Building a stronger Union – Governing the Digital Single Market

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Contents

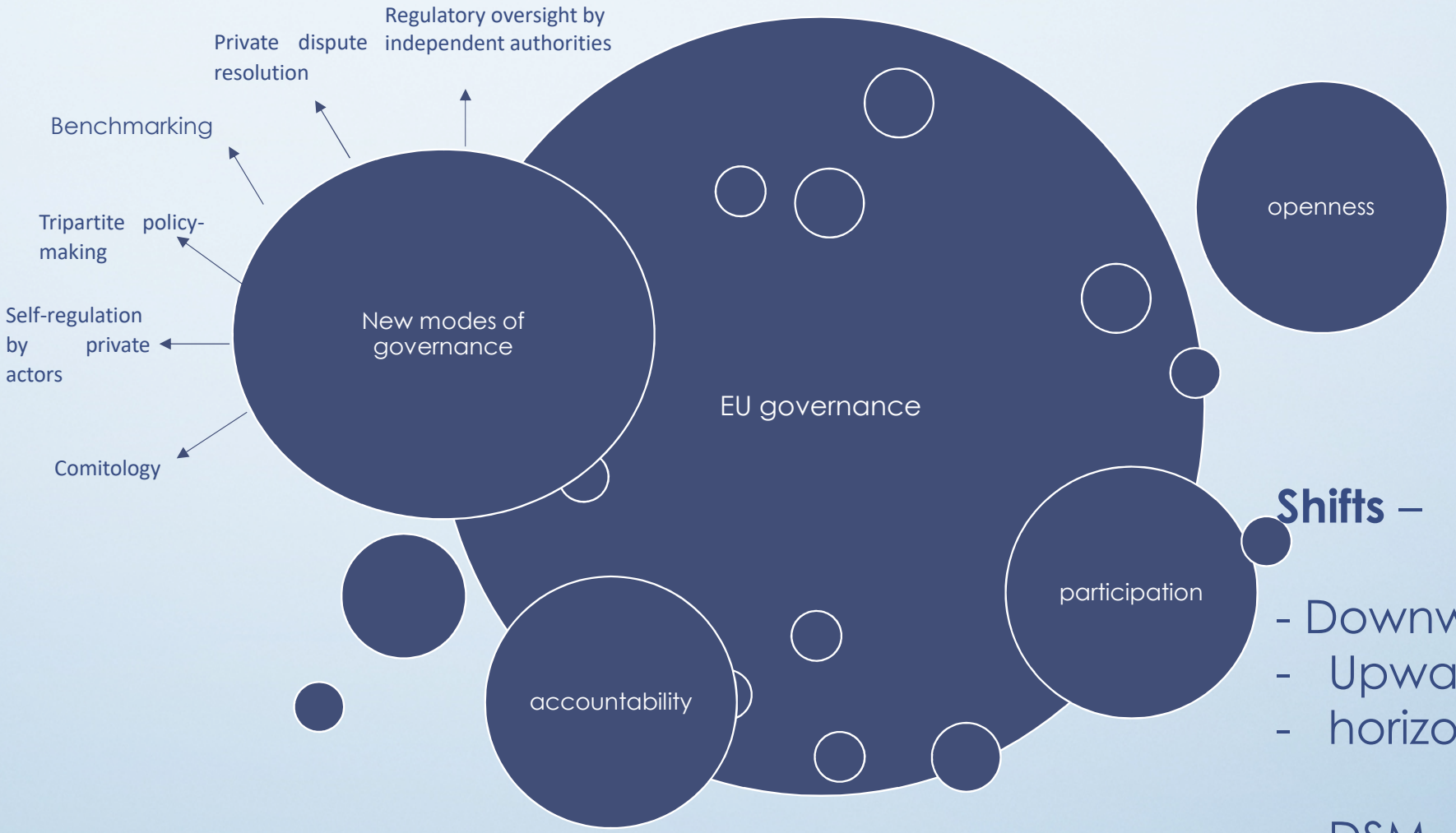
- Theoretical framework – discussing EU governance
- The DSM and its current governance mechanism
- Challenges of DSM governance
- How to fix/improve the mechanism?

