Open Source, Interoperability and the Digital Markets Act

New European regulation proposals to open up the dominant platforms

Vittorio Bertola – FOSDEM 2021

Who am I

Internet engineer since 1995

Free software activist

All you need is Perl

Long ago, came up with ICANN's At Large and the U.N. IGF
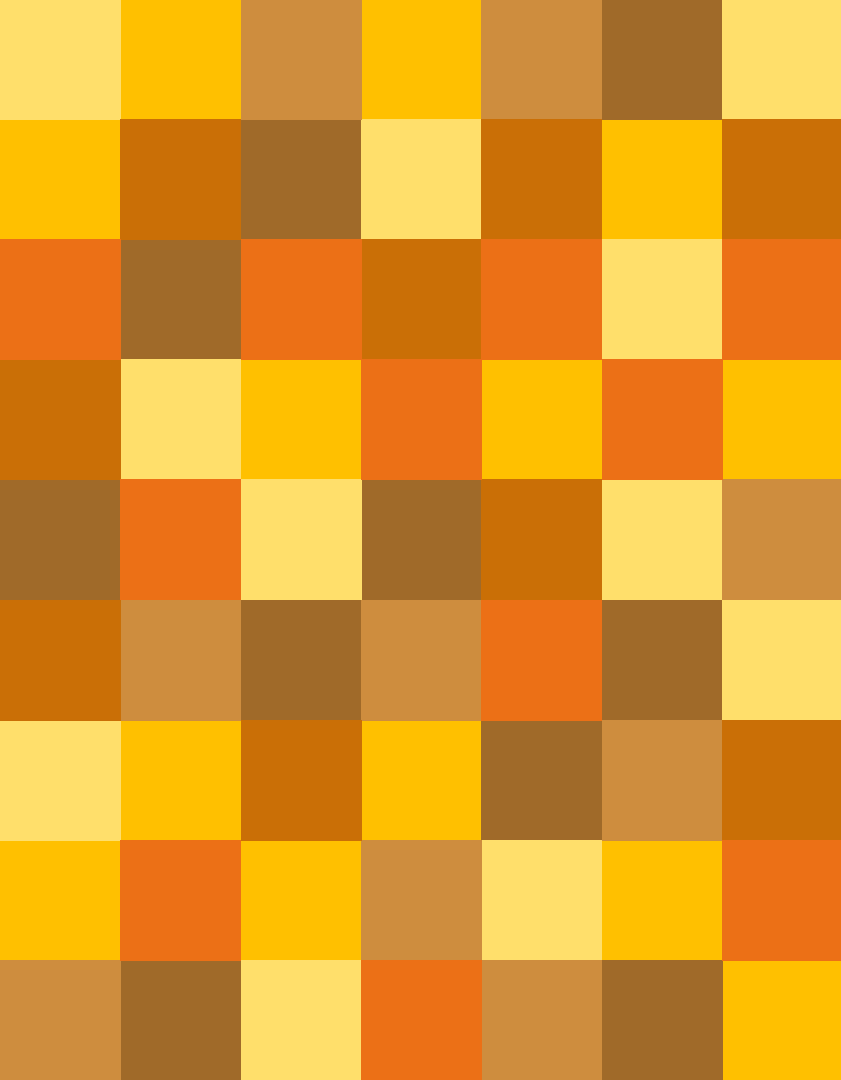
Involved in Internet governance since ages

