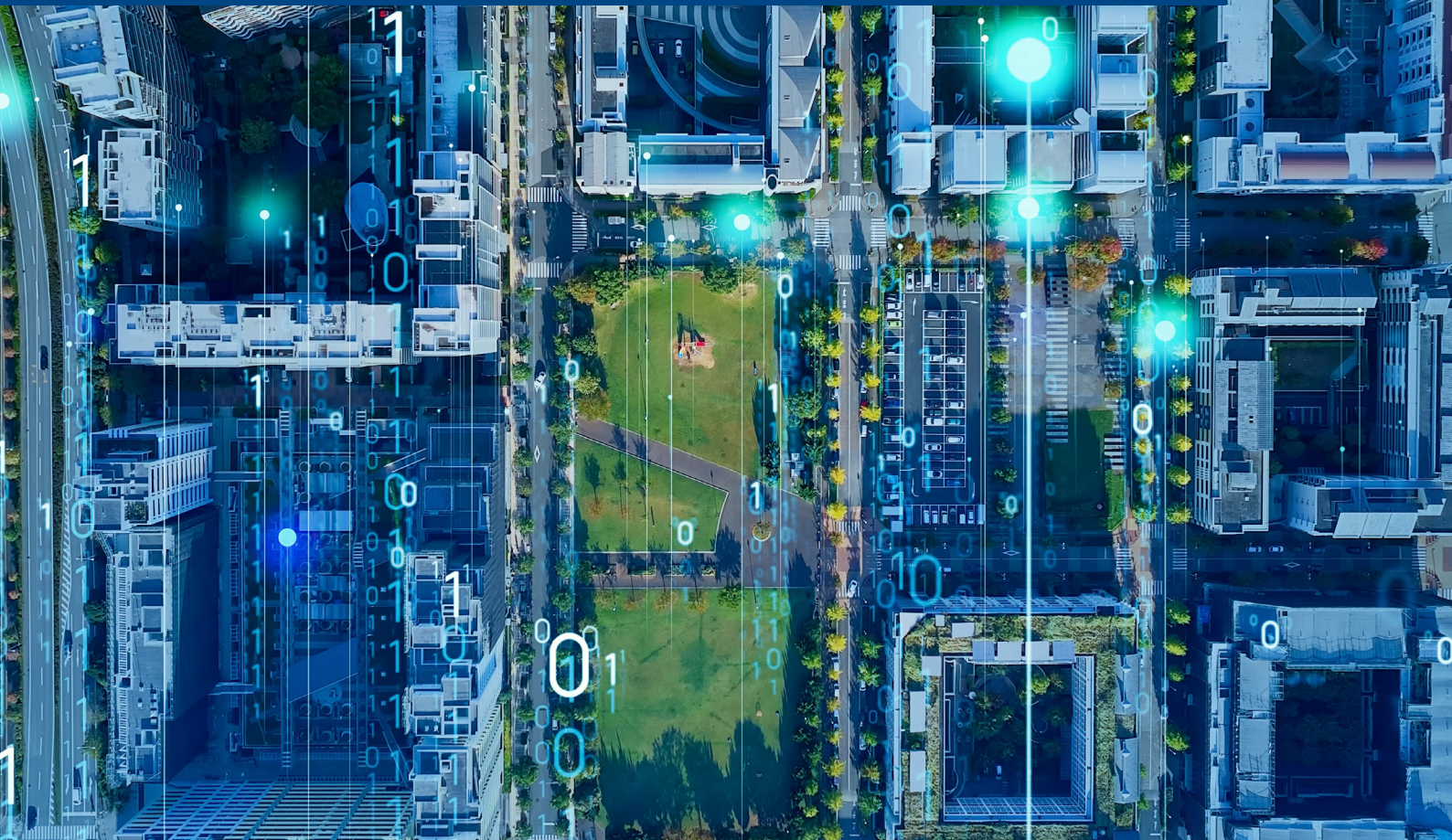




# OUR DIGITAL POLICY AMBITION FOR THE 2024-2029 LEGISLATURE



## KEY MESSAGES

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A 10-year period<sup>1</sup> of intense horizontal regulation in the digital technology sphere is closing in. The European Union has become by far the most prominent writer of the digital technology playbook.

