

Warszawa, 17 kwietnia 2020 r.
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Pan
Marek Zagórski
Minister Cyfryzacji

Szanowny Panie Ministrze,

W związku z prowadzonymi konsultacjami dotyczącymi projektu konkluzji Rady w sprawie Shaping Europe's Digital Future, który przekrojowo omawia wyzwania przed którymi stoją poszczególne sektory gospodarki oraz sygnalizuje potrzebę konkretnych zmian i działań, które mają doprowadzić do widocznego rozwoju godnych zaufania, bezpiecznych i niezawodnych technologii, Konfederacja Lewiatan, w załączeniu, przesyła swoje uwagi do treści dokumentu.

Prosimy o uwzględnienie naszych postulatów, a w przypadku wątpliwości bądź rozbieżności o możliwość ich omówienia.

Z poważaniem,



Maciej Witucki
Prezydent Konfederacji Lewiatan

Do wiadomości:

Pan Michał Pukaluk - Dyrektor Departamentu Polityki Międzynarodowej, Ministerstwo Cyfryzacji

Załącznik:

Uwagi Konfederacji Lewiatan do pierwszej wersji projektu konkluzji Rady w sprawie Shaping Europe's Digital Future.



Text suggestions prepared by the Polish Confederation Lewiatan to the First DRAFT COUNCIL CONCLUSIONS ON SHAPING EUROPE'S DIGITAL FUTURE (marked in red)

1. RECOGNISES the importance of the digital transformation of the European economy and society in order to create jobs, **promulgate education and new skills in proximity to Europe's people and so** enhance competitiveness and meet the Union's carbon-neutrality targets. WELCOMES the European Commission's recent Communication on Shaping Europe's Digital Future, the European strategy for data and the White Paper on Artificial Intelligence. AGREES that Europe has the assets and strengths to successfully seize the opportunities and address the challenges of the digital transformation while ensuring its inclusiveness and sustainability. **CALLS on the Commission, the Member States and the private sector to support these efforts.**
2. STRESSES the importance of achieving technological sovereignty in the EU and leadership in strategic international digital value chains as key elements to ensure competitiveness, while also promoting fundamental European values, freedoms and rights on the international stage **and commitment to international cooperation with public and private sector and academia. REAFFIRMS that technological sovereignty should not restrict the freedom and independence of companies.**
3. RECOGNISES that the digital transformation is impacting and rapidly transforming sectors where Europe has great strengths, particularly in such sectors as health, transport, education, mobility, manufacturing and agriculture. ENCOURAGES the Commission and the Member States to do their utmost to put in place the necessary enabling conditions for a successful digital transformation, in particular by modernising education and skills systems and ensuring a dynamic and conducive business environment, excellent research, development and innovation, as well as greater availability of investment capital.
4. AGREES that achieving these goals requires a substantive boost to and wider coordination of investment, both at EU and national levels, particularly focusing on high-impact projects, such as the Important Projects of Common European Interest in Microelectronics, EuroHPC and the Quantum Communication Infrastructure, that will allow Europe to become a leader in global digital value chains. NOTES the important contribution of the Digital Europe Programme, the Connecting Europe Facility (Digital) and Horizon Europe should make to promoting strategic technologies and their applications and EU-wide deployment and access to advanced digital infrastructures. ENCOURAGES Member States to implement the necessary structural reforms to reap the benefits of digitalisation and reinforce the competitiveness of our industry, particularly in the light of high levels of investment in advanced technologies, such as artificial intelligence.



RECOGNISES the value of internet-based technologies in maintaining dialogue, commercial activity and services while public life is restricted as part of lessons learned in the COVID-19 outbreak. EMPHASIZES the opportunity of internet-based services to mitigate chilling effects on the business sector, in particular small business and stress the need to allow such services to be delivered across borders.

5. INVITES the Member States and the Commission to thoroughly analyse the experiences gained from the COVID-19 pandemic in order to draw conclusions that will inform the implementation of current and future Union policies in the digital domain, in particular in such areas as e-Health, digital education, e-Government, remote working and collaboration, data sharing and broadband connectivity. ACKNOWLEDGES also the global dimension and the interconnected consequences of the COVID-19 outbreak and the need for global coordination as well as strong collaboration between academia, public and private sector, STRESSES the importance of refraining from the imposition of export controls, tariffs and non-tariff barriers, and of removing any existing trade restrictive measures on essential goods and services.

RECOGNISES the value of real-time information sharing, digital communications and international coordination on the COVID-19 response. COMMITS to facilitating the cross-border flow of information and data to ensure necessary and proportionate access to data while protecting fundamental rights and freedoms and upholding/commitment to democratic values. ENCOURAGES the Commission to strengthen their approach in support of a rule-based, multilateral trade system in order to share best practices and research as we work together to fight COVID-19.