Currently head of policy at **Open-Xchange**
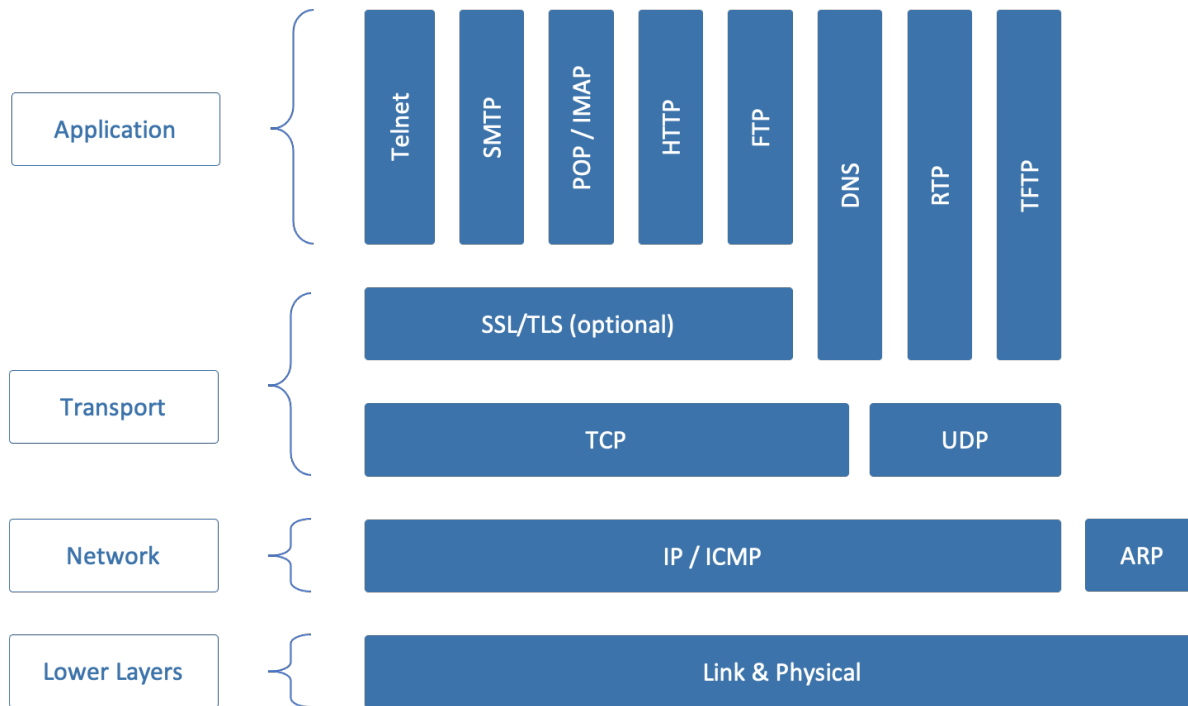

German open source software company

Maker of

1.

Welcome to the Hotel California

The Internet!

Federated services: Email

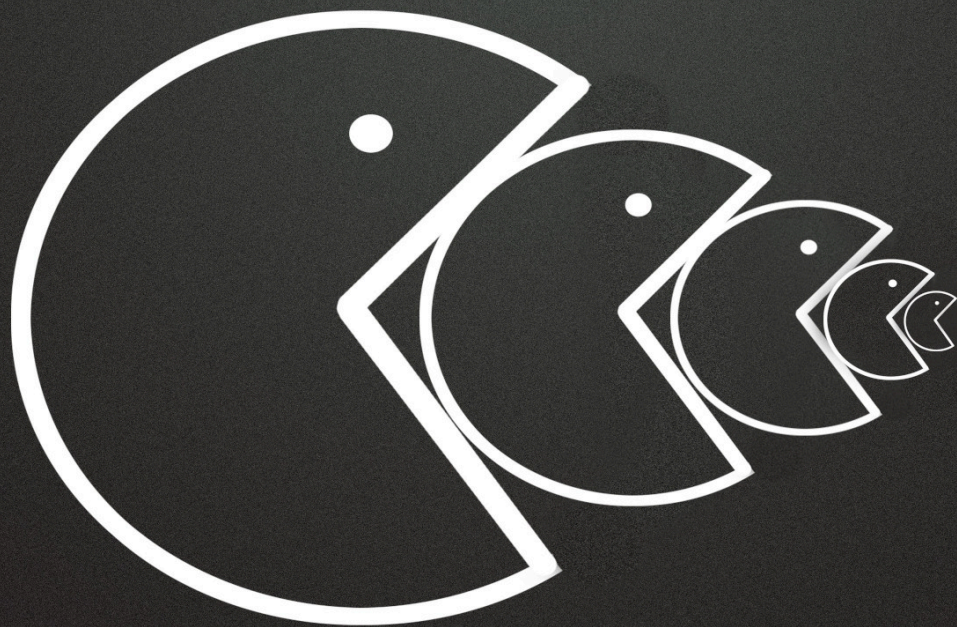All email services are compatible and interoperable

