

**DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INNOVATION  
COMMITTEE ON CONSUMER POLICY**

**ROLE OF THE CCP IN THE MINISTERIAL ON THE DIGITAL ECONOMY**

**20-22 April 2015**

*Building on discussions at the CCP's October 2014 meeting, this document provides an update on preparations for the OECD CDEP-organised ministerial meeting on the digital economy, to be held on 22-23 June 2016 in Cancun, Mexico.*

*It outlines possible CCP contributions for the event, for delegate consideration and discussion. Such contributions include the organisation, by the CCP, of a session on consumer trust and market growth, as well as possible input to the plenary and panel session on the Internet of Things.*

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## SUMMARY AND ACTION POINTS

At its 88<sup>th</sup> session in October 2014, the Committee had an exchange of views on the contributions that it could make to the OECD CDEP-led Ministerial meeting on the digital economy, which will be held in Cancun, Mexico, on 22-23 June 2016. Noting that the Ministerial would be an excellent opportunity to showcase the revised 1999 E-commerce Recommendation, the Committee discussed possible deliverables, panels and publications [DSTI/CP/M(2014)2].

At its 89<sup>th</sup> session, the Committee will be invited to further progress the planning, taking account of the recent discussions by the Committee on Digital Economy Policy (CDEP), and the Steering Group, which has been formed to help oversee the organisation of the Ministerial.

The Committee will, in particular, be asked to:

- Discuss and agree on proposed topics for a panel session it is to organise on “Consumer Trust for Market Growth”, with consideration as to:
  - Which policy issues would be suitably important and high-profile to address so as to attract the interest of Ministers and other high-level participants?
  - What mandate would the Committee like to receive from the Ministerial for future work on the digital economy?
- Determine whether to develop any other documents to support the panel session discussion, in addition to a short issues paper to be prepared for the consumer panel session.
- Agree whether to contribute to other sessions of the Ministerial, and if so how.

## **ROLE OF THE CCP IN THE MINISTERIAL ON THE DIGITAL ECONOMY**

### **I. Overview of the Ministerial Preparations**

1. On 22-23 June 2016, the OECD will hold a Ministerial meeting on “The Digital Economy: Innovation, Growth, and Social Prosperity” in Cancun, Mexico. The event will be organised by the Committee on Digital Economy Policy (CDEP), in collaboration with a number of other committees, including the Committee on Consumer Policy (CCP).

#### ***Ministerial theme***

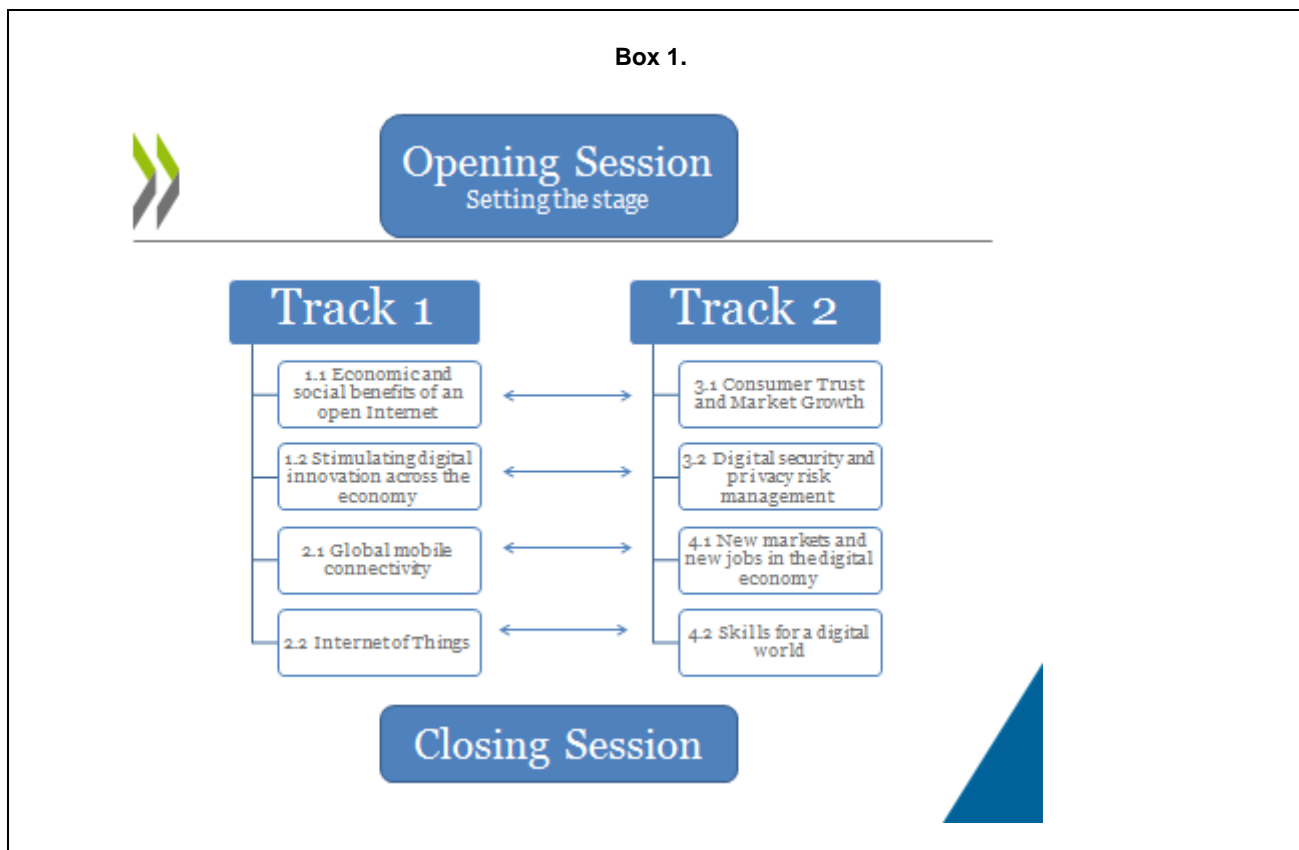
2. The current overall theme of the Ministerial is maximising the benefits of the digital economy for growth and well-being. It will aim to bring the growth and innovation potential of the digital economy and the Internet to the forefront of policy discussion, including the conditions for job creation, well-being and inclusiveness.

