



**2020/2018(INL)**

22.7.2020

## **OPINION**

of the Committee on Culture and Education

for the Committee on the Internal Market and Consumer Protection

with recommendations to the Commission on Digital Services Act: Improving  
the functioning of the Single Market  
(2020/2018(INL))

Rapporteur for opinion (\*): Petra Kammerevert

(Initiative – Rule 47 of the Rules of Procedure)

(\*) Associated committee (Rule 57 RoP)

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## SUGGESTIONS

The Committee on Culture and Education calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Strongly believes that the current Directive 2000/31/ EC of the European Parliament and of the Council<sup>1</sup> has been a significant success for the development of electronic commerce, but suggests, at the same time, a harmonisation of the digital services legislation to include a broad range of providers of information society services and to impose clearer binding rules and appropriate liability on them;
2. Considers it to be necessary, in principle, to adopt clearer and, as far as possible, uniformly applicable Union-wide rules and consistent regulatory processes to combat harmful content, hate speech and disinformation and to protect minors, as well as rules governing online advertising, micro-targeting and fair e-commerce, and at the same time, calls for a strict distinction to be made between illegal content, punishable acts and illegally shared content on the one hand, and harmful content, hate speech and disinformation on the other, since different approaches and rules are applicable in each case;
3. Understands, in this context, that ‘hate speech’ consists of verbal or non-verbal communication that involves hostility directed towards a person or particular social group or a member of such a group, most often on the grounds of reference to race, colour, religion, descent or national or ethnic origin, sexual orientation, publicly condoning, denying or grossly trivialising or inciting people to gender-specific violence; stresses that this understanding includes public incitement to violence or hatred;
4. Understands, in this context, that ‘disinformation’ consists of all forms of false, inaccurate, or misleading information designed, presented and promoted with the intent to cause public harm or for profit, and that ‘propaganda’ consists mostly of strategic communication designed and implemented so as to mislead a population, as well as to interfere with the public’s right to know, and the right of individuals to seek and receive, as well as to impart, information and ideas of all kinds;
5. Stresses that any new regulation should aim to increase transparency, equal treatment, security, self-determination and end-users’ confidence in control of content provided to them; asks for a high degree of interoperability of services and data portability, while maintaining high standards of copyright and data protection as well as data sovereignty along with self-determination;
6. Recalls that regulations should be designed from the perspective of safeguarding fundamental rights, in particular freedom of expression, information, opinion and the media, right to intellectual property, of promoting media pluralism, cultural diversity and data protection as well as of ensuring diverse and fair competition and access to

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<sup>1</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

European works;

7. Considers it essential that the notion of ‘third parties with a legitimate interest’ be clearly defined and that such third parties have access to reliable information on providers of information society services; regrets that the information requirements laid down in Article 5 of Directive 2000/31/EC have not been effectively enforced; without harming the competitiveness of the small and micro enterprises, calls for certain online intermediaries, such as domain name registrars, host services providers or online advertising service providers, to be required to verify the identity of their business customers by comparing the identification data by the relevant existing and available databases of their commercial users in compliance with data protection legislation, under the 'Know Your Business Customer (KYBC) protocol', and for intermediaries to be both entitled and obliged to refuse or cease to provide their services, if the information about the identity of their business customer is notified by the competent authorities as false or grossly misleading; considers that such KYBC protocol should be applied to business customers and would not impact the personal data of individual users;
8. Reiterates the importance of guaranteeing freedom of expression and information opinion and the press; in view of the importance of protecting independent journalism under the Digital Services Act, strongly opposes, in this regard, further evaluation of legal content once legally published, unless this is justified by the fact that the respective content, though legal, raises serious concerns as to the significant harm it can cause; demands in any such case that action by a provider of an information society service must be based on a court order; points out that the extension of the scope of the Directive (EU) 2018/1808 of the European Parliament and of the Council<sup>2</sup> to video-sharing platforms’ (VSPs) providers and to social networks with regard to the distribution of audiovisual content can, if transposed into national law without delay, make a significant contribution to curbing harmful content, disinformation and hate speech;
9. Asks for more concrete and, as far as possible, uniformly applicable rules on transparency, since the removal, de-ranking and prioritisation of content in social networks reduces the amplified dissemination of illegal content online as well as combating harmful content, hate speech and disinformation;
10. Calls for data-based commercial advertising and micro-targeting to be regulated and to be made subject to strict transparency rules; asks for mandatory labelling of paid political advertisement online ensuring its easy recognition as such by the end user; stresses that paid political advertisement online should be transparent so that the end user can see who has paid for this content;
11. Recognises that the Disinformation Code of Practice has helped to structure a dialogue with platforms and regulators; suggests that online platforms should put in place effective and appropriate safeguards, in particular to ensure that they act in a diligent,