Any email address can write to any other email address from any provider

Anyone can offer email services

All standards are open and public

There are many free software implementations

Social
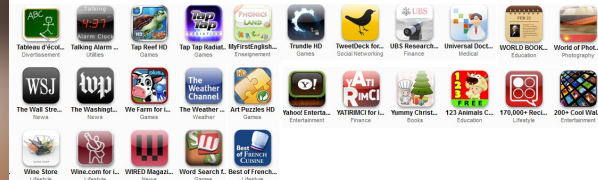
US$34.6 billion
Growth: 31.4%

Others 37%
Alibaba Cloud 5%
Google Cloud 6%
Microsoft Azure 20%
AWS 31%
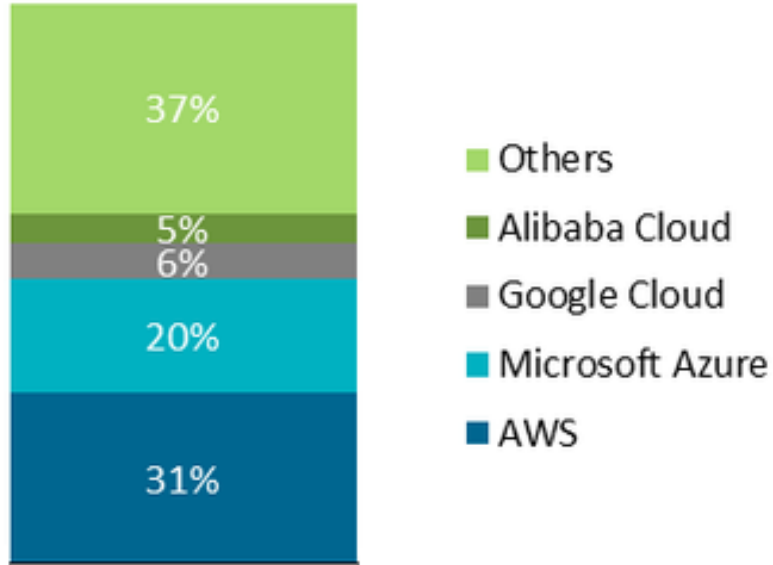
Q2 2020

Source: Canalys estimates, July 2020

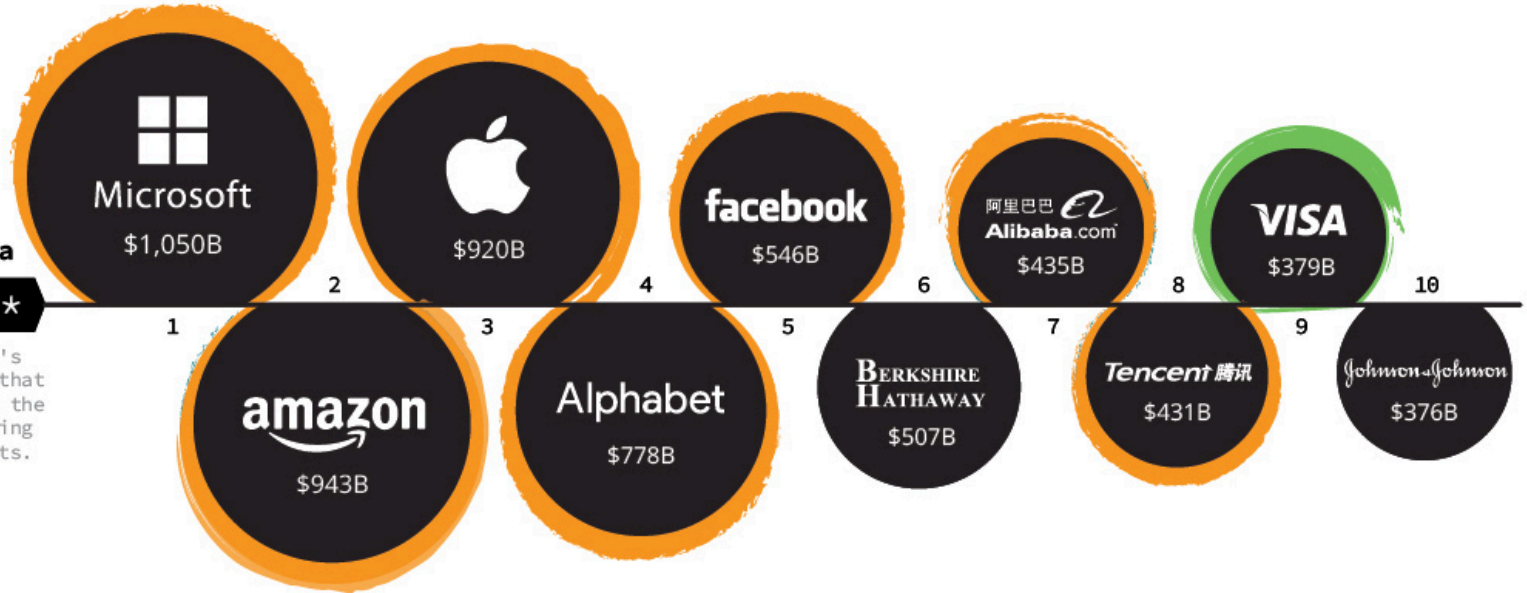There is no cloud
it's just someone else's computer

Big Tech Era

2019*

Today, it's Big Tech that dominates the list, taking seven spots.