[Data and cloud]

6. RECOGNISES the importance of the data economy as a key enabler for Europe to prosper in the digital age and UNDERLINES that the European data economy should be developed in accordance with the EU values, putting people first, respecting fundamental freedoms and rights, including privacy and data protection, based on secure infrastructures and trusted value chains, contributing to the sustainability goals and aiming to make Europe the best place in the world for sharing and storing data. RECOGNISES that Europe needs to facilitate the merging and sharing of data amongst businesses and institutions in a privacy preserving/enhancing way, to gain critical mass and be successful in the data economy.

7. WELCOMES the intention of the Commission to develop a consistent horizontal framework for data access and use. CALLS on the Commission to present as soon as possible concrete proposals towards the creation of common European data spaces for strategic sectors of the industry and domains of public interest, including for the purposes of internal security and justice, leveraging trusted, safe and secure cloud services and offering high performance computation capacity.

8. STRESSES the value of use and re-use of privately-held data in the economy and the importance of the use of data for the common good, including for better policy-making and delivery of government



services and for research in the public interest **in accordance with existing Union and Member State law, e.g. GDPR**. Therefore, ENCOURAGES the Commission to take concrete steps to facilitate the emergence of new data-driven ecosystems, where necessary by **promoting and introducing incentives for voluntary data sharing for companies, in particular in case of systemic market failure**.

9. UNDERLINES that **the use of cloud infrastructure and services** is important for European digital agility, security and competitiveness to benefit fully from the data economy and UNDERLINES the importance of a single and coherent European approach to cloud federation **but ACKNOWLEDGES the need for diversification and thus cooperation with non-EU providers respecting European values and fundamental rights and freedoms**.

10. ENCOURAGES the Commission to ensure, where necessary through new proposals, that cloud services provided in Europe comply with key interoperability, portability and security **as well as sustainability** requirements, *inter alia*, to prevent or address vendor lock-in. SUPPORTS the Commission's commitment to deliver by 2022 a coherent framework around the applicable rules and self-regulation for cloud services, in the form of a 'cloud rulebook', to add clarity and to facilitate compliance.

[Artificial Intelligence]

11. RECOGNISES that artificial intelligence is a fast evolving technology that can contribute to a more efficient and competitive economy, as well as to a wide array of societal benefits, such as improving security, healthcare or supporting climate change mitigation and adaptation. STRESSES that, at the same time, artificial intelligence can entail a number of potential risks, such as biased and opaque decisions affecting citizens' well-being, data protection and/or physical safety and security, as well as misuse for criminal or malicious purposes.

12. HIGHLIGHTS the importance of ensuring full respect of fundamental EU values and citizens' rights and of robust safety and security requirements so that citizens will have the confidence to embrace AI-based solutions while encouraging businesses to develop them and innovate. SUPPORTS the Commission's approach to excellence and trust with the twin objective of promoting the uptake of artificial intelligence and addressing the risks associated with certain uses of this technology. WELCOMES the consultation on the policy proposals contained in the Commission's White Paper and CALLS upon the Commission to put forward a concrete proposal which follows a risk-based, proportionate and where necessary **and, where legislation gaps have been identified, a regulatory approach for artificial intelligence that boosts trust while stimulating innovation and use of the technology**. ENCOURAGES the Member States to continue to foster the development and use of artificial intelligence in Europe as part of the Coordinated Plan on Artificial Intelligence.



[Enabling technologies and digital value chains]

13. RECOGNISES the importance of supercomputing as an enabler for technological **progress and leadership** and a successful digital transformation, underpinning priority areas such as artificial intelligence, big data, Internet of Things, or cybersecurity.

14. SUPPORTS the continuation of the EuroHPC Joint Undertaking that aims to establish in Europe a world leading hyper-connected and federated HPC service and data infrastructure ecosystem.

15. RECOGNISES the importance of microelectronics as an essential underpinning technology for a successful digital transformation in many industrial sectors such as automotive, manufacturing, aeronautics, space, defence and security, and healthcare.