In the 2024-2029 legislature BusinessEurope looks forward to:

- ▶ coherent implementation and harmonised interpretation of the updated regulatory framework, including the delegated powers.
- ▶ reduction of bureaucracy and time-to-market for products and services; rules made for physical goods should not impede digitalisation.
- ▶ achieving the Digital Decade targets and solidifying the EU's competitiveness on the world stage beyond being the rule-maker.
- ▶ maximising the impact of the financial resources (both public and private) envisaged for the digital transition, while supporting free and fair competition in the internal market.
- ▶ evidence that the EU's playbook delivers the space to test, launch, and scale innovative products and services across the European Single Market and to compete internationally.
- ▶ prioritising awareness, digital skills and literacy for citizens and businesses.
- ▶ targeted regulatory intervention only when genuine market failures are identified.

BusinessEurope strongly believes that the suggested actions in the following pages will help achieve the EU's digital transition.

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<sup>1</sup> [A dataset on EU legislation for the digital world \(bruegel.org\)](https://bruegel.org).

# CONTEXT

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Digital technologies have become an ever more intrinsic part of daily life with both private and business use. The Covid-19 pandemic pushed many to reap the “low hanging fruits” in the digital world, such as the use of cloud computing, online marketplaces, remote work solutions, video conferencing, electronic signature, etc. Notwithstanding, structural problems that prevent Europe to pick up the fruits from the higher branches remain. **It is more important than ever to interlock the regulatory jigsaw and ensure the future viability of Europe as a place to do business. Without questioning the necessity of new and revised fit-for-purpose rules, the EU policymakers must learn the lessons of the past legislative decade:**

**Overly complicated regulation**, with blurred lines between *lex generalis* and *lex specialis* create more confusion than clarity. The cumulative impact of regulation on the different sizes of enterprises across the Single Market creates uncertainty over the cost of doing business in Europe<sup>2</sup>. While larger companies could weather the storms by shifting resources where it makes most economic sense (yet still a difficult process), Europe’s micro, small and medium-sized enterprises have no other option than facing the red tape, and/or postpone plans for growth.

Since 2020 companies in Europe are facing rapidly changing dynamics that require extreme focus on day-to-day work (lockdowns, and the aftermath of Covid-19 pandemic; inflation; the war in Ukraine and its consequences; the disruption of supply chains and trade tensions; etc.). Resources to contemplate on the regulatory steps discussed in Brussels become scarce. Regrettably, over those same years **the regulatory impetus of the EU institutions had been too quick** to allow for thorough discussions, timely translations to all EU languages, or national public debates.

**The preparatory work for regulation has been rash:** the impact assessments of several major proposals in the digital domain have had insufficient analysis to pass the Regulatory Scrutiny Board (RSB) in their first attempt. Horizontal legislative approaches have been justified based on a small number of cases from sectoral practice. Despite being later green-lighted, cost-benefit analyses, gap analyses, and the interplay with existing rules had often been underlined by the RSB as incomplete. At times, even conclusions of supporting studies have been disregarded during the legislative process, undermining the evidence-based policy-making principle. These tendencies may be explained with the pressure policymakers perceive from citizens and businesses who expect from them to deliver solutions for the pressing issues of our times. However, such solutions should not be rushed, and may not necessarily lie in a regulatory intervention.

**Despite the ambition of the EU policymakers to advance and enable Europe’s technology sector through regulation, the Digital Economy and Society Index<sup>3</sup> shows that the “integration of digital technology” has been consistently the lowest scoring component since the index has been measured: adding only 9% to the total 52% DESI score.** To change this trend, it requires focused work on the ground, in companies, educational institutions, administration, and among citizens.

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<sup>2</sup> More details in our [BUSINESSEUROPE Reform Barometer 2023](#).

<sup>3</sup> European Commission, [The Digital Economy and Society Index \(DESI\)](#).