Hypothesis and major questions

- The Digital Single Market faces governance issues that should be mitigated in order to be able to create a more flexible regulatory system
- The governance mechanism of the DSM requires more flexibility because of the complicated policy targets

Theoretical framework

Discussing EU governance



Shifts –

- Downward
- Upward
- horizontally

- DSM – means an upward shift towards a new regulatory scheme

Digital Single Market

Governance and functioning

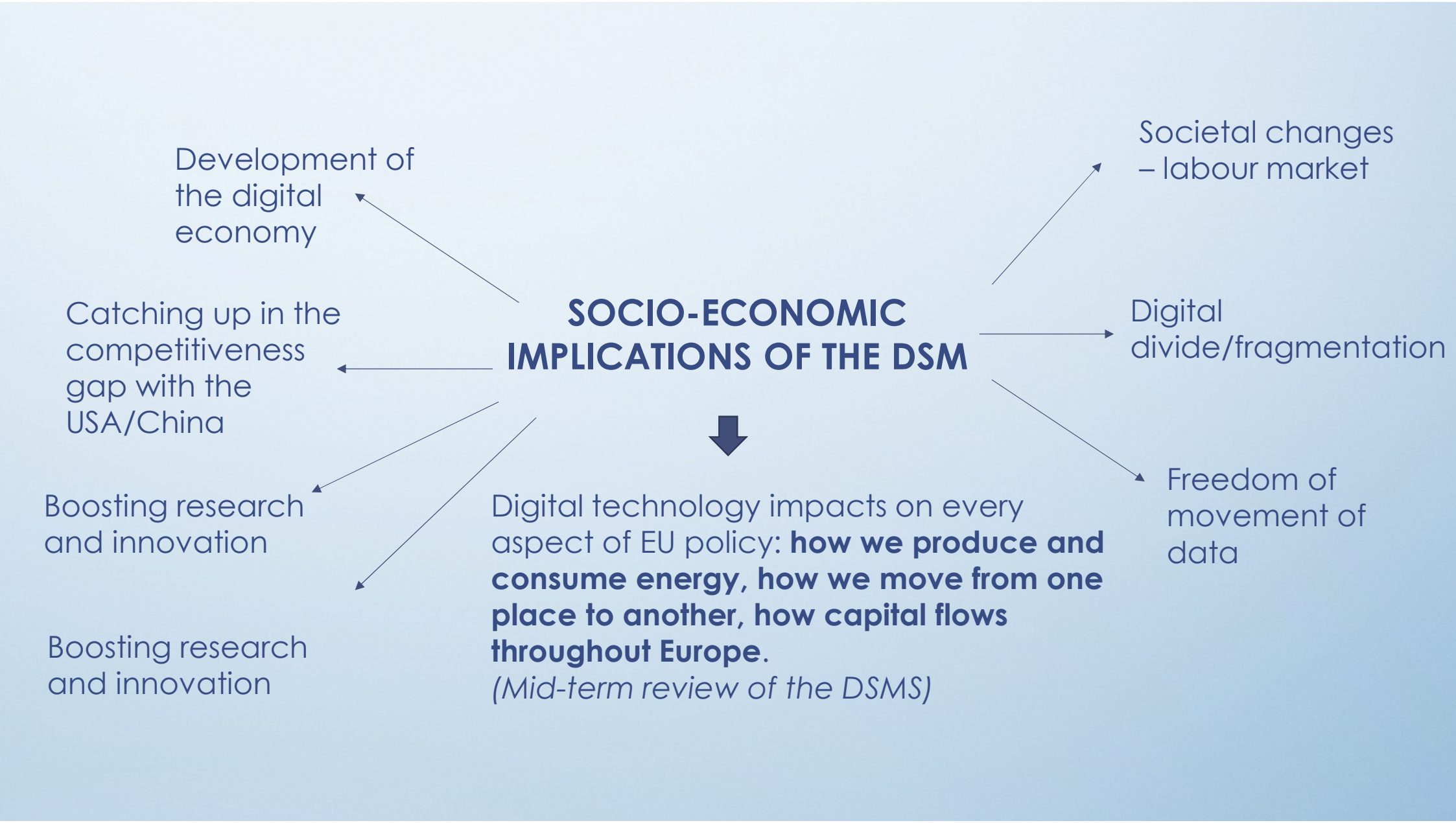
DIGITAL SINGLE MARKET – political priority for the Commission

the free movement of goods, persons, services and capital is ensured and **where individuals and businesses can seamlessly access and exercise online activities under conditions of fair competition**, and a high level of consumer and personal data protection, irrespective of their nationality or place of residence