1. Microsoft — $1,050B
2. Amazon — $943B
3. Apple — $920B
4. Alphabet — $778B
5. Facebook — $546B
6. Berkshire Hathaway — $507B
7. 阿里巴巴 Alibaba.com — $435B
8. Tencent 腾讯 — $431B
9. VISA — $379B
10. Johnson & Johnson — $376B

Source: Visualcapitalist.com

$1,610B

$2,204B

$700B

Yes, that's over **two trillion dollars**! That's **bigger than any EU country's GDP** except for France and Germany.

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amazon $943B

Alphabet $778B

BERKSHIRE HATHAWAY $507B

Tencent 腾讯 $431B

Johnson&Johnson $376B

$1,569B

$1,174B

Market cap on 14 Jan 2021

715 M€

?

Google Ireland Ltd.

Google International LLC (U.S.A.)

104.5 M€

Google Italy S.r.l.

4.7 M€

Tax/revenue rate: 0.6%

2.3 M€

Google's Italian advertising revenues in 2018
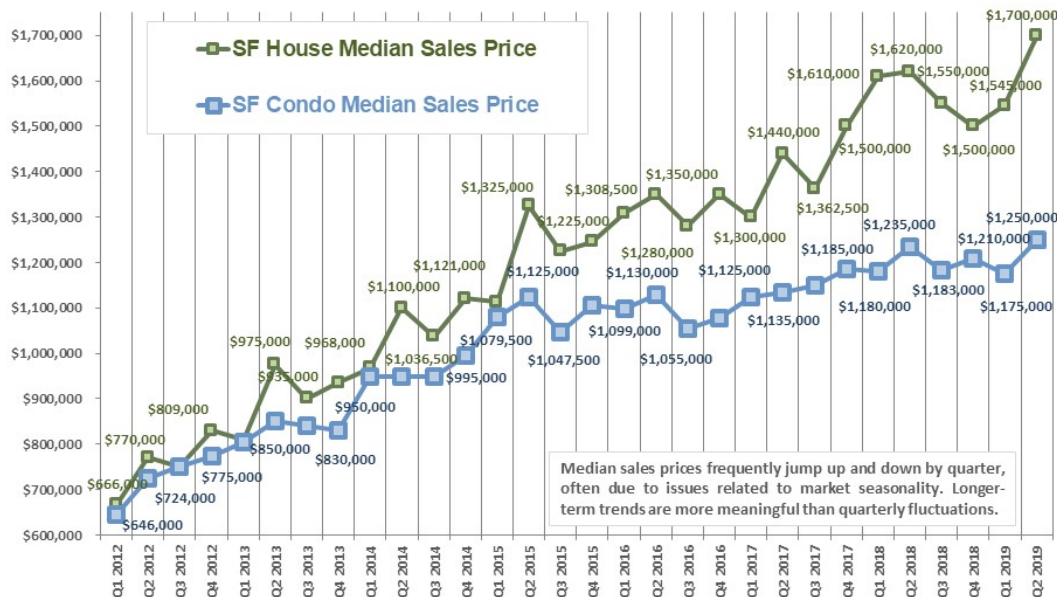(Sources: AGCOM, balance sheets – Credits: Altreconomia)

Median house price in San Francisco = +155% in 7 years (2012–2019)

