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“Moving the regulatory cursor to adapt to a changing ecosystem”

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As digital transformation is evolving with an increasing pace, the regulators dedicate their efforts in establishing a competitive, safe and “fair” online environment that also safeguards users’ fundamental rights. The complexity and dynamism of the innovation transformation have created a new interconnected ecosystem, in which online digital platforms have taken a special role, thus forcing the regulators to undertake new ways of regulatory intervention to cope with the novelty of arising issues.

Online platforms have increasingly become a key tool to support the economic growth in general and the innovation. It is therefore challenging to keep pace with the realities of this new ecosystem, in a way that avoids reducing potential benefits of growth, while protecting the legitimate interests of stakeholders.

We should stress that some core digital platforms have been acting as gatekeepers with business users and end-users and operate as gateways to a variety of goods, services and information, as well as to inputs and assets which are essential for the digital markets to thrive.

Nevertheless, we must recognize the challenges and concerns raised by the entrenched intermediation-power of some large digital platforms acting as gatekeepers; that way they are benefitting from significant network effects. With this position they would control specific ecosystems that new competitors may find difficult to deal with.

Last December, the European Commission published a proposal for a Digital Market Act (DMA), introducing a series of rules for platforms acting as gatekeepers in the digital sector. The Digital Markets Act is a crucial addition to the regulatory framework by providing the European Commission with a toolbox to intervene in close cooperation with National Competent Authorities.

The DMA would constitute a new “ex-ante” regulatory framework for the digital gatekeepers, and the Body of European Regulators for Electronic Communications (BEREC) believes that the regulatory intervention should be defined in the law based on clear ex-ante principles to be achieved in the scope of the regulatory objectives, similarly to the Electronic Communications Services (ECS).

Regulators for Electronic Communications due to their previous ex ante regulatory experience could play a leading role in this approach. After all, Electronic Communications Regulators regulate the networks through which the platforms are operating online and thus have acquired deep and complete knowledge of the sector. Of particular interest are Regulators who combine ex ante regulatory powers with competition law enforcement powers. In this case the high level of technical, economic and legal expertise in the field, in addition to the extensive analytical capacity, can guarantee the effectiveness of such an endeavor.

Let me conclude by saying that it is necessary for the regulators to move the regulatory cursor in a higher operating level and in a faster mode, in order to be adapted to a transforming and changing digital ecosystem.