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<sup>2</sup> Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (OJ L 303, 28.11.2018, p. 69).

proportionate and non-discriminatory manner, and to prevent the unintended removal of content which is not illegal; suggests that the existing legal framework for the protection of minors and for combating harmful content, hate speech and disinformation and its effective enforcement should be evaluated by means of an "Action Plan for Democracy"; emphasises in this context the effective use of co- and self-regulation and the exchange of best practice at Union level and that such a plan must include cooperation with fact-checkers and researchers; considers that the dissemination of harmful content, hate speech and disinformation can best be countered by helping citizens to acquire media and digital literacy as well as to develop critical thinking, and by strengthening independent professional journalism and quality media; calls for increased cooperation between national regulatory authorities and/or bodies, both within and between Member States, in order to deal more effectively with undesirable effects and specific problems; considers, in this context, that coordination at Union level is necessary;

12. Acknowledges that the principle that purely passive digital services, such as internet access providers, are not responsible for the content conveyed over their services because they have no control over that content ('mere conduit'), have no active interaction with it or do not optimise it, must be retained, as it is a cornerstone of free internet, while active services should remain fully liable for the content of their services;
13. Calls for a requirement to be imposed on providers of information society services entailing that illegal content is not only deleted expeditiously after they became aware of it or after being reported, but that such content is also reported to the relevant competent authorities for possible further investigation and prosecution; considers that operators should store the associated metadata for a limited period of time and pass it on only in response to a request from the competent authorities during that period;
14. Stresses that providers of information society services should provide intelligible and easily accessible information about their handling of illegal content and inform content providers about the deletion of such content in any case, stating the legal basis and the possibilities of objection and efficient complaint and redress mechanisms; recalls that the presumption of innocence in any further judicial procedure must be upheld and the personal data of the victims must be protected;
15. Stresses that voluntary measures taken by providers of information society services to fight against illegal content or harmful content, hate speech and disinformation must not lead to a limitation of their liability;
16. Demands that obligations should also be graded so that platforms with a dominant position within the market or in a substantial part of it (i.e. platforms acting as gatekeepers or potentially market structuring platforms) are most heavily regulated and emerging or niche companies less so, as larger and established platforms can devote more resources to the coordinated detection of misleading behaviour and content moderation; stresses that operators of dominant platforms must not only safeguard but also actively promote cultural and linguistic diversity, as they play an essential role in access to news, audiovisual content as well as cultural and creative works; is of the view that trustworthy quality media content, tailored for relevant markets and respecting

national language laws, should be prioritised and made easily accessible by such platforms; stresses that, in order to protect and promote cultural and linguistic diversity, support for European works and media pluralism, the use of algorithms by such platforms should be transparent and adjustable by end-users, so that there is understanding and options for users as to how access to the relevant content is granted, classified or limited; considers that any proposed system should be accompanied by sound arrangements to safeguard fundamental rights without prejudice to the possibility of impartial judicial supervision;

