Recommendations to the Spanish Presidency of the Council of the European Union

July - December 2023

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Foreword

The Spanish Presidency of the Council of the EU takes place at a difficult time for Europe and the world. The volatility of the external environment is a serious concern for American companies in the EU, as it puts a strain on the overall competitiveness of the European economy. Strengthening the case for investing in Europe should therefore be a top priority for decision-makers.

Over the next six months, the Spanish Presidency has an opportunity to improve the EU's business outlook by furthering the twin digital and green transitions and standing firm against protectionism. The Single Market – which celebrates its 30th anniversary this year – also continues to be the main driver of foreign investment into Europe. Leadership will be required to further deepen it, with a focus on coordination, harmonisation and enforcement of legislation across Member States, to the benefit of citizens and companies of all sizes.

In light of global challenges, the transatlantic relationship remains more important than ever. The EU and the US are drivers of global growth: they make up the largest and wealthiest market in the world. Aggregate US investment in Europe totalled more than €3.7 trillion in 2022, directly supports more than 4.9 million jobs in Europe and generates billions of euros annually in income, trade and research and development. In this context, the EU-US Trade and Technology Council can play a critical role in advancing our relationship. American companies also support the efforts of the EU and the US to create a transatlantic green marketplace and accelerate the decarbonisation of our economies.

Importantly, AmCham EU and AmChamSpain applaud governments on both sides of the Atlantic for their unity and commitment to the people of Ukraine. The public and private sectors should be prepared to support the country's future economic prosperity and its reconstruction. Ensuring respect for the rule of law will be important to enable meaningful engagement from all stakeholders. In the face of the senseless loss of human lives, we should also continue to remain engaged, speak out for democratic values and stand up for human rights.

On behalf of AmCham EU, AmChamSpain and their member companies, we are pleased to present our recommendations to the Spanish Presidency. Many of the issues raised in this report are vital to shaping a strong and competitive EU, and we hope that these recommendations provide concrete input and direction to the Presidency's work programme over the coming six months.

AmCham EU and AmChamSpain stand ready to support Spain in this crucial role and wish the Presidency every success.

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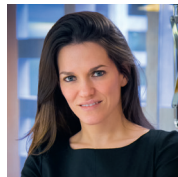
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Investing in Europe's future: the twin transition

2023 policy priorities

Despite economic challenges ranging from high energy prices and record-high inflation to supply chain distortions, the EU has made efforts in recent months to strengthen its global competitiveness with a strong emphasis on the Single Market and the open trade agenda. Its ability to build a predictable and simple regulatory environment will be key to improving Europe's investment proposition in the global economy.

In the context of the war in Ukraine, it is more important than ever for the EU to transition to renewable and low-carbon energy sources, diversify supply chains and reduce strategic dependencies. Coordination and alignment with like-minded partners, including the US, are imperative to enable the green and digital transitions, avoid duplication and scarcity of resources and stand up for shared democratic values.

🍃 Green transition

What our planet looks like tomorrow depends on how we balance economic recovery and environmental protection today. With harmonisation across environmental and climate policies, clearly defined targets and a path for achieving them, our member companies are partners in defining and implementing sustainability practices. The following are eight key action areas essential to the green transition:

- **Fit for 55:** The climate and energy policy framework developed for emissions reductions should be all-encompassing and promote harmonised legislation to balance sustainability, competitiveness and innovation.
- **Chemicals:** Cutting-edge innovation to find alternatives to harmful substances can protect human health and safeguard the natural environment.
- **Circular economy:** Maintaining the value of products, materials and resources for as long as possible, while supporting recycling infrastructure and technologies, can create a more sustainable economy. Consumers must also be empowered in the green transition to fully participate in the circular economy.
- **Energy:** Reducing energy demand, establishing impact-assessed short- to long-term measures and transitioning to low-carbon technology are key components in decarbonising the economy and ensuring the workability of energy markets.
- **Finance:** Integrated European capital markets to attract and activate new pools of investment can drive sustainable innovation.
- **Food systems:** The EU must implement short- and long-term measures, agreed upon through private-public collaboration, to ensure sustainable food security and affordability.
- **Mobility and transport:** A balanced approach to low-emission mobility and heightened use of digital technologies can contribute to a more competitive and clean transport sector.
- **Critical raw materials:** Industry needs reliable access to critical raw materials to power the twin transitions and produce products from batteries to photovoltaics.

Digital transformation

The digitisation of industries and public services is vital as we build a more resilient and sustainable economy. Investments in the digital sector can enhance the broader business community's ability to contribute to future growth. Additionally, investments should ensure that all Europeans benefit from an increase in digital services and innovations. Eight areas crucial to this digital transformation are:

- **Artificial intelligence (AI):** By creating an ecosystem of trust and excellency, the EU can become a vibrant hub for researching, developing and innovating trustworthy AI technologies.
- **Connectivity:** The rollout of 5G, coupled with fibre and enhanced Wi-Fi capacity, can give consumers access to more information faster than ever before and can make business more efficient.
- **Cybersecurity:** The security of products must be enhanced in the early stages of their design to achieve cyber resilience. Cybersecurity should be strengthened through open dialogues with key stakeholders, including industry.
- **Digital capacities:** Europe should accelerate investment, innovation and entrepreneurship to foster the uptake and scale-up of new technologies such as cloud, digital health solutions, artificial intelligence, additive manufacturing and blockchain, which have tremendous economic and social potential.
- **Digital skills:** Significant investments in education, life-long learning, upskilling and reskilling are essential to ensure the workforce is ready for the jobs of tomorrow.
- **Intellectual property rights (IPR):** Efficient, well-designed and balanced IPR enforcement can promote investment, research, innovation, growth and global business activities. It can also help Europe increase its global competitiveness in innovative sectors and protect the internal market by guarding against counterfeit products.
- **International data flows:** Europe must avoid data protectionism and ensure international data flows are allowed and protected through the Transatlantic Data Privacy Framework or the EU data strategy to foster competitiveness and the digital transformation.
- **Semiconductors:** Europe can boost its semiconductor production capacity by investing in research, development and innovation, increasing its supply chain resilience through public funding, expanding its talent pipeline and establishing a crisis response mechanism to monitor the semiconductor ecosystem.

Agriculture

Common Agricultural Policy (CAP)

EU agricultural policy can create a regulatory environment that encourages innovation in sustainable food systems. For this, it must remain aligned with the objectives and targets of all European Green Deal initiatives, respect the urgency of protecting the planet and enable farmers to use more sustainable, efficient and safe farming practices. The CAP will be a fundamental tool to facilitate investment to accelerate the digitalisation of farming.

Recommendations:

- Ensure fair and non-discriminatory treatment of local versus imported raw materials to supply the European market. This includes removing non-tariff barriers to trade and recognising different agronomic needs around the world.
- Support research and development (R&D) initiatives in agriculture – including digital and precision farming – to support farmers and help improve food safety and public health.
- Invest additional funding to incentivise farmers to adopt more sustainable agricultural practices that meet the strengthened environmental and climate ambitions of CAP reform.
- Ensure a well-functioning international agri-food supply chain that supports the economic recovery.

Deforestation-free products Regulation

The different agricultural commodities included in the scope of the deforestation-free products Regulation proposal face unique challenges linked to their specific attributes, local environments and applications. In recent years, company voluntary actions and medium-term commitments have improved controls and information on what is happening on farm. Businesses continue to work towards deforestation-free supply chains.

Recommendations:

- Use traceability approaches depending on the nature of the commodity. The EU and producing countries must coordinate to establish traceability systems for indirect suppliers, including consistent and updated registration of farmers and their ownership of land.
- Place due diligence obligations on the product manufacturer or importer to avoid redundancy and unnecessary burdens on economic operators further down the supply chain.

= issue area related to the green transition   = issue area related to the digital transformation

ISSUE	RECOMMENDATIONS

Deforestation-free products Regulation (cont.)

- Promote workable border controls by creating audits to prevent suspensions and logistical bottlenecks that arise from checks or suspension per shipment.
- Develop guidelines for minimum standards and quality control of third-party verification schemes.
- Maintain the current scope of the proposal. Increasing the scope to include, for example, palm oil-derived products such as soaps and cosmetics would greatly increase the proposal's complexity, the impact on border processes and the volume of goods moved through the border.

Food security and affordability

The Russian war in Ukraine has exacerbated food insecurity for the most vulnerable segments of society. Crippling inflation has also rendered food unaffordable for many households across Europe. To address the ongoing global food security crisis, both short and long-term measures are needed. Governments, civil society organisations and the private sector have to strengthen their collaboration to ensure that the best possible solutions are identified and implemented.

Recommendations:

- Implement short-term measures aimed at increasing agricultural production in the EU.
- Consider the entire food production chain as essential and rethink EU measures around energy savings.
- Enhance climate and environmental protection without compromising food security.
- Stimulate free trade for agricultural products to avoid export restrictions for agricultural raw materials. Regulators must ensure that regulatory frameworks do not create additional uncertainties in global food production and trade flows.
- Invest additional funding to incentivise farmers to adopt more sustainable agricultural practices that meet the strengthened environmental and climate ambitions of CAP reform.
- Ensure a well-functioning international agri-food supply chain that supports the economic recovery.

