



2020/2022(INI)

9.7.2020

OPINION

of the Committee on the Internal Market and Consumer Protection

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: Adam Bielan

PA_NonLeg

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection 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. Welcomes the Commission's commitment to introduce a harmonised approach addressing obligations for digital service providers, including online intermediaries, in order to avoid fragmentation of the internal market and inconsistent enforcement of regulations; stresses that any new measures introduced by the Digital Services Act should take into account the possible impact on the functioning of the internal market, while fully respecting the fundamental rights and freedoms of users across the Union; calls on the Commission, furthermore, to avoid the 'export' of national regulations and instead to propose the most efficient and effective solutions for the internal market as a whole, while seeking to avoid creating new administrative burdens and keeping the digital single market open, fair, safe and competitive for all its participants;
2. Believes that the Digital Services Act should comply with the broad framework of fundamental rights of users and consumers in the internal market, such as the protection of privacy, non-discrimination and dignity, and that above all it should not weaken freedom of expression; recalls furthermore that the use of content removal mechanisms without guarantees of due process is a contravention of Article 10 of the European Convention on Human Rights;
3. Recognises the need to modernise the legislation where necessary in order to better address challenges posed by evolving technologies; states, however that limited liability provisions as set out in the e-Commerce Directive¹ must be maintained in the Digital Services Act, including the long-established principle prohibiting general monitoring obligations, particularly in order to protect fundamental rights, including freedom of expression, and to maintain the freedom to provide services; underlines the importance of these protections to further strengthen and better protect consumers trust online and promote the growth of European companies, and of SMEs and microbusinesses in particular;
4. Recognises that online intermediaries, including SMEs, microbusinesses and large players, have differing capabilities with regard to the moderation of content; warns that overburdening businesses with disproportionate new obligations could further hinder the growth of SMEs and prevent them from entering the market; calls on the Commission, therefore, to guarantee the openness and competitiveness of the digital single market;
5. Recalls that the e-Commerce Directive is the legal framework for online services in the internal market that regulates content management; stresses that unjustified fragmentation of that framework resulting from the revision of the e-commerce directive by the Digital Services Act package should be avoided; notes that the Digital

¹ 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.

Services Act package should also include an ex-ante instrument imposing obligations on platforms that pose a threat to the level playing field, in order to address market failures and abusive behaviours, protect consumers' fundamental rights and strengthen the freedom to provide services, especially for SMEs;

6. Notes the significant differences between digital services and therefore calls for the avoidance of a one-size-fits-all approach, and believes that the Commission should further examine, using inter alia the public consultation launched ahead of its legislative proposal on the Digital Services Act, the possibility that different provisions might be needed to address different digital services, circumstances and situations;
7. Recalls the fact that disinformation and misinformative or harmful content is not always illegal; recalls that types of illegal content can vary between Member States; calls, therefore, for the establishment of a well-defined, harmonised and transparent notice-and-action process within the current limited liability principles while being mindful of significant differences between digital service providers in terms of the scale of their reach and operational capacities, so to avoid unnecessary regulatory burdens; supports an increased dialogue between the Member States, competent authorities and relevant stakeholders with the aim of developing, evaluating and improving soft law approaches, such as the EU-wide Code of Practice on Disinformation, in order to further tackle disinformation and other categories of harmful content;
8. Highlights the proliferation of misinformation and disinformation with false or misleading content and consumer scams involving unsafe or counterfeit products; stresses that the Digital Services Act should distinguish 'illegal' content from 'harmful' and other content; considers that harmful content should not be regulated or defined in the Digital Service Act;
9. Calls for the introduction of the appropriate safeguards, due process obligations and counter-notice tools to allow content owners and uploaders to defend their rights adequately and in a timely manner, including with human oversight, when notified of any takedown of content; underlines its view that delegating the responsibility to set boundaries on freedom of expression to private companies is unacceptable and creates risks for both individuals and businesses; believes that removal of illegal content should be followed up where necessary by law enforcement or judicial oversight, and that if a judicial redress or counter-notice procedure establishes that the activity or information in question is not illegal, the online intermediary should restore the removed content without undue delay;
10. Believes that past experience has proved the effectiveness of allowing innovative business model to flourish and strengthening the digital single market by removing barriers to the free movement of digital services and preventing the introduction of new, unjustified national barriers, and that the continuation of this approach would reduce the fragmentation of the internal market; considers furthermore that the Digital Services Act can offer opportunities to develop citizens' knowledge and skills in the field of digitalisation while at the same time guaranteeing a high level of consumer protection, including by safeguarding online safety;
11. Encourages the Commission to assess, based on the existing legislation and new

supporting data from, among other sources, its public consultations, the extent to which the Digital Services Act should address the challenges connected to algorithms and other automated tools, especially with regard to the transparency of such systems, or otherwise to outline which legislation should address these issues; stresses the importance of indiscriminate access to diverse content and opinions, as well as the fact that networks and network access should not be hampered without justified legal grounds.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	7.7.2020
Result of final vote	+ : 41 - : 0 0 : 3
Members present for the final vote	Alex Agius Saliba, Andrus Ansip, Alessandra Basso, Brando Benifei, Adam Bielan, Hynek Blaško, Biljana Borzan, Vlad-Marius Botoș, Markus Buchheit, Dita Charanzová, Deirdre Clune, David Cormand, Petra De Sutter, Carlo Fidanza, Evelyne Gebhardt, Alexandra Geese, Sandro Gozi, Maria Grapini, Svenja Hahn, Virginie Joron, Eugen Jurzyca, Arba Kokalari, Marcel Kolaja, Kateřina Konečná, Andrey Kovatchev, Jean-Lin Lacapelle, Maria-Manuel Leitão-Marques, Adriana Maldonado López, Antonius Manders, Beata Mazurek, Leszek Miller, Kris Peeters, Anne-Sophie Pelletier, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Kim Van Sparrentak, Marion Walsmann, Marco Zullo
Substitutes present for the final vote	Pascal Arimont, Maria da Graça Carvalho, Edina Tóth, Stéphanie Yon-Courtin

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

41	+
ECR	Adam Bielan, Carlo Fidanza, Eugen Jurzyca, Beata Mazurek
EPP	Pascal Arimont, Maria da Graça Carvalho, Deirdre Clune, Arba Kokalari, Andrey Kovatchev, Antonius Manders, Kris Peeters, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Edina Tóth; Marion Walsmann
GREENS/EFA	David Cormand, Petra De Sutter, Alexandra Geese, Marcel Kolaja, Kim Van Sparrentak
ID	Alessandra Basso, Markus Buchheit, Virginie Joron, Jean-Lin Lacapelle
NI	Marco Zullo
RENEW	Andrus Ansip, Vlad-Marius Botoș, Dita Charanzová, Sandro Gozi, Svenja Hahn, Stéphanie Yon-Courtin
S&D	Alex Agius Saliba, Brando Benifei, Biljana Borzan, Evelyne Gebhardt, Maria Grapini, Maria-Manuel Leitão-Marques, Adriana Maldonado López; Leszek Miller, Christel Schaldemose

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EUL/NGL	Kateřina Konečná, Anne-Sophie Pelletier
ID	Hynek Blaško

Key to symbols:

+ : in favour

- : against

0 : abstention