17. Calls for the issue of fake accounts to be addressed and for the profits of those spreading disinformation to be confiscated;
18. Calls for a strengthened and more clearly defined legal framework to ensure that providers of information society services take effective measures, such as increasing the use of automated detection procedures with human oversight, and act expeditiously to remove illegal content from their services and prevent the re-uploading of such content;
19. Considers that in the case of infringing live content, providers of information society services should react immediately when they receive a notification from rights holders, and calls on the Commission, in this context, to clarify the notion of ‘expeditious reaction’, which is already included in Directive 2000/31/EC; and, at the same time, refers to recent national case law, which obliges providers of information society services to take down the infringing content within 30 minutes;
20. Proposes that the country-of-origin principle should be strengthened by increasing cooperation between Member States to enforce respect for legitimate general and public interests, which requires greater involvement of regulatory authorities and reviews of existing procedural rules and enforcement methods in order to achieve more lasting and effective law enforcement in cross-border cases;
21. Insists that the protection and promotion of freedom and the expression of diversity of opinions, information, the press, artistic and cultural expressions, the property rights as well as the protection of the privacy of communication between individuals must be balanced and form the basis of liberal democracy, both online and offline; demands therefore that the use of all technologically feasible means to combat illegal content or harmful content, hate speech and disinformation on the internet, in this context, be based on judicial and regulatory oversight; underlines that such measures cannot lead to any *ex-ante* control measures or ‘upload-filtering’ of content, which does not comply with Article 15 of Directive 2000/31/EC; underlines also that those measures cannot lead to the imposition of a general obligation to monitor all content; suggests that when technological means and specific measures in line with existing legal provisions are used, there is a need for strong safeguards of transparency and accountability, as well as the potential for highly skilled independent and impartial human oversight; calls on the Commission to adopt, as far as possible, uniformly applicable and effective rules on the ‘notice and action’ procedure in order to speed up the detection and removal of illegal or illegally shared content, while ensuring that legal and legally-shared content stays online and that any removal of legal content that might have been wrongfully deleted, does not lead to the identification of individual users, or to the processing of personal data; asks to oblige providers of information society services to make complaint and

redress mechanisms available for users and to process complaints without undue delay;

22. Highlights the need to ensure that the collection and processing of all personal data carried out which does not fall under the scope of Directive (EU) 2016/680 of the European Parliament and of the Council<sup>3</sup>, or under the scope of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>4</sup> is done in accordance with the principles of legality, necessity and proportionality, as established by article 9 of the Council of Europe's Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention No. 108);
23. Stresses the need to improve market access to non-private entities, like NGOs, libraries, cultural institutions, research centres, cultural networks and universities;
24. Calls for media service providers to be given access to the data generated by the services they provide or the content they produce, or which is directly associated therewith, if the services and content are offered on global digital platforms, in which connection the provisions concerning the protection of personal data and privacy must always be complied with to prevent unfair competition; calls for strong safeguards to prevent the misuse of users' data, including by ensuring algorithmic transparency and accountability as well as access to relevant data for researchers and public oversight bodies;
25. Calls on the Commission to ensure that platform operators make available complaint and redress mechanisms for users and that complaints are processed without undue delay;
26. Calls for solutions to enable a fair competition and equal access to the Single Market to sports events and services from all Member States;
27. Calls on the Commission to ensure that transparency reports are made available by platform operators, which contain information about the number of cases in which content was misidentified as illegal or as illegally shared and that the competent authorities make information available about the number of cases in which removals lead to the investigation and prosecution of crime;
28. Considers that the regulation of technology must be implemented in a way that does not disrupt innovation or curtail freedom of expression; emphasises that open, network and technology-neutral access to the internet must be granted special protection by law because it forms the basis for the necessary interoperability of services and systems, ensures diversity, fosters digital creation and enables fair competition and the creation of a digital service infrastructure that includes access for every citizen of the Union to quality information, media, educational, scientific and cultural offers; calls, therefore,

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<sup>3</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119 4.5.2016, p. 89).