San Francisco Home Price Appreciation

Median House & Condo Sales Prices, 2012 – Present, by Quarter
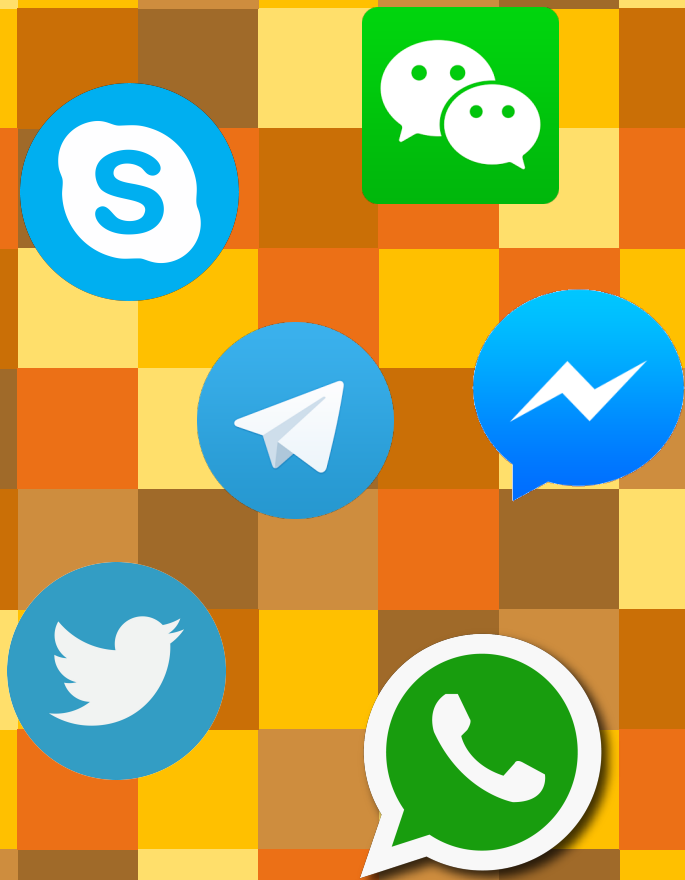
Sales reported to MLS by 7/3/19.

1. Platform
2. Silo
3. Lock-In
4. Trojan Horse
5. Control
6. One-stop
7. Over-the-top
8. Closed

Monopoly Records

Hotel California

Siloed services: Instant messaging

Each IM service is a walled garden

You cannot communicate with users of other IM services – you need an account on each service

If you move, you lose your contacts and history – you are locked in

Only a few IM services can exist – you cannot compete or run yours

Either standards are closed, or deployments are closed

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«Surveillance capitalism» is the main business model

Even non-personal, aggregated information is the key to success

- Best product placement and pricing
- Estimation of credit risk
- Optimization of cloud infrastructure
- Aggregated mobility patterns
- Traffic information from every phone

Advertising
Google Properties
70.4% $96.3B

Google ▶ YouTube
Google Maps

$55.0B **98.5%**
facebook Ads

NEWS

Wikileaks: NSA spied on UN Secretary General, Merkel

Wikileaks has released new documents alleging the NSA intercepted communications between Ban-Ki Moon and Merkel. The secret releases also include allegations of spying on Israeli, Italian and French leaders.

© Reuters/F. Bensch

Source: Deutsche Welle

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The Internet of other people's things

We are filling our homes with devices that send back encrypted data all the time

We have no control over what they send

Even if there are laws to protect us, it is increasingly impossible to enforce them

How Google and Apple outflanked governments in the race to build coronavirus apps

Tech giants played hardball in forcing policymakers to fall in line with their approach to building digital tracking tools.

By **MARK SCOTT, ELISA BRAUN, JANOSCH DELCKER AND VINCENT MANANCOURT** |
5/15/20, 5:25 AM CET | Updated 5/16/20, 5:51 AM CET

In the digital fight against COVID-19, Big Tech squared off against governments — and won.

Source: Politico

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Angela Merkel attacks Twitter over Trump ban

Russian dissident Alexei Navalny echoes criticisms levelled by German chancellor's spokesman


Angela Merkel with Donald Trump in 2017. Through her spokesman, Germany's chancellor said free speech was a 'fundamental right of vital importance' © Jonathan Ernst/Reuters

Guy Chazan in Berlin, **Henry Foy** in Moscow and **Hannah Murphy** in San Francisco
JANUARY 11 2021

💬 1023 🖨️

Angela Merkel, German chancellor, has sharply criticised Twitter's decision to ban US president Donald Trump, calling it a "problematic" breach of the "fundamental right to free speech".