Priorities:

- ensuring access for citizens and businesses
- creating the regulatory framework necessary to its proper functioning
- focusing on the growth potential of the data economy

Focus -> digital markets (different than previous initiatives)


Development of the digital economy
Societal changes – labour market
Catching up in the competitiveness gap with the USA/China
SOCIO-ECONOMIC IMPLICATIONS OF THE DSM
Digital divide/fragmentation
Boosting research and innovation
Freedom of movement of data
Digital technology impacts on every aspect of EU policy: how we produce and consume energy, how we move from one place to another, how capital flows throughout Europe.
(Mid-term review of the DSMS)
Boosting research and innovation

Governance structure and mechanisms

Its **governance structure** is meant to be:

1. **Flexible** enough – so as not to exceed the limits set by the principle of subsidiarity
2. **Strict** enough so as to ensure adoption of legislation at the EU level

⇨ Quite **a challenging strategy** considering that there is no official EU competence on these aspects (borrows from the internal market / R&D, industrial policy)

⇨ In line with Juncker's position – **act big on big, act small on small**

Its **governance mechanism**:

1. Cooperation between supranational institutions
2. The coordinating role of the Commission
3. Dialogue with stakeholders on policy advice and support for implementation
4. Technical support from advisory groups

What new modes of governance are used within this process?

- For regulations and frameworks in the sense of market integration – **regular policy-making + comitology -** for major legislative proposals have been heavily negotiated among the three institutions
  - Examples of committees - Communications Committee (COCOM) / Network and Information Systems Security Committee

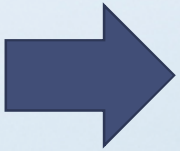
- Then – this legislation creates **regulatory oversight by independent authorities**
  - **Either with a strengthened role – ENISA (**its role strengthened by NIS and other regulation**) – "has operational coordination" powers and cybersecurity certification**
  - **Or with an advisory role (from the regulation ->) –** BEREC
  - **Mixed:** European Data Protection Supervisor – has a role as a supervisor, as well as advisory
- **For re-evaluation and future issues:**
  - **High-level expert groups –** *on fake news, on the future of labour in the digital transformation environment*
  - *Self- regulation was the norm at the beginning of the discussions on the information society – not so much anymore*

Digital Single Market

Challenges of its governance

STATU QUO

1. For the past 15-20 years, digita has been part of the conversation on the economic success of the EEC/EU -> especially considering the competitiveness gap of Europe in front of others
2. For the past 5 years at least – one of the VPs of the Commission has been responsible directly for the DSM (the previous commissioner as well)
3. In the near future – the draft strategic agenda of the EU (2019-2024) indicates digital transition as a key component for the development of a European economic model for the future



The signs are here -> there is gradual integration towards the digital space – as more key pieces of legislation are pursued at the EU level rather than left at the state level.

