

Amendment 509

Sabine Verheyen, Geoffroy Didier, Axel Voss, Michaela Šojdrová, Tomasz Frankowski, Adrián Vázquez Lázara, Marion Walsmann, Theodoros Zagorakis, Miriam Lexmann, Marlene Mortler, Massimiliano Smeriglio, Peter Pollák, Christine Schneider, Christian Doleschal, Karolin Braunsberger-Reinhold, Markus Pieper, Monika Hohlmeier, Jens Gieseke, Javier Zarzalejos, Hannes Heide, Andrea Caroppo, Stefan Berger, Jarosław Kalinowski, Lena Düpont, Ralf Seekatz, Ulrike Müller, Daniel Buda, Rainer Wieland, Jarosław Duda, Marc Tarabella, Luisa Regimenti, Aldo Patriciello, Antonio Tajani, Isabella Adinolfi, Fulvio Martusciello, Lucia Vuolo, Dace Melbārde, Herbert Dorfmann, Nathalie Colin-Oesterlé, Brice Hortefeux, Arnaud Danjean, Anne Sander, François-Xavier Bellamy, Loucas Fourlas, Christian Ehler, Massimiliano Salini, Domènec Ruiz Devesa, Esteban González Pons, Ibán García Del Blanco, Salvatore De Meo, Daniel Caspary

Report

A9-0356/2021

Christel Schaldemose

Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Proposal for a regulation**Recital 22***Text proposed by the Commission*

(22) In order to benefit from the exemption from liability for hosting services, the provider should, **upon** obtaining actual knowledge or awareness **of illegal content**, act expeditiously to remove or to disable access to that content. The removal or disabling of access should be undertaken in the observance of the principle of freedom of expression. The provider can obtain **such** actual knowledge or awareness through, in particular, its own-initiative investigations or notices submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent **economic operator** to reasonably identify, assess and where appropriate act against the allegedly illegal content.

Amendment

(22) In order to benefit from the exemption from liability for hosting services, the provider should, **after having become aware of the illegal nature of the content and thus** obtaining actual knowledge or awareness, act expeditiously to remove or to disable access to that content. **Expeditiously means ‘as fast as possible’ for all content and ‘immediately’ during live broadcasts and for content that has particular time-sensitivity.** The removal or disabling of access should be undertaken in the observance of **a high level of consumer protection and of the Charter of Fundamental Rights, including** the principle of freedom of expression **and the right to receive and impart information and ideas without interference by public authority.** The provider can obtain actual knowledge or awareness **of the illegal nature of the content** through, in particular, its own-initiative investigations or notices

submitted to it by individuals or entities in accordance with this Regulation in so far as those notices are sufficiently precise and adequately substantiated to allow a diligent ***hosting service provider*** to reasonably identify, assess and where appropriate act against the allegedly illegal content. ***As long as providers act upon obtaining actual knowledge, they should benefit from the exemptions from liability referred to in this Regulation.***

Or. en

Justification

In order for the DSA to be meaningful when it comes to the removal or disabling of access to illegal content by online services, the DSA should ensure that the expeditious removal or disabling access to all content is done as fast as possible and immediately during the live broadcast and for content with particular time-sensitivity, considering in these cases that most of the economic value lies in the live broadcast.