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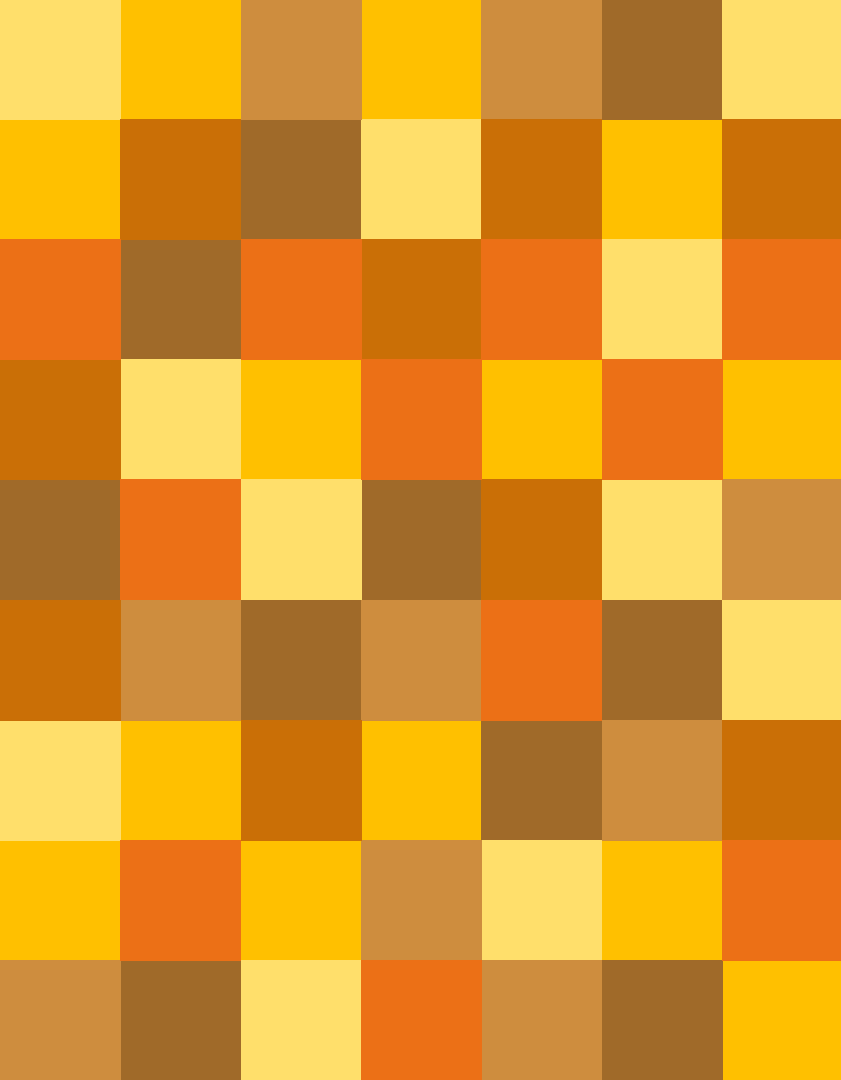
2.

Last thing I remember I was running for the door

Europe's digital sovereignty:
From rulemaker to superpower
in the age of US-China rivalry

Essay Collection
Carla Hobbs (ed.)
30th July, 2020

Source:
European
Council on
Foreign
Relations

Europe's requests to big tech

1. Pay taxes here
2. Stop tracking and profiling our citizens
3. Share your aggregated datasets
4. Do not steal our startups
5. Do not kill our competition through your dominant positions and lock-in practices
6. Stop spreading fake news and illegal content while making money out of it
7. Do not silence people at your will
8. Let our police intercept criminals

Open source is fit for Europe

Europe is an archipelago of countries, languages, societies, markets

It works by horizontal cooperation

It does not produce GAFAMs, but alliances of SMEs

An effective alliance

Freely accessible technology

Cooperative development

Open standards

Competition and consumer defense

Enforcement of rules

Funding

Coming soon (hopefully)

1. Digital Services Act
   - Rules and liability on content
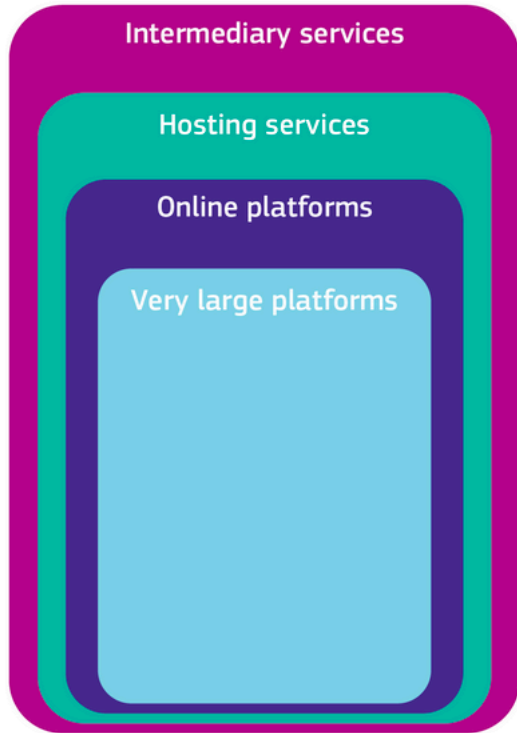   - Accountability in advertising and in moderation
2. Digital Markets Act
   - New competition tool
   - Blacklist of business practices
   - Interoperability requirements
3. Data Governance Act
   - Rules for open access to public data