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Implementation of the legal framework for veterinary medicinal products (VMP)	The VMP framework regulates the authorisation and use of veterinary medicines. **Recommendations:** • Avoid imposing on third countries EU technical measures that are not compatible with World Trade Organization (WTO) rules. • Base the implementation of the VMP Regulation on a sound benefit-risk assessment, not hazard-based approaches. • Ensure that the use of a list of critically important antimicrobials does not hamper transatlantic trade. • Invest in research and bring to market innovative treatments, technologies and care options.
Risk assessment, perception, management and communication in the agri-food sector	A balance between risk assessment, perception, management and communication is of paramount importance for the integrity of the food chain and to promote innovation and sustainable growth in the agri-food sector. **Recommendations:** • Communicate risk management decisions in a clear, timely and transparent manner to encourage consumer acceptance of technological developments. • Prioritise rigorous scientific and risk-based decision-making in all discussions.
Sustainable food systems	If successfully implemented, the Farm to Fork Strategy (F2F) could protect the environment, promote sustainable production and consumption, produce healthier food, facilitate sustainable trade and encourage increased research and innovation, all while preserving Single Market principles. **Recommendations:** • Carry out a comprehensive cumulative impact assessment on all Green Deal initiatives affecting farming. • Ensure further biomethane and electricity deployment in the agriculture sector to promote the implementation of green fuels. • Use the F2F to drive sustainable change in the supply chain, which reflects the need for a framework that encourages innovation and broader alternatives. • Base F2F-related initiatives on scientific evidence.

ISSUE	RECOMMENDATIONS

Sustainable food systems (cont.)

- Support the development of sustainable veterinary medicines through the F2F to incentivise a reduction in environmental impact.
- Consider vaccines as sustainable pharmaceuticals and as a tool to combat antimicrobial resistance (AMR).
- Incentivise the digitalisation of agriculture through the F2F and support farmers in making the transition.
- Encourage Member States to translate the 2030 goal of 35bcm biomethane production into their national climate and energy plans. They should also enact appropriate fiscal measures to scale up the use of biomethane and the uptake of technologies to enhance sustainable farming practices across Europe.

Sustainable nutrition

The triple burden of malnutrition – overnutrition, undernutrition and insufficient consumption of essential nutrients – is a problem in Western countries. Many consumers lack the essential knowledge to make informed choices for a varied and balanced diet.

Recommendations:

- Make essential information about nutrition part of education curricula and campaigns across Europe.
- Provide EU citizens with easily accessible, affordable, nutritionally adequate and safe food choices. A coordinated effort throughout the food chain is necessary to achieve a healthier and more sustainable food environment.
- Promote innovation in the food space, support the use of sustainable food technologies and guarantee easier access to a variety of food products across the EU.

Trade and sustainable food systems

Global food systems account for nearly one-third of global greenhouse gas emissions and result in severe biodiversity losses; they must be redesigned. Reciprocity in food trade agreements, also known as mirror clauses, have become increasingly prevalent in the debate on EU food safety and environmental standards over the last year. The EU should transition towards more sustainable food systems in a holistic, fair and coordinated way, and in cooperation with all actors at all levels of the food and feed supply chain.

Trade and sustainable food systems (cont.)

Recommendations:

- Consider the global dimension of trade and sustainable development – including collaboration with the EU's trading partners – when dealing with the F2F and EU food and agriculture policy (eg CAP).
- Account for production conditions in third countries when creating regulatory barriers. They should be science and risk based, and linked explicitly to sustainability objectives.
- Make mirror clauses science based and compliant with WTO rules. The EU institutions should consider collaborating with WTO bodies before including certain mirror clauses in all trade agreements to ensure lawful and science-based decision-making.
- Consider third-country perspectives for any agreements, especially from those that have similar food productions methods and standards as those in the EU.

Competitiveness
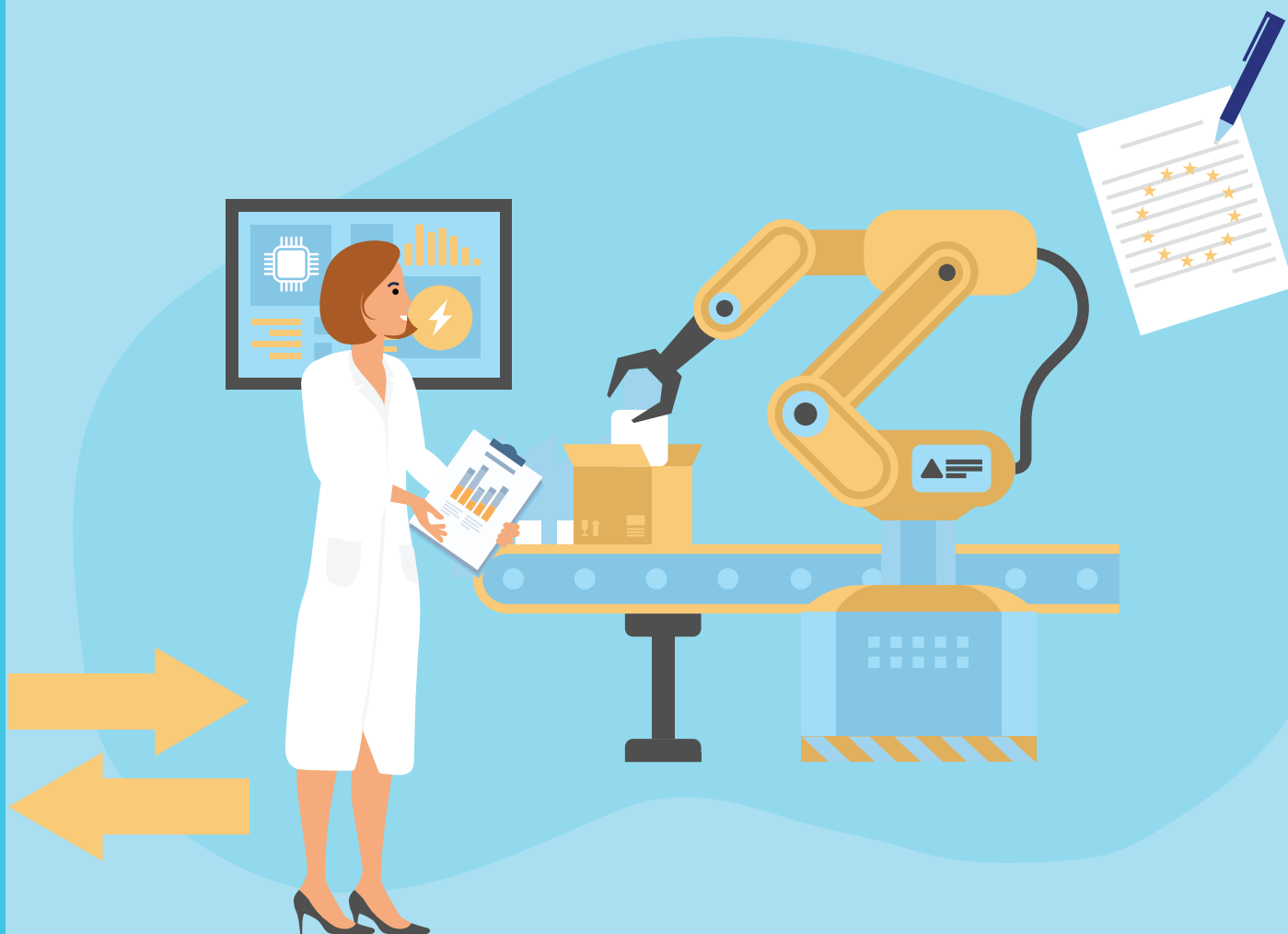
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Customs procedures

Although the EU operates in a Customs Union and constitutes a Single Market, the free movement of goods continues to face considerable obstacles. Currently, importing into the EU results in different customs obligations in each Member State, as they use different local languages and enforce varied rules.

Recommendations:

- Harmonise national rules related to the movement of goods and customs in the EU and enhance cooperation among customs authorities. This should safeguard the competitiveness of the internal market as well as EU-level R&D.
- Expedite the mandatory introduction of the Single Window to ensure a truly frictionless Single Market.
- Increase funding for border authorities in line with the Customs Action Plan to prevent counterfeit products from entering the market.
- Make the trade-facilitating measures initiated during the COVID-19 crisis permanent, while avoiding new restrictions that obstruct trade and invite retaliation from trading partners.
- Enhance trade facilitation benefits for Authorised Economic Operators.
- Prioritise the facilitation of e-commerce to ensure ongoing competitiveness, as it has risen considerably in recent years.
- Ensure a robust dialogue with industry stakeholders on the reform of the Customs Union.

Electronic data interchange (EDI) standards

EDI standards can provide certainty for relevant authorities and simplify the operation process for all operators over liability by aligning value added tax (VAT) with customs legislation and by establishing an Import One Stop Shop model that includes an end-to-end green lane status.

Recommendations:

- Centralise procedures through a single European Customs Agency where economic operators can file their customs declarations in order to streamline free movement of goods.
- Implement the VAT e-commerce package in a harmonised and effective manner.

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EU competition law for the digital age

EU competition law forms the bedrock of investment in the Single Market, ensuring an open and free market system for all.

Recommendations:

- Avoid unreasonable inversions of the burden of proof, which could weaken the market and call into question the reliability of existing case law.
- Guard against 'mission creep', which could see competition instruments misused to achieve goals that are beyond the scope of EU competences.

Foreign Subsidies Regulation (FSR)

Despite positive steps from the European Commission to clarify the obligations imposed by the FSR, the proposal would still create unintended consequences and a disproportionate burden for EU and non-EU businesses with a global presence. It imposes requirements which are unfamiliar to businesses and which require internal compliance mechanisms that do not currently exist. The uncertainty in the proposed regime risks creating a chilling effect on investment and participation in the European economy.

Recommendations:

- Clarify definitions for core concepts and mechanisms, such as 'financial contribution' and the 'balancing test' to allow businesses to adequately self-assess the 'broader positive effects' of foreign subsidies.
- Balance the FSR's effective implementation against the need to limit risks for businesses, particularly in cases where compliance with the FSR is beyond their direct control.
- Exempt the disclosure of classified information to align with existing international agreements.
- Amend existing provisions requiring businesses to report information beyond their own participation in mergers, acquisitions or public procurement procedures, which is not directly available to them.
- Establish an alternative mechanism whereby suppliers and subcontractors directly report commercially sensitive information to the Commission.