Amendment 510

Sabine Verheyen, Geoffroy Didier, Axel Voss, Michaela Šojdrová, Tomasz Frankowski, Emmanuel Maurel, Salvatore De Meo, Marion Walsmann, Theodoros Zagorakis, Miriam Lexmann, Marlene Mortler, Massimiliano Smeriglio, Peter Pollák, Christine Schneider, Christian Doleschal, Karolin Braunsberger-Reinhold, Markus Pieper, Monika Hohlmeier, Jens Gieseke, Javier Zarzalejos, Hannes Heide, Andrea Caroppo, Stefan Berger, Jarosław Kalinowski, Lena Düpont, Ralf Seekatz, Ulrike Müller, Daniel Buda, Rainer Wieland, Brice Hortefeux, Anne Sander, Nathalie Colin-Oesterlé, Agnès Evren, Arnaud Danjean, Nadine Morano, François-Xavier Bellamy, Antonio Tajani, Chiara Gemma, Dino Giarrusso, Mario Furore, Robert Hajšel, Tiziana Beghin, Leila Chaibi, Fabio Massimo Castaldo, Manuel Bompard, Sabrina Pignedoli, Patrizia Toia, Luisa Regimenti, Ibán García Del Blanco, Konstantinos Arvanitis, Massimiliano Salini, Isabella Adinolfi, Fulvio Martusciello, Herbert Dorfmann, Lucia Vuolo, Marc Tarabella, Pernille Weiss, Aldo Patriciello, Dace Melbārde, Esteban González Pons, Christian Ehler, Loucas Furlas, Daniel Caspary, Nacho Sánchez Amor, Marcos Ros Sempere, César Luena, Domènec Ruiz Devesa

Report**A9-0356/2021****Christel Schaldemose**

Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Proposal for a regulation**Recital 26***Text proposed by the Commission**Amendment*

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. ***Where possible, third parties affected by illegal content transmitted or stored online should attempt to resolve conflicts relating to such content without involving the providers of intermediary services in question.*** Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where

(26) Whilst the rules in Chapter II of this Regulation concentrate on the exemption from liability of providers of intermediary services, it is important to recall that, despite the generally important role played by those providers, the problem of illegal content and activities online should not be dealt with by solely focusing on their liability and responsibilities. Recipients of the service should be held liable, where the applicable rules of Union and national law determining such liability so provide, for the illegal content that they provide and may disseminate through intermediary services. Where appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law.

appropriate, other actors, such as group moderators in closed online environments, in particular in the case of large groups, should also help to avoid the spread of illegal content online, in accordance with the applicable law. Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Furthermore, where it is necessary to involve information society services providers, including providers of intermediary services, any requests or orders for such involvement should, as a general rule, be directed to the actor that has the technical and operational ability to act against specific items of illegal content, so as to prevent and minimise any possible negative effects for the availability and accessibility of information that is not illegal content.

Or. en

Justification

Such an approach would create a system where parties would be forced to target end users and where intermediaries would be given the opportunity to escape any obligation to operate diligently and expeditiously to remove illegal content online, [arguing for example that they have no technical, operational or contractual ability to take action against illegal content/activity]. Such a system would simply create less not more accountability of platforms and would negate the whole purpose of the DSA.

Amendment 511

Sabine Verheyen, Geoffroy Didier, Axel Voss, Michaela Šojdrová, Tomasz Frankowski, Emmanuel Maurel, Massimiliano Salini, Loucas Furlas, Salvatore De Meo, Henna Virkkunen, Jarosław Duda, Marion Walsmann, Theodoros Zagorakis, Miriam Lexmann, Petra Kammerevert, Marlene Mortler, Massimiliano Smeriglio, Peter Pollák, Christine Schneider, Christian Doleschal, Karolin Braunsberger-Reinhold, Markus Pieper, Monika Hohlmeier, Jens Gieseke, Javier Zarzalejos, Hannes Heide, Andrea Caroppo, Stefan Berger, Jarosław Kalinowski, Lena Düpont, Ralf Seekatz, Ulrike Müller, Daniel Buda, Rainer Wieland, Nathalie Colin-Oesterlé, Herbert Dorfmann, Lucia Vuolo, Antonio Tajani, Konstantinos Arvanitis, Fulvio Martusciello, Isabella Adinolfi, Luisa Regimenti, Patrizia Toia, Sabrina Pignedoli, François-Xavier Bellamy, Agnès Evren, Arnaud Danjean, Chiara Gemma, Dino Giarrusso, Anne Sander, Mario Furore, Brice Hortefeux, Nadine Morano, Robert Hajšel, Tiziana Beghin, Leila Chaibi, Fabio Massimo Castaldo, Manuel Bompard, Marc Tarabella, Pernille Weiss, Aldo Patriciello, Esteban González Pons, Christian Ehler, Daniel Caspary, Petri Sarvamaa

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(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Proposal for a regulation**Recital 38***Text proposed by the Commission*

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of transparency, the protection of recipients of the service and the avoidance of unfair or arbitrary outcomes.