[Cybersecurity]

16. UNDERLINES the importance of cybersecurity as a key component to ensure trust in digital technology. RECOGNISES that increased connectivity exposes citizens, companies and governments to cyber threats that are increasing in number and sophistication. In this context, EMPHASISES the importance of safeguarding the security and resilience of electronic communications networks and services, as well as the need to ensure and implement a coordinated approach, such as the ongoing joint work based on the EU toolbox on 5G Cybersecurity. **UNDERLINES that cybersecurity is a shared responsibility of all players but built-in security by design and by default is a precondition for users' trust. ENCOURAGES voluntary public-private cooperation and collaboration.**

17. SUPPORTS the Commission's plans to ensure consistent rules for market operators and facilitate robust **information-exchange on cybersecurity matters among Member States**, including through a review of the Directive on security of network and information systems (NIS Directive), to allow for faster and more effective responses to cyber-attacks, targeting multiple countries with important spill-over effects, particularly involving critical infrastructures.

18. NOTES the Commission's plans for the creation of a joint Cybersecurity Unit, which could contribute to the pooling of national resources in order to fill the gaps resulting from uneven national capacities, encompassing civilian cyber resilience, law enforcement, judiciary and defence dimensions.

19. SUPPORTS the Commission in strengthening the single market for cybersecurity products, services and processes **in accordance with the Cybersecurity Act**. UNDERLINES the need for further development of **non-discriminatory** cybersecurity certification **schemes** of ICT products, services and processes **based on European or international standards** as a key feature for ensuring the safety and security of connected products put on the market.



[5/6G and connectivity]

20. AGREES WITH the Commission's assessment that achieving the EU's 2025 Gigabit connectivity objectives with secure fibre and 5G infrastructures requires boosting investments into networks capable of offering symmetric (i.e. upload and download) Gigabit speeds reaching all households, rural or urban, as a basis for the European data economy. CALLS on the Commission to put forward a package of regulatory measures to support such needs by the end of 2021, including a review of the Roaming Regulation, the Broadband Cost Reduction Directive and a new Radio Spectrum Policy Programme.

21. CALLS on Member States to ensure that investment conditions are in place including public funding programmes at European level, to award 5G spectrum frequencies by the end of 2020 under predictable and investment-conducive conditions, to ensure effective and transparent permitting for the roll-out of the infrastructure and implement on a timely and transparent basis the measures included in the 5G toolbox. These steps should set the right framework to enable operators and service providers to invest in the most advanced 5G network and service solutions and to incentivise European companies to start developing and building technology capacities in 6G. The roll out of new technologies such as 5/6G should preserve the abilities of law enforcement authorities and judiciary to effectively perform their functions.

[Sustainability]

22. RECOGNISES that digital infrastructures, technologies and applications are critical enablers for building a climate-neutral Europe.

23. EMPHASISES that smart digital solutions must be leveraged across sectors, in particular to improve energy efficiency, through smart grids and energy management systems; clean air and safer communities, via smart city solutions and automated driving; and to accelerate the transition to a circular economy by an improved use of resources through mapping, tracing, dematerialisation, recycling and waste management systems.

24. AGREES that the ICT sector itself should **continue to further** reduce its environmental footprint and carbon emissions. **ACKNOWLEDGES the role model of public and private digital frontrunners and ENCOURAGES them to share their lessons learned.** WELCOMES the Commission's intention to put forward measures to improve the energy efficiency and ensure **at least** climate neutrality of data centres and networks, and to promote the circularity of electronic devices by improving their longevity, reparability and recyclability, and by granting consumers a right to have them easily repaired and updated when it comes to software **for the period of time that the consumer would reasonably expect.** ENCOURAGES Member States to build the capacity for repair, disassembly and recycling of electronics and to integrate the new green public procurement criteria on data centres and cloud services in their public procurement national action plans.



[e-Health]

25. RECOGNISES that the digital transformation of the health and care sector and the development of a European Health Data Space will ensure better prevention, diagnosis, treatments and care, as well as cost-effectiveness and workflow optimisations, thus leading to improved health outcomes for patients and the longer-term sustainability of health systems.

26. CALLS ON the Member States to join forces in an EU-wide effort to invest in, and deploy, systems that provide secure and trusted access to health data, in accordance to privacy legislation and data protection authorities guidance, within and across borders, particularly by enabling the development of European electronic health record exchange format which will help overcome fragmentation and lack of interoperability while ensuring data protection.