Industrial competitiveness

Industry is a critical driver of economic growth, innovation and prosperity. The EU has made 'open strategic autonomy' the cornerstone of its approach to trade policy. The EU industrial strategy must have a strong internal and external dimension that makes the EU's domestic market more attractive to foreign investment and ensures equal opportunity for market players. This is key for companies to remain competitive globally and achieve their digital and decarbonisation goals.

Recommendations:

- Support a renewed EU industrial strategy.
- Pursue free and rules-based trade.
- Ensure that the Better Regulation agenda does not conflict with other policies' goals for competitiveness.
- Enhance international cooperation to facilitate the adoption of globally coherent rules, standards and regulations.
- Define more concretely the criteria that would apply to the terms 'open', 'strategic' and 'autonomy', and how they will translate into practical policy choices in internal and external contexts.
- Assure the EU's allies that it remains open, global and non-protectionist with a continued focus on helping companies to grow, reinvest and develop in Europe.
- Coordinate clean energy and technology incentives to avoid duplication and ensure a global level playing field.

Intellectual Property Action Plan

Intellectual property (IP) supports economic development and paves the way for EU leadership on the global stage. A robust European IP system based on balanced intellectual property rights (IPR) drives research, manufacturing, employment and innovation, and it attracts capital for pioneering and creative enterprises. In addition, IP-intensive industries create valuable long-term jobs.

Recommendations:

- Complete the Unitary Patents System.
- Maintain a balanced and competitive framework of IP incentives to stimulate R&D (eg in innovative medicines).
- Strengthen the enforcement of copyrights and trademarks, specifically through funding.

ISSUE	RECOMMENDATIONS
Intellectual Property Action Plan (cont.)	• Adapt the EU framework to an increasingly digital ecosystem and high volumes in physical trade. • Modernise the EU design legislation. • Protect against reverse engineering of chips through measures in the Chips Act.
IPR enforcement in third countries	Piracy and counterfeiting are global, growing issues that harm investments and consumers. **Recommendations:** • Secure a better IP environment in third countries such as China, India, Indonesia, the Association of Southeast Asian Nations, Morocco, Russia, Saudi Arabia, Turkey and the United Arab Emirates and engage with them on technical programmes. • Strengthen EU-US cooperation. • Cooperate with like-minded global partners to tackle IP infringements in third countries that might jeopardise EU competitiveness.
IPR enforcement offline and online	Europe has a balanced IPR protection framework, which is key to incentivise investment in innovation across the value chain, as well as for creativity. Given that piracy, reverse engineering and counterfeiting have continued to grow in size and scope, the EU should modernise the application of the existing framework. **Recommendations:** • Work towards a balanced IP enforcement system. • Continue collaborating with IP enforcement agencies in third countries to enhance information sharing on IP infringements and key players for anti-counterfeiting and piracy operations, as well as share best practices for IP protection and enforcement. • Improve visibility of the EU Counterfeit and Piracy Watch List so that IP brand owners and consumers can better understand the list's benefits.

ISSUE	RECOMMENDATIONS

IPR enforcement offline and online (cont.)

- Build on existing programmes to combat counterfeiting and protect IP by increasing cross-border cooperation, giving a larger role to online intermediaries, strengthening the existing co-regulatory tools (eg follow through of key performance indicators in the Memorandum of understanding on the sale of counterfeit goods on the internet) and promoting more enforcement actions by Member States.
- Build on the Digital Services Act's (DSA) concepts and rules in the upcoming toolkit against counterfeiting.

Patents' compulsory licensing

IPR, such as patents, provide a framework to protect an invention and appropriately compensate the inventor for the patent's value. They can also be factored into investment decisions across industrial ecosystems. Therefore, initiatives to amend the legal frameworks behind the use of compulsory licensing must be done under certain key considerations.

Recommendations:

- Remain within the current parameters of the Agreement on Trade-Related Aspects of Intellectual Property Rights.
- Define compulsory licensing's geographic scope, duration and nature.
- Utilise compulsory licensing as an option of last resort.
- Consider that issuing compulsory licenses for products that have been developed to address a specific crisis may be a factor that disincentivises inventors from developing new solutions for future crises.

Pharmaceutical package

The European Commission has published proposals to revise the EU's general legislation on medicines for human use. In line with European Council's recommendation of March 2023, when enacted, the package encourage investment in Europe's competitiveness, which is currently challenged by the US and Asia. It should also allow the access to more innovative products for patients.

Recommendations:

- Deliver a globally competitive and predictable Regulatory Data Protection framework to stimulate long-term investment in European R&D capabilities. Any conditionality on incentives must be clearly defined and remain within industry responsibilities.

- Define unmet medical need (UMN) by taking a patient-centred approach that considers the severity and burden of disease on patients, families and caregivers. Any definition of UMN should entail a sufficient level of flexibility and be based on a holistic set of criteria.
- Design an attractive and predictable R&D pull incentives at EU level as part of a broader package of measures addressing Anti-Microbial Resistance (AMR).
- Enhance the regulatory framework and maximise the use of expedited pathways to meet the needs of patients.
- Create supply chain and environmental obligations that are appropriate and proportionate to risks to avoid delays in patient access to medicinal products.

Single Market

The Single Market is the basis of Europe's economic success and a key driver of US investment in Europe. Policymakers need to continue to stand up for the achievements of the Single Market and prevent fragmentation.

Recommendations:

- Advance negotiations on an EU single VAT ID for cross-border inventory storage and onward sales as included in the Digital Age proposal. This would remove significant costs for businesses, particularly small and medium-sized enterprises (SMEs), when storing and selling across borders in the EU's Single Market.
- Deliver greater action at the Member State level to protect the integrity of the Single Market.
- Foster the right environment to conduct business and ensure a solid infrastructure to encourage skills, talent, innovation and labour flexibility.
- Develop the Digital Single Market where online services, goods and data can move freely to allow citizens and companies to reap the full benefits of the digital transformation.

Economic and Financial Affairs

ISSUE	RECOMMENDATIONS

Banking Union

The European Banking Union is aimed at strengthening financial stability via improvements to prudential requirements, as well as to recovery and resolution mechanisms.

Recommendations:

- Complete the Banking Union.
- Ensure consistent international banking standards around the world (eg the Basel framework).
- Avoid fragmentation and localised ring-fencing requirements.

Capital Markets Union (CMU)

The second CMU action plan outlines a comprehensive strategy to further unlock the potential of capital markets across Europe. This renewed effort is crucial to address the continued fragmented state of Europe's capital markets, which represent an obstacle to cross-border investments and efficient allocation of capital.

Recommendations:

- Encourage the establishment of formal consultative mechanisms between regulators and supervisors to support inter-jurisdictional deference.
- Continue to prioritise increased international coherence, alignment and consistency throughout the EU, coupled with cross-border regulatory and supervisory cooperation as the foundation for openness.

Digital finance

The speed and scale of adoption of new technologies and digital business models by financial institutions poses new risks for customers and the financial system overall.

Recommendations:

- Enable the financial services sector to test and develop new applications.
- Strengthen financial inclusion, and support digitisation and innovative business models.
- Improve legislation on customer engagement, processes, service delivery, risk management, fraud detection, anti-money laundering and antiterrorism financing.
- Apply the principle of 'same activity, same risk, same regulation'. New rules should be proportionate to the risks associated with the specific activities.

ISSUE	RECOMMENDATIONS

Digital Operational Resilience Act (DORA)

The speed of innovation and the use of innovative technologies in the financial services sector have not only increased in the use of information and communications technology (ICT) but have also led to a greater demand for the security and resilience of firms. DORA represents a valuable step towards a harmonised and robust framework for digital resilience in financial operations. It creates a solid framework to enhance understanding, transparency and trust among ICT providers, financial entities and financial regulators.

Recommendations:

- Build on existing international practices and remain open to incorporating international best practices into the implementation of DORA.
- Ensure that DORA or any other regional framework, including EU technical certification, does not lead to conflicting or overlapping requirements for financial services and technology companies operating globally (eg with the Network and Information Systems Directive or the Cyber Resilience Act).

Market openness

Recent global developments have contributed to the fragmentation of financial markets, creating instability and increasing costs for investors and issuers. Open markets are inextricably linked to Europe's ambition of becoming more globally competitive.

Recommendations:

- Prioritise increased transparency and predictability around the equivalence process to provide greater certainty.
- Take an approach of mutual deference to partners' regulatory and supervisory regimes in tandem with adequate cooperation and exchange of information agreements that can foster trust.

Sustainable finance

To achieve the EU's 2030 climate targets agreed in Paris, Europeans must fill an investment gap estimated at €180 billion per year. For this, it will be critical to leverage the private sector's capabilities. International partnerships and cooperation are key to ensure sustainable policies and finances that can combat climate change and other environmental risks.

ISSUE	RECOMMENDATIONS

Sustainable finance
(cont.)

Recommendations:

- Ensure investors have options that are in line with their environmental, social and governance (ESG) objectives and risk appetite, as well as the tools to pursue these goals.
- Develop the selection of technical criteria included in EU Taxonomy Guidelines and Annexes as market proved (through preparatory studies) and follow up-to-date technical evaluations or reviews using transparent, multi-stakeholder feedback mechanisms.
- Avoid constructing inflexible and complex regulatory frameworks around sustainable finance, which limit investors' choices and remove their investment tools.
- Ensure a proportionate approach to balance the demand for ESG data in the context of the Corporate Sustainability Reporting Directive (CSRD).
- Minimise the bias towards short-termism in fiscal, prudential and supervisory policies.
- Clarify the reporting requirements for third-country companies under the CSRD.
- Ensure alignment of the European Sustainability Reporting Standards with international standards to maximise interoperability and avoid fragmentation.

