



2020/2022(INI)

20.7.2020

OPINION

of the Committee on Culture and Education

for the Committee on Civil Liberties, Justice and Home Affairs

on the Digital Services Act and fundamental rights issues posed
(2020/2022(INI))

Rapporteur for opinion: Petra Kammerevert

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SUGGESTIONS

The Committee on Culture and Education calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Points out that fundamental rights constitute an objective system of values which ensures that fundamental communication freedoms, such as the right to privacy of communications, freedom and pluralism of expression, freedom of information, arts, science and media, as well as the right to property and its protection, are not alterable and must be balanced against one another, including by private-law agreements or business terms and conditions;
2. Underlines that the Digital Services Act (DSA) should be fully compliant with the objective of ensuring the protection of fundamental rights, as well as consumer protection, user safety, the option of online anonymity and freedom of speech and the protection of property; underlines that fundamental rights do not only apply as defensive rights against the state, but also apply to those who exercise their power through their technical infrastructure, thus limiting their power; stresses that fundamental rights must therefore also impose obligations on those who exercise power through their technical infrastructures; stresses that due account should be taken of the degree of market dominance, a dominant or quasi-monopolistic position, the degree of user reliance on supply and the interests affected by users, the powerful players themselves and other third parties;
3. Stresses the importance of helping consumers and users to gain greater control over and take responsibility for their own data and identity, and calls for a high level of protection of personal data while increasing the levels of transparency and accountability of digital services;
4. Emphasises that content that is legal and legally shared under Union or national law must remain online and that the removal of such content must not lead to the identification of individual users or the processing of personal data;
5. Points out that the media ecosystem suffers from the disruptive effects of online platforms; emphasises that public authorities have an obligation to adopt a legal framework that promotes the development of independent and pluralistic media;
6. Recalls the obligation for online platforms and other online services to act expeditiously to remove illegal content from their platforms and services and recalls that these mandatory protection measures operate within a legislative framework and are subject to judicial oversight; considers that sector-specific rules may ensure unhindered access to media services and content, as well as advance media freedom and pluralism;
7. Calls for all measures that could impact fundamental rights to continue to be based on judicial and regulatory oversight and for no public-authority tasks to be transferred to private companies or individuals;
8. Calls for balanced solutions regarding content removal, with cooperation between platforms, regulatory authorities, rights holders and users; stresses that sharing GDPR-compliant data on illegal activities with law enforcement and other authorities

should be a priority for platforms, in addition to their own effective and appropriate safeguards;

9. Calls for transparency in the procedures that social platforms use to remove content, and for the prevention of the removal of content that is not illegal; calls for clear rules for large social platforms, requiring them to check flagged content and to reply to uploaders with a reasoned decision if their content is blocked; calls, therefore, for efficient complaint and redress mechanisms for human-directed users, while preventing abuse of such mechanisms;
10. Calls on the Commission to ensure that transparency reports are made available by platform operators containing information on the number of cases where content has been wrongly identified as illegal or as illegally shared, and that competent authorities provide information on the number of cases where removals lead to the investigation and prosecution of crimes;
11. Points out that some harmful content or partially accurate information may not necessarily be illegal; notes that automatic filtering tools may lead to the filtering out of legal content; considers it necessary to ensure that content owners can defend their rights adequately once their content has been removed;
12. Stresses that any monitoring of their content applied by online platforms and other services should be submitted to rigorous and transparent standards that are known to users and that enable an effective right to appeal against decisions, first to online platforms or services, but also to a public authority;
13. Suggests that particular attention be paid to the protection of children and young people and that this protection also be safeguarded under data protection law, and calls for online services for the protection of children and young people to be subject to the highest restrictions under data protection law;
14. Points out that soft coordination, support or supplementary measures, such as codes of conduct or self-regulation and co-regulation, can be effective means of regulation provided that government agencies monitor their impact and legal provisions are made for state regulation where such measures are proved to be ineffective, since they often allow a rapid response to changing circumstances, including involving non-EU participants;
15. Points out that, in principle, enforcement, including in cross-border cases, is the responsibility of the national regulatory authorities and should not be transferred to European level without good reason; furthermore, believes that the idea of the country of origin principle will be strengthened if the national regulatory authorities have effective enforcement tools and efficient procedures for cross-border cooperation; stresses that this should be accompanied at European level by swift and efficient dispute settlement procedures that ensure lasting legal peace;
16. Demands that the services developed and used in the Union guarantee effective and comprehensive privacy and data protection, and that the highest possible level of freedom of expression and information, the protection of intellectual property and privacy of communication, the promotion of opinion, cultural diversity and net neutrality in a secure digital environment represent advantages in global competition