Amendment

(38) Whilst the freedom of contract of providers of intermediary services should in principle be respected, it is appropriate to set certain rules on the content, application and enforcement of the terms and conditions of those providers in the interests of ***protecting fundamental rights, in particular freedom of expression and of information***, transparency, the protection of recipients of the service, ***including their legitimate interests***, and the avoidance of ***discriminatory***, unfair or arbitrary outcomes. ***This implies that intermediary service providers should pay utmost regard to relevant rules applicable to the media and put in place specific procedures, ensuring that the media are promptly informed and have the possibility to challenge any content moderation measure before its implementation. Terms and conditions***

should not restrict freedom and pluralism of the media as enshrined in Article 11 of the Charter. In particular, it is equally important to ensure that terms and conditions are drafted in a clear and unambiguous language in line with applicable Union and national law. The terms and conditions should include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making, human review, as well as on the right to terminate the use of the service. Providers of intermediary services should also provide recipients of services with a concise and easily readable summary of the main elements of the terms and conditions, including the remedies available, using, where appropriate graphical elements, such as icons.

Or. en

Justification

In line with the changes made in Article 12.1

Amendment 512

Sabine Verheyen, Geoffroy Didier, Axel Voss, Michaela Šojdrová, Tomasz Frankowski, Emmanuel Maurel, Jarosław Duda, Salvatore De Meo, Marion Walsmann, Theodoros Zagorakis, Miriam Lexmann, Marlene Mortler, Massimiliano Smeriglio, Peter Pollák, Christine Schneider, Christian Doleschal, Karolin Braunsberger-Reinhold, Markus Pieper, Alex Agius Saliba, Monika Hohlmeier, Jens Gieseke, Andrea Caroppo, Javier Zarzalejos, Stefan Berger, Jarosław Kalinowski, Lena Düpont, Ralf Seekatz, Ulrike Müller, Daniel Buda, Rainer Wieland, Lucia Vuolo, Herbert Dorfmann, Massimiliano Salini, Antonio Tajani, Aldo Patriciello, Konstantinos Arvanitis, Fulvio Martusciello, Carmen Avram, Isabella Adinolfi, Ibán García Del Blanco, Luisa Regimenti, Patrizia Toia, Sabrina Pignedoli, François-Xavier Bellamy, Arnaud Danjean, Chiara Gemma, Dino Giarrusso, Anne Sander, Mario Furore, Brice Hortefeux, Nadine Morano, Tiziana Beghin, Robert Hajšel, Leila Chaibi, Fabio Massimo Castaldo, Manuel Bompard, Nathalie Colin-Oesterlé, Marc Tarabella, Pernille Weiss, Dace Melbārde, Esteban González Pons, Christian Ehler, Agnès Evren, Loucas Furlas, Daniel Caspary, Domènec Ruiz Devesa, Nacho Sánchez Amor, Marcos Ros Sempere, César Luena

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Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Proposal for a regulation**Recital 39 a (new)***Text proposed by the Commission**Amendment*

(39 a) To ensure an efficient and adequate application of the obligation on traceability of business users, without imposing any disproportionate burdens, the intermediary service providers covered should carry out due diligence checks prior to the use of their service to verify the reliability of the information provided by the business user concerned, in particular by using freely accessible official online databases or online interfaces, such as national trade registers or by requesting the business user concerned to provide trustworthy supporting documents, such as copies of identity documents, certified bank statements, company certificates and trade register certificates. They may also use other sources, available for use at a distance, which offer a similar degree of

