





The EU Regulatory Landscape

Political, social and economic trends 2020

AS A RESULT OF	ADDRESSING	IS THIS APPLICABLE TO YOU?
Geopolitical movements 	The impact of Brexit on EU regulation	How will regulation evolve after the UK has left the EU? There is an expectation that the UK will continue to adhere to global regulatory standards however, it is less clear how closely the UK will continue to track EU regulation.
	Climate change and sustainability	Environmental sustainability is a rising social concern for the EU. Increased focus is on the green economy in the financial services and tech sector. Regulators are putting pressure on companies to consider how climate change and unsustainable business models will impact on their reputation and bottom line.
Fairness 	Anti-trust competition reform in the EU to tackle digital companies	Reformation to EU competition law has been moved up the political agenda as a result of a number of failed mergers in the tech sector. A new report by the European Commission on how competition policy should evolve in the digital era is creating a storm and there is now a real expectation that robust regulation will follow suit in a number of key areas including “killer acquisitions”.
	EU Fairness and Transparency Regulation	The EU’s Fairness and Transparency Regulation aims to address the issues of unfair contractual clauses and trading practices by online platform companies. These include the superior bargaining power they have over businesses that need the platforms to sell their products and services; also in view is the transparency around the preferential treatment used to determine rankings of search results.
Accountability and transparency 	Senior management accountability regimes	Regulators are increasingly holding senior individuals to account for the compliance, professional standards and culture of their companies. Following the introduction of the UK’s Senior Managers and Certification Regime, similar regimes have emerged, or are emerging, in several other jurisdictions including Ireland. Regulators will attach greater priority to diversity and inclusion, the “tone from above” and how boards are fostering environments in which employees feel safe to “speak up”.
	EU whistleblowing regulation	The new EU Whistleblowing Directive is helping to foster an environment of “speak up” by making it mandatory for companies with over 50 employees to establish internal secure channels for employees to air issues and be kept informed of progress of their complaint as it is investigated.
Fight against crime 	Increased focus on financial crime prevention compliance	Supervisory patience for Anti Money Laundering (AML) failings will run even thinner in 2020. Companies that exhibit poor AML policies or practices can expect regulators to require immediate remediation and to move swiftly to consider supervisory or enforcement action. Where executive accountability regimes are in place, personal liability will now be a reality.
	Ongoing issue of cyber resilience	The European Commission is expected to table a comprehensive legislative proposal in 2020 on the management of cyber risks. Supervisors will continue to rigorously challenge companies’ cloud migration plans and will further clarify policy on outsourcing arrangements.
	Crypto-assets	Across the regulated sectors, national crime agencies will focus their efforts on awareness and the application of AML standards to virtual assets in 2020. In the short-term, most crypto-asset regulatory activity will happen at the national level, until the overarching EU approach is clarified. Current regulation will need to be adapted for the unique characteristics of digital ledger technology to make it relevant for crypto-assets classed as financial instruments.

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Digital responsibility	Regulating technological innovation	<p> Policymakers and regulators will continue to be challenged to respond to the pace and scale of technological change. The regulatory debate will be characterised by issues such as risks associated with the increasing use of artificial intelligence and the impact of innovation on operational resilience and digital ethics.</p>
	The competing trends of digital regulation	<p> Two competing objectives of digital regulation will shape EU policy in the coming years. The first is to make the EU a leading global, digitally autonomous, technological player. The second is to set “best in-class” standards for data privacy, ethics, and consumer protection. Expect debate!</p>
	Regulating companies’ use of consumer data	<p> The ePrivacy Regulation, which represents the EU’s overhaul of direct marketing, telecoms and cookies rules, saw little progress during 2019. EU lawmakers have continuously struggled to get consensus on the draft text. Companies engaging in cross-border electronic marketing will continue to face a web of different rules unless consensus can be reached on reforms.</p>
	EU Digital Services Act	<p> The EU Commission is set to enact new legislation that will seek to regulate hate speech, other illicit content and political advertising for the first time. The proposed Act will likely contain new transparency rules on political advertising and a requirement for big tech platform companies to subject their algorithms on hate speech to regulatory scrutiny. This legislation will also seek to address the dramatic increase in the online availability of illegal or unsafe products.</p>
	EU Copyright Directive	<p> The copyright directive requires platform and other tech companies to take more responsibility for copyrighted material being shared illegally on their platforms. The drafting of this directive led to a supercharged debate about internet freedom and censorship, support coming from media and challenge from the tech sector. The next debate is now how to best screen online content for copyright and who will investigate major breaches.</p>



Contact us:

Deirdre Carwood
Partner, Head of Forensic
 Deloitte Ireland
 Tel: + 353 (0) 1 417 2901
 Email: dcarwood@deloitte.ie

Laura Wadding
Partner, Risk Advisory
 Deloitte Ireland
 Tel: + 353 (0) 1 417 2934
 Email: lwadding@deloitte.ie

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