# BUSINESS RECOMMENDATIONS

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In view of the upcoming 2024 – 2029 legislature, BusinessEurope calls on EU policymakers from the European Commission, the Council, and the European Parliament to:

## 1. ADVANCE DIGITAL COMPETITIVENESS

- With harmonised legislation in the digital field already in place or in negotiations, **further legislation** should only be initiated if a genuine **market failure is identified, and should only be designed to correct the uncompetitive practices** in specific areas or sectors. Regulatory agility and predictability are delivered when rules are technology-neutral, and principle-based.
- **Support “smart technological sovereignty”<sup>4</sup>** approach, i.e., the creation of a level playing field and an attractive business environment, where all companies can thrive and compete globally, while remaining open to further international co-operation and trade, so that Europe can access and safeguard the economic benefits of further digital transformation.
- **Avoid extensive bureaucracy** in regulations that will unjustifiably impact the time-to-market of products and services in the EU.
  - For example, the use cases of the industrial metaverse are still at an early stage of development. European companies are currently investing heavily in research and development activities to combine existing technologies into a fully mature industrial metaverse. For this reason, at this stage, regulation should be avoided so as not to nip innovation in the bud.
- **Businesses must keep the initiative** to pursue a leading role in identifying and commercialising new business opportunities, in line with the commitment to open market economy in the EU Treaties.
  - **Introduce sandboxes** in all existing and future digital regulations to permit testing and innovation to the largest extent possible, in line with Council’s Conclusions for future-proof regulatory framework<sup>5</sup>. These sandboxes must be accessible-by-design for any business that wants to participate, especially smaller enterprises.
- The EU institutions<sup>6</sup> and EU Member States must improve investment in applied research, supporting our innovators and enterprises, including through development and real-world testing of new digital applications.

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<sup>4</sup> More details in our position paper on the [Smart technological sovereignty](#).

<sup>5</sup> More details on the Conclusions at [The Council’s dedicated webpage](#).

<sup>6</sup> The EU Commission repeatedly announced new measures in the past years, but it did not back them up with sufficient clarity on how to attract «fresh» money. Funding was provided by shifting funds from existing innovation budgets, such as Horizon Europe (EU Framework Programme for Research and Innovation) to the measures of the EU Chips Act, for example.

- **Apply the [competitiveness check](#)**<sup>7</sup> beyond individual legislative proposals, as it is the case under the present better regulation tools.
  - The European Parliament should introduce an exchange of views on the competitiveness check in its **'Structured Dialogue' with the Commission on every initiative impacting the digital sphere, regardless of the Commissioner's in charge portfolio**;<sup>8</sup>
  - Both the Council and the European Parliament could dedicate specific sessions to discuss implications on **long-term competitiveness of EU digital rules in comparison with other regions**. Focus on **identifying and removing the bottlenecks** in the Internal Market impacting the roll out of digital products and services. This will ensure that the EU home market allows businesses to scale into global players.<sup>9</sup>
- **Strengthen international cooperation and [digital trade](#)** to ensure an open and secure digital market, international data flows, and an open internet.<sup>10</sup> Avoid restrictive scenarios of data sharing; such could lead to an overall loss of 139 billion euro annually.<sup>11</sup> Global interoperability of rules and scalability of companies are ensured also by widely-adopted international standards. Digital Partnerships between the EU and third countries may serve as important platforms for cooperation in areas such as cybersecurity, connectivity, digital skills or Artificial Intelligence.
- **Put data protection on a legally secure footing**: The European data protection authorities' advisory services for companies should be improved and more assistance provided to ease the practical implementation. Above all, the aim should be to achieve a uniform interpretation of the GDPR throughout Europe.
  - To empower industry in the EU to be competitive in the global digital economy, adequacy decisions should be established with as many third countries as possible, as well as the positive examples of cross-border data flows provisions such as those included in the EU and Japan in EU's Economic Partnership Agreement, should be multiplied.
- **Simplify the use of machine learning and data analytics**. A targeted EU legal act could clarify that machine learning and powerful analysis of large amounts of data can take place for socially beneficial purposes (similar to processing for statistical purposes, when processing aims to extract aggregated knowledge, and that the end result does not contain any personal data, nor it is used for measures against data subjects).
  - Support with appropriate measures the development and uptake of privacy-enhancing technologies to enable innovation in emerging technologies while balancing the principles of data protection and respect for private life as enshrined in the EU Charter of fundamental rights.

<sup>7</sup> More details in our position paper on [the Competitiveness check](#).