#### ***Structure of the Ministerial***

3. The Ministerial will cover 1.5 days preceded by a day of stakeholder forums. This will give Ministers the opportunity to discuss selected issues on their Ministerial agenda with representatives from BIAC, TUAC, CSISAC (including Consumers International), ITAC and other relevant NGOs as well as academics and other key players from international organisations.

4. The meeting will start with a welcoming ceremony, followed by an opening plenary session to set the stage for the whole meeting. The opening plenary session would include high level representation and heads of government setting out the main policy issues to be discussed and the objectives of the Ministerial. The chairs of the stakeholders forums would report on the outcomes of their respective meetings.

5. Following the opening, the Ministerial will be organised around four main topics, each supported by two panel sessions [Box 1]. The eight panel sessions will be organised along two concurrent tracks. Ministers would then participate in a working lunch and be presented with the possibility to approve the outputs from the meeting and discuss topics of current concern. The outputs could include a Ministerial declaration that might endorse work that the OECD carried out to support the development of the digital economy and provide direction for future work. The meeting would end with closing remarks back in the plenary session.



### ***Steering group***

6. Planning for the Ministerial is being overseen by a steering group of government delegates, as well as non-governmental representatives from the BIAC, TUAC, CSISAC, ITAC and TUAC. The CCP's steering group members are its Chair, Nathalie Homobono, and Vice-Chair, Hugh Stevenson.

## **II. Role of the CCP**

7. In addition to taking part in the steering group, the Committee is invited to contribute to the Ministerial by: (a) organising a panel session on Consumer Trust and Market Growth, (b) providing supporting policy documents and reports for that session, (c) providing input into other sessions where consumer issues could or should be addressed, and (d) contributing to the development of the Ministerial declaration.

8. CCP Delegates will also need to be considering how to engage and encourage Ministers and senior officials from their governments to take part in the Ministerial. Consideration will likewise be needed as to participation by non-members and non-government stakeholders on the consumer policy aspects to be covered.

### ***Organisation of the CCP panel: 3.1 Consumer Trust and Market Growth***

9. Primary responsibility for the organisation of the sessions under the trust theme falls to the CCP and the CDEP Working Party on Security and Privacy in the Digital Economy (SPDE). The CCP is to

organise a session (3.1) focused on “Consumer Trust for Market Growth”, while the SPDE is to organise a session (3.2) on digital security and privacy risk management.

10. The CCP now needs to refine the topics to be covered in its session. In considering how to do so, delegates may want to choose topics that are politically compelling so as to attract the interest of Ministers and other high level officials. It should also aim to both highlight recent work and be forward looking so as to help provide a roadmap for future work.

11. Since 2009, the CCP has been reviewing the effectiveness of the principles in the OECD’s 1999 e-commerce Recommendation. In this context, the Committee developed analytic reports and policy guidance addressing consumer trends and challenges in 1) mobile and online payments, 2) digital content products, and it is finalising a report on participative (social) e-commerce. This work linked to work in the CDEP on apps, e-books, e-commerce, privacy, big data and telecoms.