*reliability for the purpose of complying
with this obligation.*

Or. en

Justification

*This article was proposed in the draft report in IMCO. In line with the changes made in
Article 13a*

Amendment 513

Sabine Verheyen, Geoffroy Didier, Axel Voss, Michaela Šojdrová, Tomasz Frankowski, Emmanuel Maurel, Isabella Adinolfi, Salvatore De Meo, Henna Virkkunen, Marion Walsmann, Theodoros Zagorakis, Miriam Lexmann, Petra Kammerevert, Marlene Mortler, Massimiliano Smeriglio, Peter Pollák, Christine Schneider, Karolin Braunsberger-Reinhold, Markus Pieper, Monika Hohlmeier, Jens Gieseke, Javier Zarzalejos, Hannes Heide, Andrea Caroppo, Stefan Berger, Jarosław Kalinowski, Lena Düpont, Ralf Seekatz, Ulrike Müller, Daniel Buda, Rainer Wieland, Domènec Ruiz Devesa, Lucia Vuolo, Herbert Dorfmann, Antonio Tajani, Massimiliano Salini, Maria-Manuel Leitão-Marques, Isabel Carvalhais, Aldo Patriciello, Konstantinos Arvanitis, Fulvio Martusciello, Ibán García Del Blanco, Luisa Regimenti, Patrizia Toia, Sabrina Pignedoli, François-Xavier Bellamy, Agnès Evren, Arnaud Danjean, Chiara Gemma, Dino Giarrusso, Anne Sander, Mario Furore, Brice Hortefeux, Nadine Morano, Robert Hajšel, Tiziana Beghin, Leila Chaibi, Fabio Massimo Castaldo, Manuel Bompard, Nathalie Colin-Oesterlé, Marc Tarabella, Pernille Weiss, Petri Sarvamaa, Dace Melbārde, Loucas Foulas, Christian Ehler, Daniel Caspary, Nacho Sánchez Amor, Esteban González Pons, César Luena, Marcos Ros Sempere

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Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Proposal for a regulation**Article 12 – paragraph 1***Text proposed by the Commission**Amendment*

1. Providers of intermediary services shall ***include information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service, in their*** terms and conditions. ***That information shall include information on any policies, procedures, measures and tools used for the purpose of content moderation, including algorithmic decision-making and human review. It shall be set out*** in clear and unambiguous language and shall ***be*** publicly available in an easily accessible format.

1. Providers of intermediary services shall ***use fair, non-discriminatory and transparent*** terms and conditions. ***Providers of intermediary services shall draft those terms and conditions*** in clear, ***plain user friendly***, and unambiguous language and shall ***make them*** publicly available in an easily accessible ***and machine-readable*** format ***in the languages of the Member State towards which the service is directed. In their terms and conditions, providers of intermediary services shall respect the freedom of expression, freedom and pluralism of the media, and other fundamental rights and freedoms, as enshrined in the Charter as well as the rules applicable to the media in the Union.***

Justification

Article 12 should explicitly recognize that the restrictions provided in terms and conditions are drawn up, applied and enforced in compliance with rules applicable to the media, including content standards that serve to protect, for example, minors as well as, more broadly, the freedom of expression and information and the freedom of the media (Article 11 of the Charter). The impact of intermediaries' T&Cs and decisions taken in relation to lawful media content (e.g. content removal/suspension, suspension of business accounts, re-labelling content suitable for certain age groups, shadow banning, etc) is a very concrete issue, experienced by a variety of media on a variety of platform services regardless of size. The unilateral and unpredictable nature of such decisions represents a hurdle on citizens' access to information and on media freedom.