<sup>8</sup> A number of regulatory initiatives not digital in nature depend heavily on data (the Customs Data Hub, Digital Product Passport, Corporate Social Responsibility and Due Diligence, or Forced Labor Ban, etc. It is necessary to leverage the potential synergies between the different regulatory proposals, to ensure data interoperability and data reuse, data quality, and competitiveness.

<sup>9</sup> Only 30% of microenterprises in the European Union said they took steps to improve digitalisation in 2022, compared with 63% of large firms. [EIB Investment Survey, Digitalisation in Europe](#), 2023.

<sup>10</sup> More details in our position paper on [Digital Trade](#).

<sup>11</sup> European Parliament Research Service, [Mapping the cost of non-Europe \(2022-2032\)](#), February 2023.



- Encourage and accelerate **the digitalisation of public and private databases**, including those of vulnerable groups, with the appropriate protection necessary, in order to enable more representative datasets for algorithmic training, and thus mitigating bias.
- Leverage the potential synergies between the different regulatory proposals to ensure data interoperability, data reuse, data quality.
- **Develop connectivity** in a technology-neutral and market-driven way. A thorough evidence-based approach on the global implications of the regulatory framework must be a prerequisite for any potential (de)regulatory measure.
  - Accelerate the digitisation of essential infrastructures, such as electricity grids, gas and oil pipelines, the water management system, transport, and roads, to ensure the deployment of more advanced digital services and an efficiency in public and private spending.
- The EU should push ahead with the **development of EU data spaces and trustworthy cloud- and edge-infrastructures**, considering also international data initiatives while protecting privacy, cybersecurity, intellectual property, and trade secrets.
  - No additional regulatory initiatives on data sharing should be introduced. Instead, the existing EU legislative acts should be evaluated, harmonised, and adapted to support data flows and responsible sharing of data.
- The EU should continue to stimulate the development of key digital technologies, e.g. Artificial Intelligence and Quantum computing.

## 2. ADVANCE PREDICTABLE AND HARMONISED IMPLEMENTATION OF LEGISLATION

- **Delegated and implementing acts must be developed and discussed in a transparent manner, and their impact assessed.** This will enable more business awareness, involvement, and will facilitate compliance with the rules.
  - Issues requiring political choices must not be decided in technical committees, as per the ECJ ruling C-355/10.
  - The European Parliament and the Council must increase their scrutiny over the delegation of powers.<sup>12</sup>
- **Simplify governance structures to allow for swift and informed guidance on compliance.** There are more than 7 entities in the EU enforcement mechanisms for the digital policy<sup>13</sup>, spanning across centralised enforcement by the European Commission, national competent authorities and coordination groups, EU Executive agencies: decentralised agencies, etc. Businesses need to know whom to contact immediately when necessity arises and not scramble through different options. Many smaller companies in Europe cannot afford hiring specific compliance officer or legal teams.

<sup>12</sup> Legislation such as the Cybersecurity Act, the Digital Services Act, the Data Governance Act, the Data Act, AI Act, Cyber Resilience Act envisage more than 30 delegated or implementing acts to further specify provisions in the adopted rules.

<sup>13</sup> Bruegel, [A dataset on EU legislation for the digital world \(bruegel.org\)](https://bruegel.org/publications/working-papers/2023/01/a-dataset-on-eu-legislation-for-the-digital-world/), 2023.

- **European Parliament** must increase scrutiny over the European Commission how it works with the Member States to ensure consistent interpretation, implementation, and enforcement.
- As cybersecurity risks and attacks pervade civilian and non-civilian entities, **ensure that national cybersecurity centres and cybersecurity coordination centres work as a network**, exploit synergies and good practices across the network. Consider the role of business and increasing cooperation at the EU level on digital security issues and ensuring good trade relations and cooperation with non-EU countries.
- Market Surveillance Authorities can play a crucial role in ensuring that digital products placed on the EU internal market comply with the necessary requirements (e.g. accessibility, cybersecurity), not just via checks but also via proportionately monetised advisory service.
- Customs policy plays a major role in the competitiveness of European businesses. **The Union Customs Code reform should foresee the use of the latest available technology** such as artificial intelligence for customs simplifications and trade facilitation. The security of data, especially business sensitive information, should be a key priority of the EU Customs Data Hub.<sup>14</sup>

### 3. MAXIMISE THE IMPACT OF THE FINANCIAL RESOURCES (BOTH PRIVATE AND PUBLIC) ENVISAGED FOR THE DIGITAL TRANSITION, WHILE SUPPORTING FREE AND FAIR COMPETITION IN THE INTERNAL MARKET.