Taxation of the digital economy

The Organisation for Economic Co-operation and Development (OECD) Inclusive Framework reached consensus from over 130 countries to reform the global corporate tax framework and stabilise the international tax system. Proceeding with a separate EU-wide digital levy risks inflaming trade tensions and destabilising the OECD agreement.

Recommendations:

- Finalise the technical details for Pillars 1 and 2 to ensure they are easy to administer and provide certainty to tax authorities and taxpayers alike. The final policies should avoid double taxation and promote cross-border trade, investment and economic growth.
- Adopt a simplified compliance mechanism to lower the administrative burden of implementing the global agreement.

ISSUE	RECOMMENDATIONS
Taxation of the digital economy (cont.)	• Allow sufficient time to ensure a complete and consistent implementation of global rules. Legislation must be in line with the international agreement, and jurisdictions should not seek to go beyond the global arrangement. • Withdraw digital services taxes in countries that have already enacted them. Jurisdictions should not seek to circumvent the global agreement by adopting new digital taxes in the future. • Design future policy developments to promote cross-border trade, investment and economic growth. • Follow the Ottawa principles regarding the taxation of e-commerce.

Education, Youth, Culture and Sport

ISSUE	RECOMMENDATIONS

Digital Education Action Plan

As demonstrated by the COVID-19 pandemic, digital technologies are crucial to education and learning.

Recommendations:

- Allocate resources to digital infrastructure to ensure that everyone can reap the benefits of digital learning.
- Ensure EU-wide systems of micro-credentials to encourage the free circulation of talent.
- Train teachers and provide them with the necessary tools to use of digital technologies and enable remote learning where necessary.

Reskilling and upskilling

Europe faces a major skills shortage in the workforce as the digital and green transformations take hold. Public-private partnerships are needed to encourage training opportunities.

Recommendations:

- Foster company investment schemes in reskilling and upskilling.
- Raise awareness about the existing training schemes offered by business, which can help institutions keep pace with the demands of industry.
- Use the Multiannual Financial Framework (MFF) to provide ambitious funding for educational institutions and private operators to collaborate and help the active workforce adapt their skillsets to new demands.
- Incentivise lifelong learning in training and apprenticeship programmes using EU investment funds, such as the European Fund for Strategic Investment.
- Increase horizontal coordination to focus national curricula on adopting more digital tools as well as broader science, technology, engineering and mathematics (STEM) and non-cognitive skills, such as adaptability and creativity.

Employment, Social Policy, Health and Consumer Affairs

ISSUE	RECOMMENDATIONS

European Health Data Space

The European Health Data Space (EHDS) has the potential to strengthen the life sciences ecosystem through increased access to health data for patients, healthcare professionals and innovators.

Recommendations:

- Ensure IP is protected when data is made available for secondary purposes.
- Maintain the ambition of creating a single market for digital health products and services within the final legislation.
- Limit hindrances on international data flows and other barriers to cross-border digital services that could limit drug discovery and development.

Pandemic preparedness

The recent COVID-19 pandemic has demonstrated the need to create a world that is more prepared to combat future health crises. To achieve this, collaborative actions and improved policies are needed.

Recommendations:

- Harness the power of science to develop safe and effective medical countermeasures as quickly as possible. This includes ensuring rapid pathogen sharing, creating a strong R&D system and streamlining regulatory processes.
- Maintain a robust global network to manufacture by supporting open and free trade as well as sustainably expanding manufacturing capacity.
- Strengthen health systems to deliver medical countermeasures sustainably and equitably, including by establishing sustainable financing models.

Sustainable healthcare systems

European healthcare systems must be prepared to handle future shocks and the pressures of demographic change while implementing innovations that reduce burdens on healthcare systems and ensure better outcomes for patients.

Recommendations:

- Rethink models of care to make them more resilient and ensure that all patients receive the treatment they need. This would include increasing the focus on prevention, early diagnosis and hospitalisation prevention by moving care closer to communities.

ISSUE	RECOMMENDATIONS
Sustainable healthcare systems (cont.)	• Approach healthcare as an investment rather than a cost. Improvements to healthcare systems will not only make them more efficient and deliver better outcomes for patients, but also help European economies and societies adapt to demographic shifts. • Ensure the continued functioning of global supply chains to safeguard the resilience and flexibility of healthcare systems in Europe. Collaboration with international partners – notably, the US – and stakeholders is key. • Invest in healthcare innovation. This will require financial instruments that provide an integrated, forward-looking framework. • Implement the EU's Recovery and Resilience Facility (RRF) and national recovery plans to ensure health system preparedness for future challenges. This includes increasing hospitals' capacity and efficiency, improving primary care and digitalising health systems.
Gender balance	Equality between men and women is essential to ensure Europe's future of work and economic recovery. To achieve true equality, the public and private sector must implement policies to combat gender discrimination. **Recommendations:** • Incentivise female representation in leadership positions across the public and private sectors, creating a race to the top around diversity and inclusion worldwide. • Encourage young women to pursue careers in critical sectors such as STEM, ICT and cybersecurity. • Mirror the horizontal nature of gender equality in institutional governance, considering its impact on all industry sectors and across society. • Overcome biases throughout the hiring process and support both school-to-work and work-to-work transitions. This must entail creating opportunities for success.

ISSUE	RECOMMENDATIONS

Modernisation of EU consumer law

To avoid insufficient compliance and high fines, traders and consumers must have greater awareness of consumer rights. The ongoing transposition of the Omnibus Directive and the regulatory fitness and performance programme in the Member States and forthcoming guidance from the Commission should set the tone for the harmonisation of consumer rights for all goods and services.

Recommendations:

- Modernise rules on consumer protection to strike the right balance between consumers and traders.
- Apply and enforce rules online and offline (eg product safety).
- Harmonise and synchronise consumer rules throughout the EU.
- Ensure cooperation between consumer protection and enforcement authorities.

Proposal for a Regulation on empowering consumers for the green transition

This proposal aims to amend the Unfair Commercial Practices Directive and the Consumers Rights Directive to empower consumers through better protection and information.

Recommendations:

- Allow companies to provide information to consumers digitally.
- Specify environmental claims and use those defined under international standards.
- Avoid mandating third-party monitoring systems for future environmental performance claims.
- Ensure software update provisions do not discourage customers from updating their software.
- Avoid bans in Annex I and subject these to a case-by-case assessment to determine whether conduct is misleading (eg omitting that a software update can negatively impact a product, limited functionality designs, etc).
- Clarify that the restriction proposed to be added as point 23i of Annex I about limited product functionality when using non-original consumables only applies to intentional effects, not unforeseen consequences.

Environment

Recommendations to the Spanish Presidency of the Council of the European Union

ISSUE	RECOMMENDATIONS

Carbon border adjustment mechanism (CBAM)

CBAM has the potential to become an effective tool to combat carbon leakage and drive global efforts towards net zero, but it could also disrupt highly integrated supply chains and lead to trade conflicts. CBAM's primary objective should be to address climate change and avoid carbon leakage. For instance, carbon farming could become an opportunity for farmers to transform their business models and encourage agro-ecological and sustainable agroforestry practices.

Recommendations:

- Ensure a market-based emissions trading system (ETS) when designing the mechanism, as it allows the market to determine the most efficient and effective price level to drive emissions reduction.
- Incentivise companies to reduce the emissions intensity of their products and encourage governments to increase their climate ambitions.
- Assess the impact of measures against the potential impact on supply chains and manufacturing production, including for SMEs.
- Provide CBAM exemptions to avoid double taxation of imports for countries that have their own carbon pricing mechanisms.
- Minimise the impact on the flow of legitimate trade by moving its administrative processes away from the border.
- Ensure CBAM and ETS work in tandem and provide a clear timeline for the phase out of free allowances in a WTO-compatible way and ensure fair treatment for both EU exporters and third-country producers.

Chemicals Strategy for Sustainability

The Chemicals Strategy for Sustainability seeks to reform the existing EU chemicals policy framework to achieve sustainability and competitiveness.

Recommendations:

- Follow a general risk-based approach for the EU chemicals management system. Purely hazard-based regulatory instruments fail to consider key socioeconomic factors and would hinder innovation.
- Base new measures on scientific and clear definitions. Risk management should be based on socio-economic factors and availability of alternatives.
- Propose new hazard classes first at the United Nations (UN) level (as per the Globally Harmonised System) to promote international consistency and prevent barriers to trade.

ISSUE	RECOMMENDATIONS

Chemicals Strategy for Sustainability (cont.)

- Justify the proposed perfluoroalkyl chemicals (PFAS) restrictions with appropriate EU-based evidence. PFAS are highly complex and should not be regulated as one group, but rather distinctively and based on physicochemical properties and exposure considerations.
- Require authorities to demonstrate that the substances subject to the PFAS restriction present 'an unacceptable risk to human health or the environment' rather than placing the burden of proof on industry actors. 'Persistency' should not be a sufficient condition to initiate the restriction process, and Member States should address the lack of industry-scalable alternatives.
- Regulate fluorinated gases under Regulation (EU) No 517/2014 and the mobile air-conditioning systems Directive, not under the PFAS restriction, to avoid overlapping requirements and regulatory uncertainty.
- Define what constitutes 'essential' in terms of emissions reduction targets, technological developments and pandemic response. This definition should be enshrined into the existing Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) assessment framework.
- Ensure that the bans in the PFAS restriction do not hamper the Net-Zero Industry Act and RePowerEU goals.
- Grant sufficient resources for Member State authorities and the European Chemicals Agency to implement EU chemicals policy, particularly provisions in that the revision of the regulation on the classification, labelling and packaging.