Amendment 514

Sabine Verheyen, Geoffroy Didier, Axel Voss, Michaela Šojdrová, Tomasz Frankowski, Emmanuel Maurel, Salvatore De Meo, Jarosław Duda, Marion Walsmann, Theodoros Zagorakis, Marlene Mortler, Miriam Lexmann, Massimiliano Smeriglio, Peter Pollák, Christine Schneider, Karolin Braunsberger-Reinhold, Markus Pieper, Alex Agius Saliba, Monika Hohlmeier, Jens Gieseke, Javier Zarzalejos, Andrea Caroppo, Stefan Berger, Jarosław Kalinowski, Lena Düpont, Ralf Seekatz, Ulrike Müller, Daniel Buda, Rainer Wieland, Lucia Vuolo, Herbert Dorfmann, Massimiliano Salini, Antonio Tajani, Aldo Patriciello, Konstantinos Arvanitis, Carmen Avram, Fulvio Martusciello, Isabella Adinolfi, Ibán García Del Blanco, Luisa Regimenti, Patrizia Toia, Sabrina Pignedoli, François-Xavier Bellamy, Agnès Evren, Arnaud Danjean, Chiara Gemma, Dino Giarrusso, Anne Sander, Mario Furore, Brice Hortefeux, Nadine Morano, Robert Hajšel, Tiziana Beghin, Leila Chaibi, Fabio Massimo Castaldo, Manuel Bompard, Domènec Ruiz Devesa, Nathalie Colin-Oesterlé, Marc Tarabella, Pernille Weiss, Dace Melbārde, Esteban González Pons, Loucas Fourlas, Christian Ehler, Nacho Sánchez Amor, Daniel Caspary, César Luena, Marcos Ros Sempere

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Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC
(COM(2020)0825 – C9-0418/2020 – 2020/0361(COD))

Proposal for a regulation**Article 13 a (new)***Text proposed by the Commission**Amendment***Article 13 a****Traceability of business users**

1. A provider of intermediary services shall ensure that business users can only use its services if the provider of intermediary service has obtained the following information:

(a) the name, address, telephone number and electronic mail address of the business user;

(b) a copy of the identification document of the business user or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council^{1a};

(c) the bank account details of the business user, where the business user is

a natural person;

(d) where the business user is registered in a trade register or similar public register, the trade register in which the business user is registered, and its registration number or equivalent means of identification in that register;

2. The provider of intermediary services shall, upon receiving that information and until the end of the contractual relationship, make reasonable efforts to assess whether the information referred to in points (a) and (d) of paragraph 1 is reliable and up-to-date through the use of any freely accessible official online database or online interface made available by a Member States or the Union or through requests to the business user to provide supporting documents from reliable sources.

3. Where the provider of intermediary services obtains indications that any item of information referred to in paragraph 1 obtained from the business users concerned is inaccurate or incomplete, that provider of intermediary services shall request the business user to correct the information in so far as necessary to ensure that all information is accurate and complete, without delay or within the time period set by Union and national law. Where the business user fails to correct or complete that information, the provider of intermediary services shall suspend the provision of its service to the business user until the request is complied with.

4. The providers of intermediary services shall store the information obtained pursuant to paragraph 1 and 2 in a secure manner for the duration of their contractual relationship with the business user concerned. They shall subsequently delete the information.

5. Without prejudice to paragraph 2, the providers of intermediary services shall only disclose the information to third parties where so required in accordance

with the applicable law, including the orders referred to in Article 9 and any order issued by Member States' competent authorities or the Commission for the performance of their tasks under this Regulation.

6. The providers of intermediary services shall make the information referred to in points (a) and (d) of paragraph 1 available to the recipients of the service, in a clear, easily accessible and comprehensible manner.

^{1a} Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Or. en

Justification

This article was proposed in the draft report in IMCO. In order to be effective, the principle of identification should not be limited to online marketplaces. Instead all information society services, which are being used to provide illegal content, for example, domain name registries, CDN service providers, ad networks, should be obliged to take reasonable steps to stop, limit and prevent illegal activity. Without a verified identity, consumers will be deprived of effective redress mechanisms.