16 November 2020

Joint Position on DSA and DMA

We would like to share with the European Commission the following joint position:

1. We support the revision of the 2000 E-Commerce Directive in form of the **Digital Services Act (DSA)**, in particular in view of introducing new responsibilities in dealing with illegal content by way of a formalized notice and action procedure to be followed by providers coming under the scope of application of the new regulation. We agree to introducing efficient and reasonable take down and stay down procedures.
2. We think, however, that more responsibility would need to take account of the different types of content that are available on their platforms. Media services are subject to European and national rules and independent oversight. Their providers exercise editorial responsibility and are also liable for their content. **Platform providers must respect this fact. They** shall **not execute any secondary control over media services** offered by content providers, neither on the basis of national rules nor on the basis of their own community standards. It should fall on the media service providers bearing editorial responsibility to comply with EU and national legislation. In respecting the integrity of media content offered by specific media service provider, **platform providers** would **not** be **liable** for this content. We also support using the **know-your-(business)-customer-principle** in search for solutions to given problems, such as fighting piracy or hate speech online.
3. We are convinced that when it comes to media services and their content, **media- and sector-specific regulation must prevail over horizontal approaches**. Equally, it is necessary to respect the Member States prerogatives in media regulation. The **DSA must not foreclose** that Member States, where necessary, subject providers coming under the scope of application of the DSA to **media regulation in order to secure the fulfilment of public interest objectives such as media pluralism and diversity**.
4. We support, in principle, the **country-of-origin principle** as the foundation of the DSA. We need consistent execution of respective binding rules, including on necessary deviations, in the whole of the EU and effective cooperation between Member States – otherwise it will be hard to preserve the country-of-origin principle.
5. We subscribe to strengthening fair competition by way of a **Digital Market Act (DMA)** introducing ex-ante rules. **Rules on gatekeepers** should **apply to all actors having significant intermediation powers**.
6. The DMA should put anti-competitive behavior such as self-preferencing on halt.
7. The DMA should deliver to business users a **right of access to data** generated in the course of the intermediation of their services over platforms.
8. The DMA must promote **algorithmic transparency**. Business users of platform providers' services must understand process steered by algorithms for their own improved portfolio management in order to support their business models, their fulfilment of public tasks etc. The European Commission should also look at algorithmic transparency from the angle of supporting public interest (content) services to be easily found and used.

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