Circular Economy Action Plan (CEAP)

CEAP aims to create products with lower environmental impact and greenhouse gas emissions while maintaining economic benefits through cutting-edge technologies, processes and business models.

Recommendations:

- Make a supportive regulatory ecosystem for industry the driving force behind the circular economy transition.
- Promote an EU-wide approach to circular economy legislation, limiting national initiatives that could impede Single Market rules.
- Review the current regulatory framework for waste to facilitate the transition to a circular economy and see waste as a resource.

ISSUE	RECOMMENDATIONS

Circular Economy Action Plan (CEAP) (cont.)

- Create a framework for product sustainability that is consistent with existing legislation and creates the right conditions for innovation to flourish. An appropriate transition period is also required for companies to implement these new measures.
- Evaluate the total impact of new fiscal initiatives while accounting for schemes such as extended producer responsibility.

Critical raw materials (CRMs)

CRMs are essential to the green and digital transitions of the transport, energy and digital economy sectors, among others. However, they are often in short supply or geographically concentrated in third countries.

Recommendations:

- Expand domestic CRM sourcing by streamlining processes in line with realistic estimates and by improving access to project financing.
- Cooperate with like-minded partners, including the US, and multiple resource-rich third countries, to increase CRM imports and diversify sources of supply. This should involve an open trade agenda and supporting projects abroad, in line with EU standards.
- Follow relevant circular economy principles for EU CRM use and production that minimise the loss of primary CRMs and maximise the production and use of secondary CRMs. The EU should also address current barriers to CRM recycling by investing in better recycling infrastructure and R&D.
- Prioritise a predictable and coherent regulatory environment to attract investors, while establishing an open and predictable process to identify new strategic materials.
- Provide flexibility in the definitions of critical and strategic raw materials as underlying technologies for strategic projects advance.
- Ensure consistency between chemicals management and raw materials policy to provide investment security for CRM extraction and processing projects.
- Protect sensitive corporate information when organising joint purchasing projects.

ISSUE	RECOMMENDATIONS

Ecodesign for Sustainable Products Regulation (ESPR)

This Regulation, which repeals the Ecodesign Directive and proposes additional legislative measures, aims to make products in the EU market more sustainable.

Recommendations:

- Support a full harmonisation of ESPR across Member States that drives competitiveness and is based on a product-specific approach.
- Establish provisions on the transition timeline.
- Clarify the 'substance of concern' definition and tie it to the evolution of recycling.
- Broaden the definition of 'environmental footprint'.
- Ensure that the provisions on the digital product passport are flexible, workable and only contain the most impactful information for each product group.
- Clarify the intersection between ESPR and REACH.
- Ensure future delegated acts prohibiting the destruction of unsold consumer products include some exemptions for circumstances when a product presents a safety or health concern, is expired, damaged or a counterfeit.
- Avoid duplication with other legislation (eg Corporate Sustainability Due Diligence Directive [CS3D]), DSA and the General Product Safety Regulation).

Fit for 55 package

As part of the European Green Deal, the EU has revised its climate, energy and transport-related legislation under the Fit for 55 package. To meet its objectives, the EU must balance sustainability, competitiveness, reliability and innovation.

Recommendations:

- Support existing technologies and cutting-edge innovation by taking a technology-neutral approach and working to reduce emissions.
- Create a common regulatory framework that fosters an EU-wide market for greener products and services.
- Anticipate and address the potential displacement effects of the climate transition on the workforce.
- Pay greater attention to Member States' enforcement of EU legislation.
- Ensure enforceability at the national level to strengthen the Fit for 55 proposals' credibility and attractiveness for private investors.
- Encourage nature-based solutions through initiatives like watershed restoration and good water stewardship.

ISSUE	RECOMMENDATIONS

Fit for 55 package (cont.)

- Ensure policy coherence across all elements of the Fit for 55 package and other legislation related to emissions reduction.
- Support mandated objectives through targeted incentivisation to ensure the necessary market conditions.
- Synchronise the decision-making process, as all the legislative files are interlinked.
- Ensure that payment cards are mandated as a minimum standard of payment at all public charging points for electric vehicles, not only at the fast chargers with output above 50kW.

Packaging and Packaging Waste Directive (PPWD)

As part of the CEAP, the Commission will review the PPWD to, among other aims, reinforce the mandatory requirements for packaging allowed in the EU market. The review extends beyond essential requirements and includes measures to reduce (over-) packaging and packaging waste. Though the regulation will have an overall positive outcome, the complexity of the measures requires a thorough and evidence-based impact assessment.

Recommendations:

- Harmonise and digitalise as much information on packaging as possible to avoid multiple national labels, leading to bigger packaging.
- Support Member States in establishing and upgrading recycling facilities, as well as infrastructure, effective separate collection and sorting of waste.
- Ensure enforceability at the national level to legitimise the Regulation and attract private investment.
- Account for sectors' multiplicity and diversity, which will be affected by the Regulation (eg online commerce and packaging as food contact materials) and their different needs (eg resistance to transportation and food safety concerns).
- Consider packaging as a resource for the circular economy, as with the other extended producer responsibility schemes.
- Rely on impact assessments and life cycle assessments to evaluate proposed solutions with a holistic and science-based approach. Chemical safety is already addressed in existing legislation, and proposed provisions on substances of concern may create legal uncertainty.
- Consider the needs of SMEs and exemptions for them without overburdening all other market players.

ISSUE

RECOMMENDATIONS

Packaging and Packaging Waste Directive (PPWD) (cont.)

- Link recycled content targets for the obliged industry to the conditions that enable access to the necessary materials.
- Avoid downcycling and prevent operators' demand for materials from damaging those who invest on collection and recycling infrastructure.
- Establish minimum requirements for deposit return systems, as it is the case with the rest of the extended producer responsibility schemes.
- Avoid mandatory reuse systems for transport packaging when manufacturing happens in third countries to avoid unsustainable shipping between continents.

Restriction of Hazardous Substances (RoHS)

Industry values RoHS as a highly effective market access law and for the clear regulatory signals it sends.

Recommendations:

- Assess the regulation's strengths and build on its successes.
- Provide clearer exemption timelines that are more aligned with product design realities.

Foreign Affairs and General Affairs

EU bilateral trade relations

Constructive dialogue between the EU and its major trading partners, including the US, is key to enhance mutual understanding, economic growth and prosperity in the Single Market.

Recommendations:

- Support the early conclusion of free trade agreements (FTAs) with Australia and Mercosur, the modernisation of deals with Chile and Mexico, and the push for progress on negotiations with India, Indonesia and Thailand.
- Build an EU trade policy based on openness and interdependence to avoid trade disputes.
- Advocate for strong enforcement of all European FTAs.
- Foster Member States' support for ambitious IP and digital trade provisions.
- Promote the free flow of data across borders and prevent unjustified data localisation requirements.

EU trade strategy

Recent global developments have shown the essential functions and benefits of an open, free and rules-based trading system, while also highlighting the downsides of go-it-alone trade policies.

Recommendations:

- Avoid inward-looking trade policies that are detrimental to the interests of all businesses in Europe.
- Maintain and emphasise the EU's open and rules-based economic identity in both internal and external policies.
- Cooperate with trading partners and corporations that have strong commitments to Europe, no matter where they are headquartered.
- Place digital trade at the heart of the new strategy to promote open digital markets, innovation and prosperity.
- Build effective tools to face the geopolitical and economic reality and to respond to economic coercion by third countries while ensuring an open trade system and just environment for all, as well as the EU economy's resiliency.

ISSUE	RECOMMENDATIONS

EU-UK trade and investment relationship

Considering the EU and the UK's close political and economic ties, it is vital to maintain a good relationship and a comprehensive economic partnership.

Recommendations:

- Implement the EU-UK Trade and Cooperation Agreement thoroughly alongside the new Windsor Framework to provide business with certainty.
- Rebuild close communications between the EU and the UK to manage the interface between their respective regulatory environments and minimise disruption and regulatory divergence.
- Broaden the scope of the relationship over time.

EU-US relations

Transatlantic cooperation based on shared values and the rule-based trading order brings substantial economic benefits, promotes global standards and enables technological leadership.

Recommendations:

- Strengthen EU-US cooperation in strategic areas and address existing barriers to trade.
- Deepen regulatory cooperation and alignment across the Atlantic and ensure the protection of the transatlantic values of open, rule-based trade, non-discrimination, due process and high standards for privacy and security.
- Engage constructively in the EU-US Trade and Technology Council (TTC) to ensure the initiative remains ambitious in its objectives and delivers tangible results.
- Achieve tangible results through the EU-US Dialogue on Security and Defence, which was announced in the joint statement released after the June 2021 EU-US Summit.
- Promote cooperation in research, development and innovation across the Atlantic by ensuring business input and involvement in the TTC.
- Seek ambitious reforms at the international level and use transatlantic leadership to resolve long-running disputes at the WTO.
- Put SMEs at the heart of EU-US initiatives, as they stand to gain most from greater transatlantic cooperation.
- Encourage Member States' endorsement of EU-US trade discussions to expand the transatlantic trade and investment relationship.

Export control of dual-use goods

A heavy-handed review of the dual-use goods export regime could stifle innovation and industry response to new cyber threats. This review should be aligned with multilateral regimes – such as the Wassenaar Agreement – and ensure that companies are not disproportionately burdened. This would encourage international cooperation and preserve the EU's competitiveness.

