

Norway's preliminary views on  
**the Digital Single Market**

February 2015

We have noted with interest that the Commission has identified the Digital Single Market (DSM) as one of its top priorities. The Norwegian government is a strong believer in using ICT as a driver for innovation, growth and modernisation of the public sector. We therefore welcome the Commission's efforts to develop a functioning Digital Single Market in Europe.

Norway has a clear ambition of participating actively in relevant EU policy work and EU initiatives within the framework of the EEA-agreement. We believe that cross-border collaboration in the ICT-area is of particular importance, and would like to contribute to the ongoing process of establishing and following up the upcoming EU *Digital Single Market Strategy*.

## Our main points

- **Digital Innovation:** We welcome the Commission's strong focus on the digital economy and would like to emphasise the need for the DSM-strategy to facilitate digital innovation across the EU/EEA-area. Removing legal and practical barriers to cross-border digital service provision should be a central measure to achieve that goal. We would also recommend that the Commission study the impact of Internet platform providers on digital innovation in Europe.
- **CEF Digital:** The digital single market will depend on a robust digital infrastructure - that is, broadband with sufficient capacity and stable and ubiquitous generic services. Connecting Europe Facility Digital seems to be an adequate instrument for establishing such cross border electronic infrastructure in Europe. We have joined this initiative. We expect that realizing the goals of CEF Digital will be considered an integral part of the coming DSM-strategy.
- **Consumer concerns:** Consumers are still facing important challenges that will need to be addressed, such as universal access to electronic communication services and challenges related to terms and conditions of digital services.
- **Content production:** In order to secure future financing of European content, it is necessary to explore new business models for distribution and production of video-based content.
- **Media regulations:** The country of origin principle in the AVMS-directive raises several challenges that will need to be addressed.
- **Copyright:** Norway would like to recommend the further development of Extended Collective Licensing systems (currently used in the Nordic countries) on the European level.
- **Review of the eCompackage:** Electronic communications is an essential building block of the Digital Single Market. When reviewing the regulatory framework it is important to secure a forward looking regulation that is sufficiently flexible, with regard to the technological development and variations in the take-up of new services. Furthermore, Norway is of the opinion that it is time to **address communication network robustness** more comprehensively on a European level, and we are more than happy to contribute in such a process.
- **BEREC:** Having in mind BEREC's role as a provider for premises and as a driver for harmonisation, as well as its growing importance for the development of the eCom market, the EEA EFTA States believe that the NRAs from the EEA EFTA States will constitute a relevant contribution to BEREC inter alia with their experience in regulating emerging markets with a significant take up of electronic communications services. Norway and the other EEA EFTA States are therefore of the opinion that BEREC should be open to the participation, based on the standard provisions on participation contained in a number of EU acts, of states which have concluded agreements with the European Union by virtue of which they have adopted and applied Union legislation.

## Our further views on the Digital Single Market

### Digital Innovation

We welcome the Commission's strong focus on the digital economy and would like to emphasise the need for the DSM-strategy to facilitate digital innovation by contributing to removing barriers to service provision across the EU/EEA-area. In order to achieve this, we must work systematically to map and remove hindrances for providing digital services while the regulatory framework must be technology neutral and simultaneously balance consumer and business interests. Furthermore, in order to facilitate digital innovation and cross-border data flows, an open and accessible Internet is a necessary prerequisite.

### Digital Single Market – Addressing key consumer concerns

With consumer expenditure representing 56% of EU GDP, a well-designed and well-implemented consumer policy is an important part of the EU's policies. We believe that consumers are still facing important challenges that the Commission's Digital Single Market (DSM) package needs to address.

Firstly, it needs to address challenges of *availability and access*. The lack of access to the internet is still a significant consumer concern across Europe. We should strive for access to electronic communication services (TV, mobile and internet) of good quality to all consumers in Europe. To do this, it is amongst other things important to stimulate *competition* between internet providers, secure *net neutrality* and make sure that consumers have the opportunity to choose between providers.

The benefits from online services should be available for all groups – also elderly and disabled people. It is still a consumer concern in Europe that web pages and other services are not accessible for all. Thus, it is important to maintain and develop standards for *universal design* in information technology. We support the work on the directive on accessibility.