- **Over 300 billion<sup>15</sup> euros** have been earmarked for Europe’s digital future until 2027. Policymakers must allocate the funds in a way that **will maximize their impact, ensuring that finances are accessible and delivering on the promise to establish an ecosystem of excellence and business agility in the EU**. By the summer of 2029, when the 10th legislature will end, Europe must have already achieved the Digital Decade targets, which will serve as enabler for future innovation.<sup>16</sup>
- **Joint actions on EU funds scrutiny** are necessary between the committees in charge of legislation in the digital sphere (e.g. ITRE, IMCO, LIBE, JURI, CULT, etc) and the Committees on Budgets (BUDG) and on Budgetary Control (CONT).
- Effective state aid control must secure fair competition in the Internal Market.

<sup>14</sup> More details in our position paper on [Union Customs Code Reform](#).

<sup>15</sup> European Commission, [Funding for Digital in the 2021-2027 Multiannual Financial Framework](#).

<sup>16</sup> European Commission, [Europe’s Digital Decade: digital targets for 2030](#).



#### 4. PRIORITISE AWARENESS, DIGITAL SKILLS AND LITERACY FOR CITIZENS AND BUSINESSES.

- The **agency of private or business users** must be enhanced **through appropriate educational trainings, upskilling, and awareness raising initiatives**. These initiatives must be led by national competent authorities and regulators, with the support of stakeholders. Requiring one side of the spectrum to make technologies safer through technical means and transparency obligations would not solve the problem of unsafe, harmful use or simply use of technology without adequate digital hygiene. Teaching and enforcing responsible behaviour have always been public services. Such responsible behaviour becomes even more important as technologies penetrate every aspect of life (education; health; finance; economy and development; etc).
- Companies of all sizes are **facing significant labour and skills shortages across a broad range of sectors and occupations**. Unaddressed, these shortages will only become worse in view of projected changes to the demographic situation; the EU working age population is expected to shrink over the next decades, with the loss of an additional 35 million people by 2050.<sup>17</sup>
- **Tackling the shortage of specialists and talents**, especially in the STEM- field, is a vital prerequisite for the running and development of innovative businesses. **Initiatives to raise awareness and attractiveness for the STEM education** and the opportunities in these career paths are especially necessary for women and girls, and for persons with disabilities. Firms in regions where the population has above-average digital skills are more likely to have implemented advanced digital technologies.<sup>18</sup>
  - Policymakers must maximise the potential of the Digital Skills and Jobs Platform by promoting the inclusion of companies and constituents in the National Coalitions for Skills and Jobs in order to foster **practical and applicable knowledge acquisition**.
  - The Council and the European Parliament must **annually scrutinise** the performance of the EU Agencies, such as the ENISA for its crucial role to raise cyber awareness, cyber hygiene and capabilities for businesses and citizens; or the **EISMEA** for its support for smaller enterprises, innovation ecosystems, single market, consumer policy and interregional innovation investments.

<sup>17</sup> More details in our position paper on [Key enabling factors for successful digital education and training](#).

<sup>18</sup> EIB Investment Survey, [Digitalisation in Europe](#), 2023.



*\* This paper was originally published in December 2023.*

# BUSINESSEUROPE



**BusinessEurope** is the leading advocate for growth and competitiveness at the European level, standing up for companies across the continent and campaigning on the issues that most influence their performance. A recognised social partner, we speak for all sized enterprises in 36 European countries whose national business federations are our direct members.

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Germany	Greece	Hungary	Iceland	Iceland	Ireland
Italy	Latvia	Lithuania	Luxembourg	Malta	Montenegro
Norway	Poland	Portugal	Rep. of San Marino	Romania	Serbia
Slovak Republic	Slovenia	Spain	Sweden	Switzerland	Switzerland
The Netherlands	Turkey	Turkey	Ukraine	Ukraine	United Kingdom



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