Recommendations:

- Align and simplify export control regimes between Member States and the US via regulatory exchanges and joint actions, notably in the context of the TTC.
- Develop EU guidelines on intangible technology transfers and use of cloud computing to ensure consistent interpretation and implementation across the EU and with like-minded countries, particularly the US.

Procurement programmes and access to EU-funded R&D

The exclusion of third-country entities from major EU and Member States' publicly funded R&D and procurement as well as sustained programmes could prevent vital economic stimulus for the EU, causing market distortions and ultimately weakening the transatlantic and the EU-UK relationship.

Recommendations:

- Promote the participation of EU-based American companies in EU and Member State-funded R&D, procurement and sustained programmes based on their added value, locally developed IP and overall contribution to the EU's technological and industrial base (eg employees, infrastructure, expertise, etc).
- Ensure the fair implementation of the European Defence Fund (EDF) Regulation, European defence industry reinforcement through common procurement act (EDIRPA), European Space Programme Regulation and Horizon Europe Regulation, which should all account for the global nature of the defence and space industries and preserve open markets and fair competition.
- Ensure a more flexible approach to common defence procurement, which would increase the inherent interoperability and interchangeability associated with products and capabilities that exist outside of the EU.
- Ensure availability and cost-effectiveness in joint military procurement for the most urgent capability or material gaps (eg 155mn artillery shells) by collaborating with like-minded allies.

ISSUE	RECOMMENDATIONS

Procurement programmes and access to EU-funded R&D (cont.)

- Maximise the effectiveness of joint EU procurement instruments, such as EDIRPA, as an incentive for EU content on international defence products. Minimum thresholds for EU content on products would ensure that European armed forces continue to benefit from best-in-class capabilities while providing economic opportunities for EU industry.

Standard Contractual Clauses (SCCs) and Transatlantic Data Privacy Framework

The European Court of Justice decision on SCCs and the Privacy Shield has left thousands of data-dependent businesses in a legal limbo. Both businesses and economies rely on the free flow of data to provide valued services to EU-based consumers. While SCCs have been the most accessible and stable means to transfer data outside of the EU for many businesses, thousands of small and large companies have relied on Privacy Shield to transfer personal data across the Atlantic. Policymakers must facilitate a completely revised transatlantic system to satisfy the Court of Justice of the European Union's requirements and enable the safe, valid transfer of personal data for both citizens and companies.

Recommendations:

- Continue engaging with the European Commission while it adopts a decision supporting the new EU-US Data Privacy Framework.
- Engage with the Member States' policymakers on the comitology procedure while acknowledging the adoption of the adequacy decision. This would help achieve legal certainty in transatlantic data flows and ensure technological advancements in the EU.
- Engage with and encourage regulators to set up clear and realistic guidance to enable valid use and reliance on SCCs for global data transfers, including in relation to transfer impact assessments and the related supplementary measures.
- Encourage businesses to prioritise citizen protection and the integrity of privacy rules to ensure trust in the digital economy.

Strategic Compass

The Strategic Compass lays out the EU's long-term strategic concept for security and defence. If properly implemented, it could ensure closer cooperation with like-minded allies and strengthen the EU's role as a security provider as well as the European Defence Technological and Industrial Base (EDTIB).

Recommendations:

- Strengthen the EDF and EDIRPA by increasing their budgets and focusing on a multiannual approach.
- Encourage further support for the EDTIB while prioritising partnerships and competitiveness, as well as producing the capabilities required by the armed forces. This would benefit all EU-based entities, including those headquartered in like-minded countries.
- Facilitate the participation of like-minded third-country entities in EDF and EDIRPA projects, not only as subcontractors to EDF consortium members and EDIRPA industry coalitions, but also as consortium and coalition members.
- Continue to develop the partnership provisions in the strategic compass to address current geopolitical and industrial challenges.
- Ensure multinational initiatives' long-term deconfliction, complementarity, coherence and coordination to mutually reinforce their support for international peace and security.
- Encourage seamless trade, cooperation and technology transfers among like-minded partners. The bases for these efforts can be found in the Joint Declaration on EU-NATO Cooperation: 'we encourage the fullest possible involvement of NATO Allies that are not members of the EU in its initiatives'.
- Encourage a larger budget for EDIRPA, particularly given the support needed by allies such as Ukraine.

Transatlantic Defence Industrial and Technological Cooperation (TADIC)

A strong and prosperous TADIC is instrumental to foster the transatlantic relationship, encourage sustainable growth and achieve collective security.

Recommendations:

- Encourage capability development programmes that include both EU and US stakeholders to enhance cost-effective innovation, standardisation, interoperability, interchangeability and technological leadership on both sides.

ISSUE	RECOMMENDATIONS

Transatlantic Defence Industrial and Technological Cooperation (TADIC) (cont.)

- Establish open defence markets reciprocally to guarantee similar regulatory conditions on both sides of the Atlantic.
- Deliver a more ambitious TADIC.
- Discuss common areas of transatlantic cooperation in the development of next generation defence technologies and capabilities.

World Trade Organisation

The WTO is the cornerstone of the multilateral trading system, and reforms are required to ensure the organisation is fit for the 21st century.

Recommendations:

- Support transatlantic cooperation on WTO reforms and the broader multilateral agenda.
- Ensure the WTO continues to be a negotiation body and an arbitration mechanism for the global economy.
- Engage with like-minded governments within the WTO in fields like e-commerce, R&D and protection of IPR.
- Ensure that all major WTO players are involved in the modernisation efforts.
- Push for the successful conclusion of multilateral and plurilateral negotiations in the WTO to provide tangible outcomes for business and enhance the WTO's credibility.
- Increase investment for the Joint Statement Initiative on e-commerce to drive strong, plurilateral standards on digital trade.
- Support the WTO reform programme agreed upon at the 12th Ministerial Conference in 2022 to have a complete and well-functioning dispute settlement system in place by 2024.

Justice and Home Affairs

ISSUE	**RECOMMENDATIONS**

Corporate Sustainability and Due Diligence (CS3D)

The recent EU proposal for the CS3D Directive outlines human rights and environmental due diligence requirements for EU companies and third-country companies active in the EU. The proliferation of due diligence policies, legal frameworks and regulations risks diverting businesses' resources towards compliance instead of addressing the negative impacts on human rights and the environment.

Recommendations:

- Harmonise legal obligations for companies as well as the scope and definitions outlined in the Directive to ensure policy coherence and provide businesses with certainty, as well as to avoid the risk of fragmentation in the Single Market.
- Prioritise sectoral guidance to assess long-standing due diligence approaches and explain how they need to be adapted.
- Ensure due diligence reporting requirements are harmonised with the CS3D and other relevant EU laws (including on batteries, minerals, ecodesign, etc).
- Encourage and acknowledge multi-stakeholder collaborative partnerships and industry schemes, such as the Responsible Business Alliance.
- Adopt a risk-based approach that is fully aligned with international standards (eg UN Guiding Principles on Business and Human Rights, Organisation for Economic Co-operation and Development [OECD], Guidelines for Multinational Enterprises and the International Labour Organisation [ILO] Tripartite Declaration).
- Ensure that civil liability is limited to the relationships in which companies have the legal means of enforcement. The legislation should only cover direct contractual business relationships within the supply chain.
- Limit definitions to what is understood in international frameworks. For instance, 'established business relationships' should be removed, as agreed by the European Parliament.
- Clarify the obligation around 'affected stakeholders' and 'stakeholder input'.

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ISSUE	RECOMMENDATIONS

EU-US cross-border access to electronic evidence

The Commission has proposed and adopted a negotiation mandate for an EU-US agreement on electronic data, which is a step in the right direction to increase legal certainty.

Recommendations:

- Safeguard data subjects' fundamental rights with transparent and balanced rules, while also allowing effective cross-border access to data in criminal investigations.
- Work towards a balanced and harmonised framework, a pre-condition for concluding any international agreement.

Forced Labour Regulation

Forced labour is a complex global issue that requires collaboration from businesses, governments and other civil society actors to ensure system-wide change. Any action taken by governments must be aimed at addressing the actual concern – forced labour.

Recommendations:

- Ensure legislative coherence with CS3D and other existing EU laws such as those relating to responsible minerals and battery regulations.
- Extend timelines for information requests from 15 to 30 days.
- Ensure fair and equitable treatment and due process in the investigations and harmonise investigations across Member States.
- Harmonise procedures for submitting information.
- Identify products suspended by customs authorities.
- Consider more suitable alternatives to product disposal in line with the EU's circular economy objectives.
- Recognise the importance of industry schemes and provide sectoral guidance.
- Prevent companies' irresponsible disengagement from high-risk regions.
- Establish a database that relies on well-founded information, such as reports from the ILO, and clarify the link to existing EU databases.
- Ensure harmonised enforcement and avoid forum shopping.
- Consider a phased-in entry into effect.

ISSUE	RECOMMENDATIONS

General Data Protection Regulation (GDPR)

The GDPR has introduced important benefits for American companies in Europe: increased legal certainty, harmonisation and flexibility. However, there remains work to be done around privacy and data protection.

Recommendations:

- Promote a uniform and balanced application of the GDPR across Europe.
- Ensure any additional regulation on privacy is fully consistent with the GDPR.
- Ensure that personal data transfers can happen across the Atlantic and globally, as they are essential for the competitiveness of many sectors.
- Ensure that data protection authorities interpret the GDPR in a harmonised way and that cooperation and enforcement happen in accordance with the mechanisms described in the GDPR.

New Consumer Agenda

The European New Consumer Agenda has a strong focus on online enforcement, which risks creating gaps in the offline world and increasing risks for consumers. Enforcement gaps in the EU can lead to consumer harm and mistrust, as well as commercial detriment for the EU industry.