Secondly, the package should address “lock-in” mechanisms that limit the consumers' choice of products and services. These mechanisms prevent the consumer from changing service when the consumer has found a better alternative, and they can be based on both contract terms and technology. For example, lack of interoperability in new technologies can make it difficult or costly for the consumer to switch provider. It is important to work against these kinds of mechanisms.

Thirdly, the package should address challenges related to *terms and conditions online*. Consumers have to deal with an increasing amount of complex and unavailable terms and conditions. Commonly, the consumer must accept all terms and conditions to be able to use the service. It is important that service providers make their key conditions understandable and easily available to consumers. We also believe it is important that consumer organizations and enforcers play a part, by evaluating important elements of contracts, and by having a dialogue with business and industry.

Fourthly, the package should address challenges to the *consumers' confidence online*. Hidden advertising, and commercial interests involved in seemingly peer-to-peer communication and transactions are some of the challenges to consumer confidence. Measures to increase transparency, authenticity and trust in user-generated content should be taken.

*Commercial collection and use of personal data* is another challenge to consumer confidence. Many corporations and businesses collect huge amounts of information about consumer behavior on a very detailed level – often without the consumers' knowledge. Many consumers are concerned about how business handles their personal information online. It is important to create awareness about this trend amongst consumers, and to work for satisfactory practices from the industry.

## Cross-border government digital services for enterprises

*Businesses, as well as citizens, need to interact with public services. The advancement and adaptation* of digital public services is an important priority in the Norwegian Government's policy.

Altinn has proved to be an effective instrument to ensure that Norway is a front runner in simplifying and digitizing public services for businesses. Altinn is the Norwegian authorities' joint infrastructure for developing digital services to businesses and citizens. The unique service platform allows for different government agencies to collaborate on providing holistic digital processes across sectors. Altinn's technology makes it possible for the public to access information and digital services from any website or by customized apps on all major mobile platforms. Authentication of users is provided through interaction with the common log in solution to public services, ID-porten. Altinn.no is also an internet portal and Norway's Point of Single Contact for businesses in accordance to the Services Directive, in which entrepreneurs may find public information on doing business in Norway.

When it comes to cross border contact with public services, it is our view that *establishing common solutions for electronic identification* is the most important contribution to facilitating more digital cross border contact between businesses/citizens and the public services.

## Competence and skills

Digital competence is an important prerequisite for achieving the goals for a DSM-strategy. By that we mean both the digital literacy in the population and more advanced ICT-skills necessary in the workforce, both in the private and in the public sector. We think it is important to focus on *skills and tools* to enable and empower the consumer online. It is also important to enable citizens to use digital government services and to protect themselves (and other users of the internet) from cybercrime.

Lack of advanced ICT-skills is an issue which we identified as one of main concerns for the Norwegian Digital Agenda. In order to realize the productivity potential of the digital single market, i.e., substitute previous modes of production for other more productive for the wider society, the skills and infrastructure required to develop these solutions are required.

Norwegian studies on long term trends in the labour market concur with OECD and EU studies in underlining a probable shortage in Europe of personnel with advanced level ICT-skills. This shortage might jeopardize the aim to realize productivity benefits. Consequently, it is desirable that the anticipated long time need for these skills is communicated efficiently and consistently by the EU-commission to institutions in education and research, and not least to Europe's young to make decisions about their professional career.

## New business models for film production

The business models for the European film industry are facing huge challenges. DVD sales has passed its peak and is rapidly declining, as the consumers move their purchases from the physical world to the digital. The revenues from DVD sales have played an important role in the financing of new content production. As the revenues from the VOD market do not by far compensate for the revenues lost because of a declining DVD market, the financing of new content production is challenged. To secure future financing of European content, it is therefore essential to look into new business models for film production.

## AVMS-directive

Norway would like to highlight several challenges regarding the country of origin principle in the AVMS-directive. In our opinion the EEA-states' freedom to introduce more detailed or stricter rules according to the directive is severely undermined by TV-channels outside the states' national jurisdiction that broadcast services directed towards their territories and populations. This creates market distortion between players that in reality compete in the same national media market. If the individual EEA-states' freedom to employ measures according to the procedures in the AVMS-directive are enforced too strictly, it may undermine national policies on issues of general public interest such as health politics, regulation of gambling and other areas in which some EEA-states wish to pursue a more proactive policy.