12. The expected completion of the revised ecommerce Recommendation by the end of 2015 offers a core around which to build the session. It is proposed that the overall objective of the session should be to discuss ways to foster consumer trust for market growth by promoting the revised OECD E-commerce Recommendation and the steps to be taken to implement it, at both domestic and cross-border levels.

13. In addition, the Committee might consider identifying a sub-theme. During discussions with the CCP and by the Ministerial Steering Group, two possible topics have been identified:

- Addressing barriers to cross-border e-commerce.
- Protecting consumers in the context of the sharing economy.

Short descriptions of possible issues to be addressed under these headings are attached as Annex A and Annex B.

14. It should be noted that as the Committee has not worked extensively on either of the above issues, new work would have to be done on these issue areas before the Committee’s October meeting. Given the limited time and resources available for such work, the Committee will likely not be able to develop supporting work for both topics.

### ***Deliverables and supporting documentation***

15. The Committee has agreed that the revised E-commerce Council Recommendation should be completed by the end of 2015, in time for the Ministerial. The revised instrument should be considered as the key CCP deliverable for the event. In packaging the revised Recommendation for publication, the Committee may want to consider adding other reports that have fed the review of the instrument.

16. In support of the panel on consumer trust issues, the Committee will need to prepare a brief issues paper (2 to 3 pages) as part of the formal Ministerial documentation.

17. Once the Committee has decided on what sub-theme it prefers to focus, a report identifying relevant issues and policies to support the discussion will be prepared.

18. One other project already underway that may also support the session is work being developed by the Working Party on Consumer Product Safety on enhancing online product safety.

***Input to other sessions and the Ministerial Declaration***

19. The CCP steering group members will be in good position to identify any opportunities for consumer issues to be addressed in other Ministerial sessions. As a starting place, efforts will be needed to ensure that the themes covered in the other session on trust – 3.2 Digital Security and Privacy Risk management – are complementary to those addressed in the CCP session. Other sessions where CCP could consider providing input include, for example, the opening plenary and in particular panel session 2.2 on the Internet of Things.

20. After work begins to prepare the Ministerial Declaration, the CCP steering group members should also be able to support the inclusion of key consumer points, in consultation with the CCP.

**III. Key Milestones and Next steps**

21. The key dates and next steps are noted below. One possibility is that the CCP will want to advance the date of its first meeting in 2016 from 11-13 April to 29 February-3 March, so as to be able to join CDEP delegates when they finalise the Ministerial preparations and documentation. The Committee can take a decision on that possibility at its October 2015 meeting, but delegates may want to consider the desirability of such a move in advance.

- **20-22 April 2015:** CCP meeting – decisions sought on how to focus the consumer panel session and what supporting work to conduct.
- **22-26 June 2015:** CDEP week – preliminary drafts of issues papers and the Ministerial declaration will be discussed.
- **19-21 October 2015:** CCP meeting – completion of supporting work and input to the draft Ministerial declaration.
- **30 November – 4 December 2015:** CDEP week – documents, including the draft Ministerial declaration, should be close to finalisation.
- **29 Feb - 3 March 2016:** Ad-hoc session of CDEP to finalise the Ministerial declaration and session documentation. The April 2016 CCP meeting could be advanced to these dates to enable CCP delegates to participate in finalising the Ministerial documentation.
- **11-13 April 2016:** CCP meetings (if the meeting is not advanced to February).
- **22-23 June 2016:** Ministerial meeting in Cancun, Mexico.

## ANNEX A

**Addressing barriers to cross-border e-commerce<sup>1</sup>**

22. While the overall growth of the digital economy has been impressive, increases in cross-border business-to-consumer e-commerce have been less so. According to the EC, only 15% of EU consumers currently shop online across borders, as compared to 47% shopping online domestically. EU cross-border online services represent only 4% of the current digital market. EC figures suggest that only 7% of SMEs currently sell cross-border, and that these small businesses face around EUR 9,000 in extra costs if they want to sell abroad in adapting to national laws.

23. Globally comparable metrics are difficult to find, but suggest that the situation may not be uniform. Japanese consumers do 18% of their online transacting across borders, but more than half of such transactions were cross-border in India and Singapore. Some 60% of Canadian online shoppers report buying from the United States. UNCTAD reports that in some developing countries cross-border e-commerce is actually quite developed, citing Colombia, Paraguay and Venezuela as examples.

24. One of the key objectives for governments in coming together to develop a common policy framework for consumer protection in e-commerce was to foster the opportunities of cross-border e-commerce. If those opportunities remain under-realised, policy makers may want to better understand the remaining barriers and identify policy approaches to help address them.