Recommendations:

- Streamline the information available to consumers regarding the sustainability, performance and safety of products in online and offline channels.
- Ensure that consumers continue to be protected and aware of their rights in the New Consumer Agenda.
- Ensure harmonisation and strong enforcement of the European consumer rules' existing legal framework.
- Highlight the importance of general product safety and sustainability in future legislation and of good coordination and information exchange between authorities and private actors. The Council should also improve the quality of notifications.
- Provide accessible and transparent information on rights in any new consumer legislation.
- Focus on enforcement against bad actors. Without enforcement by private actors, the New Consumer Agenda would be far less powerful – bad actors can be removed from the online world, but they will keep coming back.
- Maintain a risk-based approach when dealing with product safety legislation.

ISSUE	RECOMMENDATIONS

Product Liability Directive (PLD) and AI Liability Directive (AILD)

The existing framework provides effective protections for consumers, and it is already applicable to tangible products with embedded software. Any indiscriminate inclusion of software under the PLD poses material risks to innovation and digitalisation.

Recommendations:

- Maintain technological neutrality in product liability rules. They should not depend on a product's nature or components.
- Exclude strict liability from non-material harms, as it is only appropriate in cases of personal injury and damage to property that have direct and severe consequences for consumers or other concerned parties such as innocent bystanders. Non-material damages can already be addressed through standard liability regimes including national liability rules. The inclusion of non-material damages under PLD or any horizontal artificial intelligence (AI) liability frameworks would hold developers liable for unforeseeable consequences.
- Tighten the disclosure of evidence provisions and strengthen the protections of trade secrets.
- Remove data loss/corruption from the definition of 'damage'.

Representative actions for the protection of consumers' collective interests

The adoption of the proposal on representative actions is meant to protect consumers' collective interests. For that, Member States should ensure coherent enforcement and harmonisation by maintaining forum shopping prevention as a key pillar of any collective redress mechanism. Overall, the proposal should promote a narrower definition of a domestic action when evaluating national vs cross-border cases.

Recommendations:

- Create stronger safeguards, including through swift and adequate regulation of third-party litigation funding, to harmonise the practice in the EU and grant transparency and protection to all parties.
- Establish strong criteria for the types of entities that can represent consumers in the EU, such as public bodies and consumer organisations, and require consumers' consent before actions are launched on their behalf.

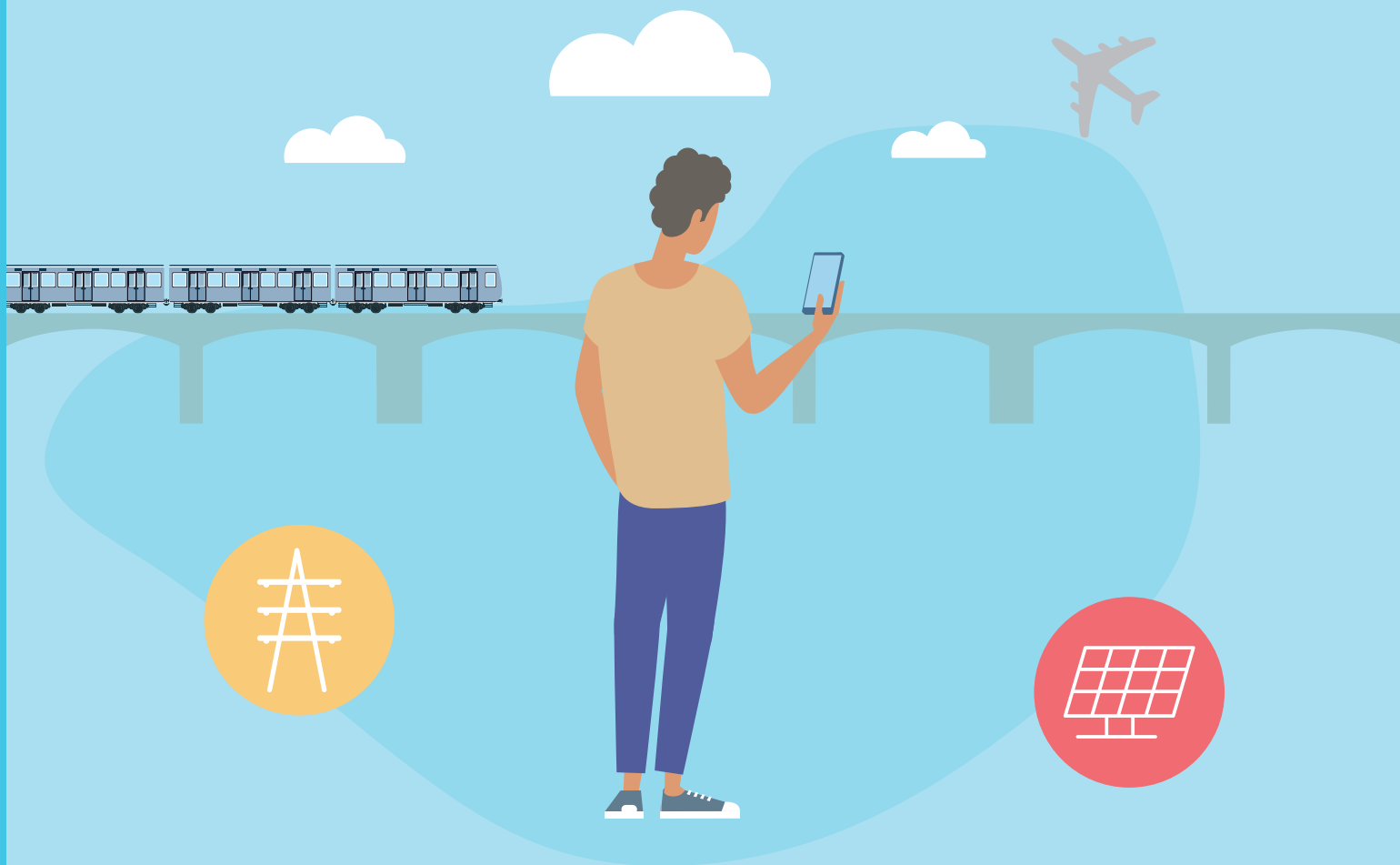| ISSUE	RECOMMENDATIONS
Third-party litigation funding (TPLF)	The practice of TPLF lacks sufficient protection for claimants and risks Single Market fragmentation, especially given its novel nature. **Recommendations:** • Introduce a robust and harmonised regulatory regime for TPLF based on transparency and with clear guarantees for claimants and defendants.

Transport, Telecommunications and Energy

ISSUE	RECOMMENDATIONS

Decarbonised Gas and Hydrogen Package

The reform of the gas market must be revised and expedited in light of the Russian invasion of Ukraine. Reducing the EU's dependence on Russian natural gas is now one of the EU's main priorities. The regulatory framework needs to enable the ever-faster deployment of renewable and low-carbon alternatives to natural gas.

Recommendations:

- Harmonise the definition of low-carbon hydrogen, gases and fuels throughout the EU.
- Treat low-carbon hydrogen, gases and fuels in a non-discriminatory way compared to renewable fuels and support them equally in a technology-neutral way, in view of their respective climate benefits.
- Clarify the prohibition of long-term supply contracts for 'unabated fossil gas' based on gas usage to ensure the security of supply for EU regions. The Council should also promote the use of carbon capture and storage technology.
- Promote further use of carbon capture and storage since the majority of Member States have not invested in it.

Efficient and green mobility

The transport sector is facing enormous challenges to further reduce emissions in all modes of transport. Deployment of cooperative, connected and automated mobility (CCAM) and Intelligent Transport Systems in Europe have the potential to increase road efficiency and improve the safety and environmental performance of vehicles.

Recommendations:

- Clearly define 'sustainable' mobility in terms of quantitative emissions reduction targets.
- Adapt to the requirements for various types of transport while accounting for the complexity of technical data used in the mobility sector, and ensure harmonisation across Europe.
- Incentivise the aviation sector to continue increasing the uptake of sustainable fuels and reduce emissions.
- Encourage investment in CCAM systems to ensure interoperability, user safety, trust and liability.
- Adapt road infrastructure ahead of the deployment of autonomous vehicles.
- Foster flexible and technology-neutral rules for data processing.

ISSUE	RECOMMENDATIONS

EU energy crisis

Reducing the EU's dependence on Russian natural gas and managing energy prices and supply are now two of the EU's main priorities. The regulatory framework needs to enable the ever-faster deployment of renewable and low-carbon alternatives to natural gas. The EU should diversify gas supplies, speed up the rollout of renewable gases and replace gas in heating and power generation.

Recommendations:

- Provide concrete incentives to produce more local and low-carbon energy. Affordability and reliability of energy supply are vital for a competitive industry in Europe.
- Address short-term challenges arising this winter (ie securing gas supplies to maintain industrial activity and consumers' welfare).
- Consider longer term approaches to secure a functioning internal energy market.
- Link any energy policy initiatives with a coherent industrial policy.

Infrastructure investment

Future infrastructure investments must focus on creating growth and jobs in Europe and supporting the EU economic recovery. International cooperation and third-country participants in the multiannual financial framework 2021-2027 enable the EU to act as a world leader in global talent and research.

Recommendations:

- Use European funding to promote technological neutrality and co-modality as well as to avoid market distortion.
- Support funding at the EU level with ambitious commitments from Member States.
- Use the completed Trans-European Transport Network to connect European regions, alleviate congestion, improve interoperability and facilitate the use of different transport modes, as well as help to achieve the EU's climate objectives.
- Leverage the Trans-European Networks for Energy to encourage the development of cross-border energy infrastructure, ensure the functioning of the internal energy market and security of supply, promote energy efficiency and meet the EU's energy and climate objectives.