## Copyright – Extended Collective Licensing

Norway would like to highlight the system of Extended Collective Licensing (ECL) currently used in the Nordic countries. In all the Nordic countries the basic approach is the same: the Extended Collective Licensing is based on collective rights management and is designed to handle mass use.

The licenses are freely negotiated between collective societies and the users of the works, making it a flexible system that can quickly take into account new uses within the limit of the law. It is of particular importance where rights clearance of a multitude of works are required and would be cumbersome for the user, such as in the field of education and for libraries. It is a system that has served both right holders and users well in the Nordic countries for over 30 years.

Through provisions in the Nordic copyright laws, the negotiated agreement is given an extended effect in the sense that the agreement applies to right holders that are not members of the contracting right holder organisation. An Extended Collective Licensing Agreement

provides the user with legal certainty for avoiding copyright infringements. The collective society is then responsible for distributing the revenue following the licensing. Non-members of the collective society have the same right to remuneration as the members and they can also choose to opt-out of the agreement.

Norway would like to recommend the further development of Extended Collective Licensing systems on the European level.

## Review of the eCompackage

Norway supports the EUs objectives of creating an internal market for electronic communications and recognises the importance of a well-functioning market as a driver for economic growth and prosperity in Europe. Norway notices with interest that the Commission is planning a full review of the framework for electronic communications, starting this year. Norway supports the review and the need to update the regulatory framework, taking into account both technical and market development. A sound and future-oriented regulatory framework for electronic communications is an underlying prerequisite for the development of a Digital Single Market in Europe. When reviewing the regulatory framework it is important to secure a revised regulation that is sufficiently flexible, having regard to the technological development and that the take up of new services is quicker in some parts of the community than in other parts.

Also to ensure modern, robust and trustworthy electronic communications networks to everyone should be a priority for Europe, as increasing digitalisation relies more and more on electronic communications networks, also across borders. The public expects networks and services to be fully functioning at all times. The consequences for society when outages occurs, will be more serious as we become more digitized. Handling of network flexibility and robustness is currently left up to the member states. However, network operators increasingly operate across borders. Today network vulnerabilities in one European country may cause disruptions in the communication services in another country. It might be time to address network robustness more comprehensively on a European level, although such legislation should be flexible and reflect demographic and geographic differences.

## BEREC

The overall objective of establishing BEREC is to ensure a consistent regulatory practice and application of the EU regulatory framework, thereby contributing to the development of the internal market for electronic communications networks and services. In order to achieve a harmonised single market for electronic communications across the entire EEA, the national regulatory authorities (NRA) in the three EEA EFTA states should participate as closely as possible in the work of BEREC and take part in the harmonisations of the electronic communications market which takes place through the work of BEREC.

The status as observer which the EEA EFTA States have formally been granted in the BEREC-regulation article 4(3) has effectively hindered the EEA EFTA States from securing a consistent implementation and application of the regulatory framework within the EEA EFTA States. As it

has proven difficult during the last years to find a solution that both respect the provisions of article 4(3) of the BEREC regulation, as well as the EEA EFTA States' need for an adequate participation in BEREC, the amended framework from 2009 have not been incorporated in the EEA agreement.

Having in mind BEREC's role as a provider for premises and as a driver for harmonisation, as well as its growing importance for the development of the eCom market, the EEA EFTA States believe that the NRAs from the EEA EFTA States have an important role to play in BEREC inter alia with its experience from regulating emerging markets with a great take up of electronic communications services.

In order to address the issue of EEA EFTA States participation in BEREC, we would like to invite the Commission to propose an amendment of article 4 (3) of the BEREC regulation, based on the standard provisions on participation contained in a number of EU acts, in the announced review of the regulatory framework for electronic communications. An amendment of the article in question would ensure a harmonized single market for electronic communications and equal rights for all European providers operating within the EEA EFTA States, and consequently be of benefit for the European economy as a whole.