25. Available evidence suggests that some of the barriers are not only in the area of consumer protection. For example, variable taxation rates make it complex for merchants to operate globally as do differences in the legal characterisation of products as goods or services. For example, a recent decision by the Court of Justice of the European Union held that e-books are to be regarded as services and therefore subject to a 20% VAT in France and not to the 5.5% VAT applied to physical books. Cross-border delivery remains slow, costly and unreliable. Dealing with customs procedures can be cumbersome and costly. Language and culture present another set of issues. A 2014 survey indicated reluctance by Western merchants to tackle the emerging markets in the East, suggesting a preference for markets with a common language and culture.

26. Other barriers are fit more closely within the realm of consumer policy. Businesses report concerns related to the difficulty of finding information about the consumer protection laws and regulations that apply in foreign markets. Differences in consumer rights to cancel or withdraw from a transaction, as well as information disclosure requirements make it difficult for e-commerce businesses to sell in a large number of markets. Given the complexity of resolving choice of law and jurisdiction issues, consumers may likewise be unsure of what protections they have in dealing with a foreign merchant and what avenues they may be able to pursue if something goes wrong with their transaction.

27. If the Committee were to choose cross-border e-commerce as a Ministerial sub-theme, it would need do more work to determine to what extent the issues noted above truly represent significant barriers, as well as to assess and identify promising policy approaches that Ministers could discuss. As is noted above, several possible obstacles lie outside the purview of consumer protection and would require consultation with other policy communities and experts, prior but also after the Ministerial, if the Declaration would instruct the OECD to pursue work on facilitating trans-border e-commerce.

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<sup>1</sup> A table identifying 19 possible issues, mapped against existing CCP work, as well as with indications as to possible Ministerial relevance, was attached as an Annex to [DSTI/CP\(2014\)6](#).

## ANNEX B

### Protecting Consumers in the Sharing Economy<sup>2</sup>

28. The “sharing economy” is considered to include the sharing or granting of temporary access to under-used physical assets for compensation of some kind. Related terms include the “peer economy” or “collaborative consumption”. Although the sharing economy is not new, the Internet has greatly facilitated growth in this peer-to-peer business model, providing an efficient means to organise and match potential individual providers with individual consumers.

29. The emergence of new Internet or mobile platforms to facilitate such exchanges has already been significant. One example is sharing economy platforms that offer short-term rental of space, mostly of homes. The speed and scale at which platforms like Airbnb have made commercial home sharing a common practice is unprecedented. Airbnb is used by 425 000 people on any given night to find accommodation and is valued at USD 13 billion.

30. A second main area is urban mobility. Using real-time geo-locational data accessed through mobile apps, shared mobility options range from the rental of private cars (Zipcar), rides (Uber, Lyft, blablacar) and parking spaces (justpark) to the rental of station-based cars (Autolib’) and bikes (Velib’). Uber’s valuation is currently in excess of USD 40 billion, making it one of the 150 biggest companies in the world with services available in 200 cities in 53 countries.

31. The sharing economy can bring important benefits, stimulating sustainable consumption, making efficient use of finite resources. It also brings new economic opportunities, both to individuals doing the sharing and the platforms connecting them to consumers. But as these online marketplaces proliferate, regulatory challenges are emerging. It can be difficult to adapt unorthodox businesses models to existing regulatory frameworks for taxation, licensing, and insurance.

32. Adapting consumer protection frameworks may be no less challenging. Two key issues arise:

- What level of responsibility should be borne by the business intermediaries – the Internet platforms – in peer-to-peer transactions? In some cases, the platform involvement is minimal, with little influence on the content of the offers, much less the quality of the underlying good or service. But when the platform takes a more active role, policy makers may look to the platform to accept greater responsibilities to redress problems that arise.
- When is the extent of an individual’s sharing activity significant enough to treat the individual as a “business”? This is important not just for issues of taxation and licensing, but also for determining whether the individual doing the sharing must respect part of all of consumer protection rules.

33. If the CCP were to pursue issues related to the sharing economy as a Ministerial sub-theme, in, it might also examine the reputation-related initiatives needed to establish trust among peers (e.g. ratings), that may have implications for how we understand trust in more traditional forms of e-commerce.

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<sup>2</sup> The Committee’s work on participative e-commerce [DSTI/CP(2013)6/REV4] covers elements of the sharing economy, which could be expanded if the topic is chosen for the Ministerial. The CDEP has examined aspects of “collective consumption” in the Digital Economy Outlook (2015)(forthcoming). [DSTI/ICCP\(2014\)15/CHAP3](#).