CHALLENGES TO A DSM REGULATORY FRAMEWORK – PAST AND PRESENT

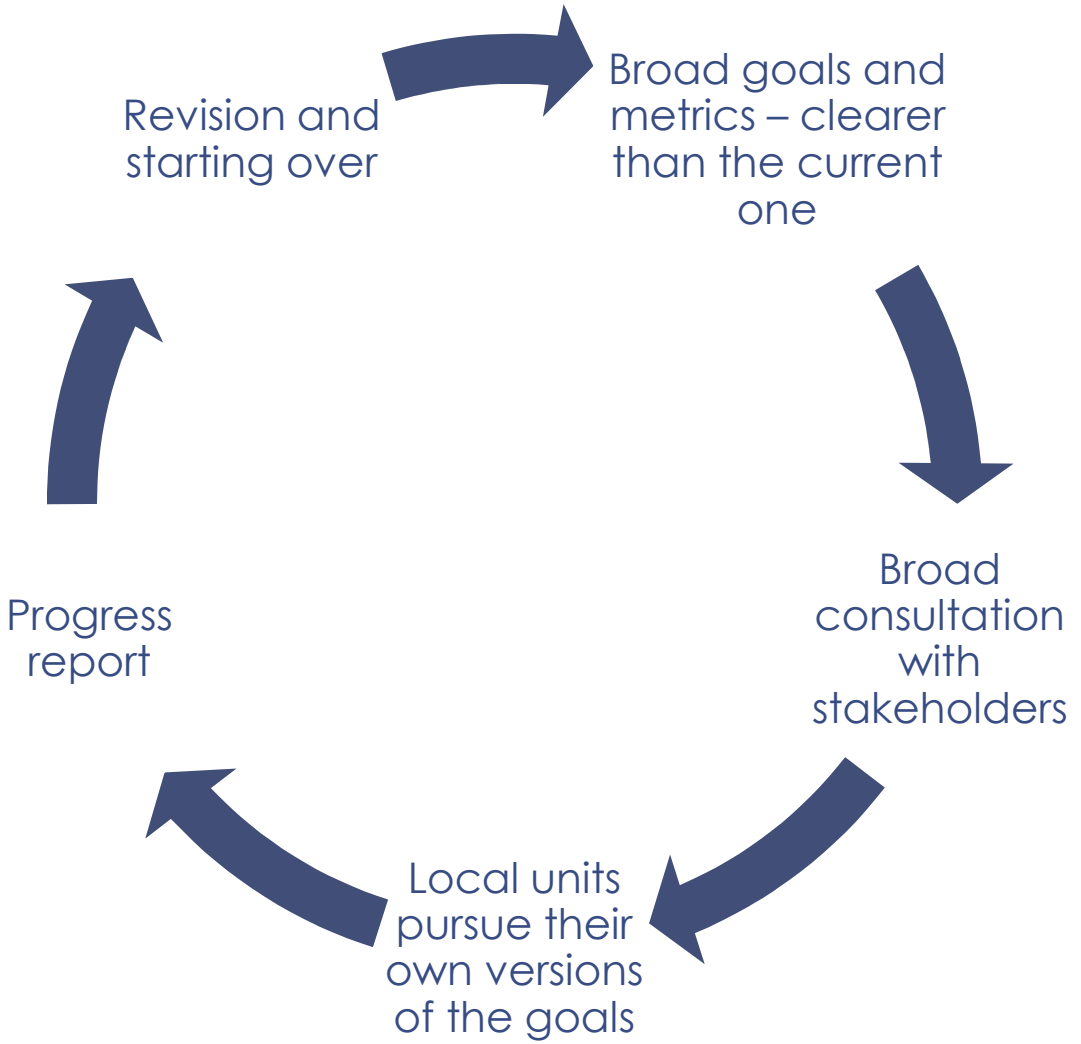
1. The DSM means more regulation – to unify the 27 national regulation systems – each with their own specificity
2. The technical issues and aspects of technology in general – especially in ecommerce - that might complicate economic activity
3. National specificities
4. Preferences of consumers
5. Reluctancy to enter within a regulatory framework
6. Differences in the digital progress of countries – stemming from their socio-economic profile

Digital Single Market

How to fix/improve the mechanism?

Experimentalist governance – what can it fix?

- The regulating aspects of the DSM – how to transform the process and become more flexible
- Technical issues arising from these 27 different preferences
- The reluctancy of actors/the national preferences
- Differences in the digital progress



Conclusions

a. Lessons from the framework for the DSM:

i. More benchmarking -> which is missing also from the new modes of governance mentioned by the literature – to tackle challenges at EU level

ii. Leverage the autonomy of MS by providing new mechanisms to tackle their own challenges at home

iii. If the MS are encouraged to tackle their own issues nationally, they may be willing to give up more on the wider EU regulation framework

iv. Learn the lessons from local units and apply them to other ones + involve other actors