Digital Services Act

Old E-commerce Directive («mere conduit» principle)

GDPR-style global reach

Additional requirements for non-SME «online platforms»: recourse, KYBC, flaggers...

VLOPs – over 45M users: transparency/accountability, advance risk management, choice of content curation

Digital Markets Act

Aimed at business users of two-sided market platforms

Affects global «gatekeeper» online platforms
- ☐ Over 6.5B€ turnover
- ☐ At least 3 EU countries
- ☐ Over 45M consumers
- ☐ Over 10k business users

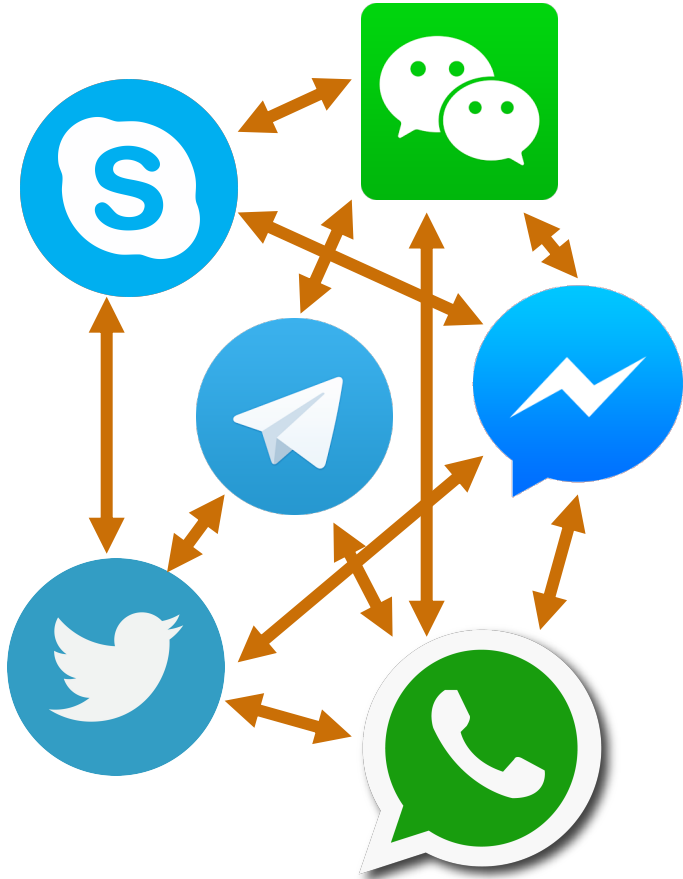New anti-trust instrument for non-traditional dominant positions

Digital Markets Act's no-no's
(Art. 5)

1. Forced data integration across services
2. Exclusivity/best price clauses
3. Mandatory bundling of services
4. Clauses against public recourse
5. Mandatory use of own identity system
6. Intransparent advertising pricing

Why interoperability?

Dominant platforms should be required to interoperate with competitors

Users could choose any app and service provider

New entrants would have a chance to succeed

This would enable European competition and promote private, user-friendly services

The DMA's interoperability clauses

Art. 6.1(f)

«allow business users and providers of ancillary services access to and interoperability with the same operating system, hardware or software features that are available or used in the provision by the gatekeeper of any ancillary services»

Art. 6.1(h)

«provide effective portability of data generated through the activity of a business user or end user and shall, in particular, provide tools for end users to facilitate the exercise of data portability, in line with Regulation EU 2016/679, including by the provision of continuous and real-time access»

Our objectives

Interoperability (and fair competition) should be for all users, not just for businesses

Interoperability should be for all core consumer services (messaging, social media...), not just for ancillary ones

Thanks!

Any questions?

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