ISSUE	RECOMMENDATIONS

ISSUE

Sustainable aviation

RECOMMENDATIONS

The aviation sector is committed to the Green Deal and the decarbonisation of flight. Industry and regulators must cooperate, as there is not one single method to decarbonise the sector.

Recommendations:

- Incentivise the development of next-generation technologies as key enablers of fuel efficiency to reduce emissions in the mid- to long-term.
- Develop regulatory and financial incentives for the research, development and deployment of sustainable aviation fuel.
- Implement the Single European Sky via a full integration of EU air traffic management networks.
- Ensure a coherent mission reporting framework as proposed by CountEmissions EU and in line with existing industry methodologies and the European Union Aviation Safety Agency's environmental label.
- Open the ETS Innovation Fund for reinvestment into the aviation sector, specifically in next-generation aircraft and propulsion technologies.

AI Act

The AI Act is the first attempt at a comprehensive legislative framework for the development and use of AI. The proposal has room for clarification and improvement.

Recommendations:

- Develop a more precise definition of AI, as the current one is excessively broad and could encompass techniques and software that do not perform functions normally associated with AI.
- Tighten the list of high-risk AI systems, which may include systems that are not inherently high-risk.
- Maintain the principle of self-assessment and declaration of conformity for high- risk AI systems, as subjecting high-risk AI systems to prior third-party assessment would delay product launches and hinder AI uptake.
- Reevaluate the proposal's horizontal product safety framework.
- Redefine some of the overly prescriptive and unrealistic requirements for high-risk AI systems. All the demands should be proportionate, flexible and attainable.
- Allow providers and users of AI systems to contractually allocate their responsibilities along the value chain.

ISSUE	RECOMMENDATIONS

AI Act (cont.)

- Prevent blanket inclusion in the scope of general purpose AI systems regardless of their risk profile. Balance the responsibilities for general-purpose AI compliance along the value chain and when used in the high-risk applications.
- Safeguard innovation by ensuring that requirements are manageable and realistic.
- Commit to achieving concrete EU-US advancements in the AI sphere in the context of the TTC.
- Prevent unjustified trade and export control restrictions.

Cybersecurity of Internet of Things

Given the rising complexity of value chains, the diversity of business models and fast-developing cyber threats, companies need to retain the flexibility to develop and continually update the security features for their unique risk situations.

Recommendations:

- Create strong public-private partnerships to maintain a voluntary and market-driven approach to tackle IoT security.
- Base any requirements on secure networks and information regarding the application's risk profile.
- Ensure consistency between IoT security solutions and existing international practices and standards.
- Raise awareness of IoT security amongst vendors, service providers, industry, employees and consumers.
- Build and improve cybersecurity skills.

Electronic identification scheme (eID) Regulation

The EU needs a common framework and technological architecture for a European Digital Identity Wallet so that citizens and businesses can prove their identities, harness the benefits of boosted efficiencies, lower costs and ensure a positive digital customer experience.

Recommendations:

- Leverage the existing international standards and ensure clarity and predictability in their interplay with other related draft regulations.

ISSUE	RECOMMENDATIONS

Electronic identification scheme (eID) Regulation (cont.)

- Develop safe, user-friendly and convenient digital solutions, without resorting to mandatory acceptance.
- Ensure a high degree of data protection.
- Withdraw proposals for automatic recognition by web-browsers of (and interoperability with) Qualified Website Authentication Certificates.

European Cybersecurity Competence Centre and Network

The European Cybersecurity Competence Centre and Network initiative has the potential, if implemented appropriately, to reduce fragmentation and create synergies across the EU in cybersecurity research and investment.

Recommendations:

- Keep the European Cybersecurity Competence Centre and Network open to all companies.
- Base participation on relevance and excellence, rather than establishment.

European data strategy

The European data strategy has transformative potential, but to achieve it, data must be high-quality, credible, timely and available in machine-readable formats, while cloud infrastructures must be trustworthy, secure and energy efficient.

Recommendations:

- Collaborate to ensure access to a wide range of options in technology and partners.
- Invest to deliver strategy and achieve the EU's aims in competitive storage, processing and profitable use of data.
- Assess new regulatory initiatives against existing regulations (including personal data protection and liability for defective products) to avoid conflicting and burdensome obligations.
- Ensure that rules concerning data access and use are fair, clear and comply with European values and competitiveness.
- Involve and encourage industry to help teach skills and data literacy.
- Prevent the Data Act from disrupting functioning data sharing and processing models, making collaboration more difficult or imposing mandatory data sharing or portability obligations. The legislation should not cause conflicts between other laws (eg GDPR and DMA) and should enable the free flow of data while acknowledging IPR and protecting trade secrets.

ISSUE	RECOMMENDATIONS

European data strategy (cont.)

- Solve issues around foreign authorities' access to data through multilateral governmental discussions (eg TTC) rather than by imposing regulatory requirements on a specific sector.
- Institute a pan-European supervisory authority or a one-stop-mechanism and clarify how data sharing responsibilities will be allocated between data protection authorities and sectoral regulators.
- Ensure the upcoming Cloud Rulebook and Marketplace Services Requirements catalogue consider broad feedback from the relevant stakeholders and reflect the market reality and diversity of applicable initiatives.

Europe's digital decade - 2030 targets

The EU aims to transform the 2020s into Europe's 'digital decade' and achieve its digital ambitions for 2030.

Recommendations:

- Accelerate and facilitate investment, innovation in broadband networks and entrepreneurship to create financial incentives and foster uptake of new technologies with high economic and social potential for the digital transformation.
- Enhance digital skills and inclusion to build and preserve trust between society and technology. They must be central tenets of any public and private digital transformation strategies.
- Ensure a common approach toward the digital decade, including measures such as the pooling of resources across the Member States and the alignment of all actors.
- Ensure a transparent and inclusive policymaking processes in which American companies are seen as trusted digital enablers and business partners in Europe. These processes must be based on technical and market-driven decisions, shifting away from the political interests which have prevailed in recent times.
- Ensure that content, services and applications are not unlawfully blocked or degraded as outlined in the Declaration on Rights and Principles. Legislators should respect, protect and reinforce the fundamental principles of net neutrality and the open internet, as well as resist measures for payments of network use.

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Privacy and Electronic Communications (ePrivacy) Regulation

The Regulation seeks to build consumers and businesses' trust in services. Since the proposal was presented, the importance of metadata and electronic communications has been reinforced, especially for new technologies like IoT.

Recommendations:

- Ensure clarity on the scope and guarantee alignment with the GDPR – including on the legal basis for data processing – whilst adopting a risk-based approach.
- Encourage additional permitted data processing for software updates, security, compatible processing and statistics.
- Include additional lawful bases in privacy settings to allow the use of storage capabilities on-device for limited processing activities and further exemptions to privacy-enhancing technologies.

Semiconductors

The EU has created the EU Chips Act to develop and accelerate Europe's semiconductor supply chain. The proposal rightly focuses on research, development and innovation across all segments of the semiconductor supply chain.

Recommendations:

- Ensure greater participation of industry in nearly all categories, including standardisation requests, export controls and priority orders.
- Ensure the swift adoption of the Chips Act.
- Increase cooperation in the areas highlighted by Pillar I of the EU Chips Act (including R&D, skills and training), stimulating an open-source silicon environment to increase academia and start-ups' engagement with the industry.
- Align the EU Chips Act with other legislation (ie Cyber Resilience Act), as well as with certification in the US.
- Prioritise the implementation of protections for businesses' valuable intellectual property.
- Increase the structured participation and regular interaction between the European Semiconductor Board and the private sector.
- Strengthen the transatlantic relationship to avoid a continued global semiconductor market imbalance.

ISSUE	RECOMMENDATIONS

Security of network and information systems Directive review

The revised Directive aims to establish a more secure cyber environment by defining legal obligations of entities susceptible to cyber risks.

Recommendations:

- Implement a risk-based approach to limit the scope of and seek alignment with the existing and draft legislation.
- Revise the reporting requirements to allow companies to provide regulators with more detailed and valuable information.
- Maintain a voluntary certification mechanism and ensure these certifications are inclusive, transparent, non-discriminatory, technology-neutral and consistent with relevant international standards.
- Involve industry in the computer security incident response teams and the Network and Cooperation Group, as well as further incentivise voluntary private-public information sharing.

Shaping Europe's digital future

This comprehensive strategy can unlock the potential of data and digital technologies.

Recommendations:

- Invest in the skills, infrastructure and emerging technologies needed to deliver on this strategy.
- Advance innovation in the supply chain. Public authorities and industry should foster a diverse and inclusive workforce by advancing STEM education for students at all levels and from all backgrounds.
- Build citizens' trust in innovative digital technologies.
- Prioritise data integrity and security to fulfil the realisation of the digital economy.
- Increase cooperation, attract and develop partnerships with non-EU players in areas where EU lags behind (ie manufacturing).

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RECOMMENDATIONS

5G

The deployment of 5G will be one of the most critical building blocks of the future digital economy and society.

Recommendations:

- Adopt and implement Member States' 5G roadmaps and 2030 digital decade targets swiftly.
- Release both licensed and unlicensed spectrum in a timely and coordinated fashion.
- Finalise the implementation of the Electronic Communications Code in Member States quickly and consistently.
- Ensure the freedom to develop new business models, as 5G will be crucial for business digitisation.
- Consult and coordinate among stakeholders to ensure European businesses and consumers reap the full potential of 5G.
- Continue to ensure a common European approach to trustworthy, resilient, diverse and competitive supply chains for ICT, especially as the rollout of 5G accelerates.

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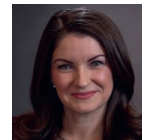
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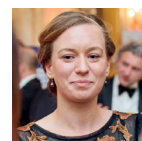
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