[Digital Services Act]

27. WELCOMES the Commission's intention to work towards ambitious measures on digital services through the adoption of a Digital Services Act package. RECOGNIZES that the current framework has led to the growth of a wide variety of online services and business models in Europe, and has been foundational to the digitalization in Europe in general and the creation of new digital jobs in particular as well as was beneficial for free expression, media pluralism, educational opportunities, European creativity, culture, and the arts. At the same time recognizes that the existing regulatory framework for digital services needs to be thoroughly revised and updated in order to adequately address the current and future scope, technical aspects, legal and business dimensions of these services, which have greatly evolved since the e-commerce directive was introduced almost 20 years ago. In this context, STRONGLY EMPHASISES the need for clear and strongly harmonised rules and responsibilities and accountability for digital services; the need to enhance the capability and cooperation of national authorities, preserving and reinforcing the fundamental principles of the single market. STRESSES the need for effective, robust and harmonised action against illegal activities and content online, including the availability of illegal and dangerous goods, whilst ensuring the protection of fundamental rights in an open Internet. EXPRESSES CONCERN that online platforms benefit from data processing to an extent which may cause a distortion of competition. SUPPORTS rules that would enable all companies and especially new innovators to successfully enter the market and take advantage of data processing.

[Electronic identification, public administrations, standards and blockchain]

28. RECOGNISES that, in addition to being an essential enabler of the Digital Single Market, solutions to the management of digital identity will contribute to shaping the society of the future. CALLS upon the Commission to review the existing legislation, *inter alia* to create a reliable legal, technically neutral and privacy-preserving framework for digital identity, safeguarding the competitive edge of European businesses and protecting European values and fundamental rights.



29. RECOGNISES that the digital transformation of public administrations is an essential element of the Digital Single Market and a driving force for new and innovative technological solutions for public services and societal challenges. CALLS ON the Commission to propose a reinforced EU digital government policy to ensure coordination and support for the digital transformation of public administrations, including interoperability and common standards for secure and borderless public sector data flows and services.

30. RECOGNISES the importance of standardisation as a strategic tool to support European industrial and digital policies. WELCOMES the Commission's intention to develop a strategy for digital standardisation to ensure that the EU has the tools to set and promote European technology standards at a global level and ACKNOWLEDGES the need to take into account well established international standards and long standing industry practices.

31. RECOGNISES that the EU and Member States should fully embrace the opportunities that blockchain technology offers for the benefit of citizens, society and economy for, *inter alia*, sustainability, better functioning of public services, and traceability of products to ensure safety via trustful decentralised data exchanges and transactions.

32. SUPPORTS in this context the concrete actions put forward by the Commission in its blockchain strategy to reinforce European leadership in developing and deploying distributed ledger technologies including blockchain and their applications, exploiting the opportunities that they offer to citizens, businesses and other organisations.

[Skills and education]

33. NOTES that the EU faces a gap of 1 million digital specialists, which risks hampering its digital development potential. CALLS ON the Member States and the Commission to take measures to halve this current gap by 2025, including by increasing the participation of women, and attracting highly-skilled technology specialists from third countries, including Europeans who have migrated overseas. WELCOMES the revision of the coordinated action plan on AI to be developed with the Member States focusing on the skills necessary to work in artificial intelligence and CALLS on the Commission, the Member States and the private sector to put in place all necessary measures to upskill the workforce for the digital age. SUPPORTS the measures set out in the Digital Education Action Plan to boost literacy and competences at all levels of education and WELCOMES the Commission's intention to update the Digital Education Action Plan in 2020, as announced in the Communication on a Strong Social Europe for just transitions.

34. ENCOURAGES the cooperation between the Commission and the Member States but also with the private sector in implementing the New Skills Agenda for Europe, notably its commitment to set out a pathway showing how EU and Member State actions can increase the proportion of the EU population

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with basic digital skills, from the current 57% to 65% by 2025 and WELCOMES the Commission's intention to update the Skills Agenda in 2020 as announced in the Communication on Strong Social Europe for just transitions.

[Digital Taxation]

35. UNDERLINES the need to adapt our taxation systems to the digital era, while ensuring fair and effective taxation **based on OECD standards and reformed in a multilateral way towards an international, consensus-based approach**, in line with European Council conclusions of 28 June 2018 and 22 March 2019.

[Conclusion]

36. EMPHASISES the need to monitor progress towards the implementation of the actions announced in the 19 February 2020 Digital Package, particularly through the Digital Economy and Society Index, including its international dimension. CALLS UPON the Council, the Member States, the European Parliament and social partners to give it their full support. INVITES the Commission to inform the Council periodically about the progress achieved with regard to the implementation of the measures announced in the Digital Package.

Polish Confederation Lewiatan, KL/177/114/AM/2020

member of  BUSINESSEUROPE



Konfederacja Lewiatan
ul. Zbyszka Cybulskiego 3
00-727 Warszawa

tel.(+48) 22 55 99 900
fax (+48) 22 55 99 910
lewiatan@konfederacjalewiatan.pl
www.konfederacjalewiatan.pl

NIP 5262353400
KRS 0000053779
Sąd Rejonowy dla
m.st. Warszawy w Warszawie
XIII Wydział Gospodarczy KRS