that should not be underestimated; calls on the Commission to systematically promote the development of these services in a more targeted manner through clear and efficient solutions that are appropriate for the digital age;

17. Calls for European values to be upheld, promoting diversity of opinion, net neutrality, freedom of speech, protection of property and access to information, media pluralism and cultural and linguistic diversity; calls for clear and, as far as possible, uniformly applicable rules on platform liability, illegal or harmful content, algorithmic accountability, transparent advertising and the fight against harmful content, hate speech and disinformation and its dissemination via fake or bot accounts, in order to preserve fundamental rights and freedom;
18. Stresses that any new obligations on platforms should be proportional to their market share and financial capacity in order to promote fair competition and to support innovation; believes that such an approach would help to strengthen information and media plurality and cultural and linguistic diversity;
19. Calls for sector-specific rules that serve to achieve society-wide objectives and give tangible expression to them for certain sectors, such as Directive (EU) 2018/1808, the Audiovisual Media Services Directive (AVMSD), or Directive (EU) 2019/790, the ‘Copyright Directive’, to take precedence over general rules in order to guarantee the rights of the rights holders in the digital environment;
20. Stresses that any provision on content moderation for service providers must ensure full respect for freedom of expression, which according to Article 11 of the Charter of fundamental rights of the European Union, includes ‘freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers’, and that access to a wide variety of opinions contributes to the development of open and democratic societies, even when those views are controversial or unpalatable;
21. Stresses the need to give citizens more control over how their personal data is managed and protected online, while also placing more responsibility on businesses in their data protection practices;
22. Calls on the Commission and the Member States to promote cooperation between the public and private sectors and the academic world in order to reinforce knowledge sharing, the promotion of safety education and training, data privacy, ethical implications and respect for human rights in connection with the use of digital technology, robotics and artificial intelligence (AI);
23. Believes that platform liability should be tailored to respect the size of the operator and that a clear distinction be made regarding platform engagement with the content, based on clear and verifiable criteria and aspects, such as editorial functions, actual knowledge and a certain degree of control; considers also that any proposed system should be accompanied by solid guarantees of fundamental rights and adequate independent and impartial public oversight;
24. Stresses that, regardless of the social benefits provided by new technologies, digital services and data-driven technologies, including AI, the top priority must be to address and analyse potential risks to democratic values, the rule of law and fundamental rights.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	13.7.2020
Result of final vote	+: 28 -: 0 0: 2
Members present for the final vote	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 Nienaß, Peter Pollák, Marcos Ros Sempere, Domènec Ruiz Devesa, Andrey Šlabakov, Massimiliano Smeriglio, Michaela Šojdrová, Sabine Verheyen, Milan Zver
Substitutes present for the final vote	Isabel Benjumea Benjumea, Marcel Kolaja
Substitutes under Rule 209(7) present for the final vote	Angel Dzhambazki

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

28	+
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
ID	Gilbert Collard
VERTS/ALE	Romeo Franz, Marcel Kolaja, Niklas Nienaaß
ECR	Angel Dzhambazki, Dace Melbārde, Andrey Slabakov
GUE/NGL	Alexis Georgoulis, Niyazi Kizilyürek

0	-

2	0
ID	Christine Anderson, Gianantonio Da Re

Key to symbols:

+ : in favour

- : against

0 : abstention