<sup>4</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).



on the Commission to step up efforts to ensure the equal, non-discriminatory treatment of all data traffic in the Union and to critically re-examine the impact of zero-rated offers on competition in the Union; points out that open source softwares, open standards and open technologies are best suited to ensuring interoperability, fair competition, and accessibility;

29. Calls on the Commission to establish measures to require platforms and providers of information society services to prevent minors from accessing pornographic content; recalls that such content, which is very often freely available, is capable of profoundly destabilising the younger generation when they discover their emotions and sexuality; stresses that a significant proportion of online pornographic content contains sexist stereotypes that are often seriously prejudicial to women's dignity, or even help to trivialise scenes of abuse or violence; stresses therefore that defending women's rights and combating gender-based and sexual violence requires resolute action by effective technological means to prevent minors from being exposed to such content; recalls the need to establish ambitious rules to this end, and the importance of greater cooperation at European level to protect minors;
30. Stresses that sector-specific regulations should, as a matter of principle, take priority over horizontal regulations; stresses in particular, in this context, that a future Digital Services Act fully recognises as a *lex specialis* the provisions of the existing Directive (EU) 2018/1808 and the Directive (EU) 2019/790 of the European Parliament and of the Council<sup>5</sup>;
31. Underlines the importance of new digital cultural and creative industries and of the added value brought by digital technologies in different cultural, educational, media, sports and youth related sectors; calls on the Commission to propose legislation that enables the development of this new trend, protects the cultural and creative works of authors and creators, and ensures a fair and equal internal market for everyone independently of their region or of their Member States;
32. Stresses that the increasing use of the internet to market books must be accompanied by measures to ensure cultural diversity, so as to be able to ensure equal access for all to reading, protection of the principle of fair and equitable remuneration for rights holders and diversity of the material published; reiterates the need to maintain fair competition on the single digital market, imposing the principle of interoperability;
33. Urges that device neutrality be addressed, as it is only by means of its interaction with network neutrality that empowered consumer decisions can be facilitated end to end;
34. Calls on Member States, in cooperation with internet operators, Europol and Eurojust, to make notification and removal procedures more effective in order to delete violent and child-pornography content.

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<sup>5</sup> Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92).



## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	13.7.2020
<b>Result of final vote</b>	<div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">+:</div> <div>24</div> </div> <div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">-:</div> <div>3</div> </div> <div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">0:</div> <div>3</div> </div>
<b>Members present for the final vote</b>	Asim Ademov, Christine Anderson, Andrea Bocskor, Vlad-Marius Botoș, Ilana Cicurel, Gilbert Collard, Gianantonio Da Re, Laurence Farreng, Tomasz Frankowski, Romeo Franz, Alexis Georgoulis, Hannes Heide, Irena Joveva, Petra Kammerevert, Niyazi Kizilyürek, Predrag Fred Matić, Dace Melbārde, Victor Negrescu, Niklas Nienä, Peter Pollák, Marcos Ros Sempere, Domènec Ruiz Devesa, Andrey Slabakov, Massimiliano Smeriglio, Michaela Šojdrová, Sabine Verheyen, Milan Zver
<b>Substitutes present for the final vote</b>	Isabel Benjumea Benjumea, Marcel Kolaja
<b>Substitutes under Rule 209(7) present for the final vote</b>	Angel Dzhambazki

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

24	+
PPE	Asim Ademov, Isabel Benjumea Benjumea, Andrea Bocskor, Tomasz Frankowski, Peter Pollák, Michaela Šojdrová, Sabine Verheyen, Milan Zver
S&D	Hannes Heide, Petra Kammerevert, Predrag Fred Matić, Victor Negrescu, Marcos Ros Sempere, Domènec Ruiz Devesa, Massimiliano Smeriglio
RENEW	Vlad-Marius Botoș, Ilana Cicurel, Laurence Farreng, Irena Joveva
ECR	Angel Dzhambazki, Dace Melbārde, Andrey Slabakov
GUE/NGL	Alexis Georgoulis, Niyazi Kizilyürek

3	-
VERTS/ALE	Romeo Franz, Marcel Kolaja, Niklas Nienaa

3	0
ID	Christine Anderson, Gilbert Collard, Gianantonio Da Re

Key to symbols:

+ : in favour

- : against

0 : abstention