



2020/2018(INL)

14.5.2020

DRAFT OPINION

of the Committee on Legal Affairs

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 (*): Patrick Breyer

(Initiative – Rule 47 of the Rules of Procedure)

(*) Associated committee – Rule 57 of the Rules of Procedure

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SUGGESTIONS

The Committee on Legal Affairs 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:

- A. Whereas a number of questions related to civil and commercial law and enforcement of civil and administrative law is also of specific relevance regarding pure consumer relations;
1. Stresses that wherever it is technically possible and reasonable, intermediaries should be required to enable the anonymous use of their services and payment for them, since anonymity effectively prevents unauthorised data disclosure and identity theft; notes that where the Directive on Consumer Rights requires commercial traders to communicate their identity, providers of major market places could be obliged to verify their identity, while in other cases the right to use digital services anonymously should be upheld;
 2. Notes that since the online activities of individuals allow for deep insights into their personality and make it possible to manipulate them, the collection and use of personal data concerning the use of digital services should be subjected to a specific privacy framework and limited to the extent necessary to provide and bill the use of the service;
 3. Notes that automated tools are unable to differentiate illegal content from content that is legal in a given context; highlights that human review of automated reports by service providers does not solve this problem as private staff lack the independence, qualification and accountability of public authorities; stresses, therefore, that the Digital Services Act should explicitly prohibit any obligation on hosting service providers or other technical intermediaries to use automated tools for content moderation, and refrain from imposing notice-and-stay-down mechanisms; insists that content moderation procedures used by providers should not lead to any *ex-ante* control measures based on automated tools or upload-filtering of content;
 4. Stresses that the responsibility for enforcing the law, deciding on the legality of online activities and ordering hosting service providers to remove or disable access to illegal content as soon as possible should rest with independent judicial authorities; considers that only a hosting service provider that has actual knowledge of illegal content and its illegal nature should be subject to content removal obligations;
 5. Emphasises that the spread of false and racist information on social media should be contained by giving users control over content proposed to them; stresses that curating content on the basis of tracking user actions should require the user's consent; proposes that users of social networks should have a right to see their timeline in chronological order; suggests that dominant platforms should provide users with an API to have content curated by software or services of their choice;
 6. Stresses that, in order to overcome the lock-in effect of centralised networks and to ensure competition and consumer choice, users of dominant social media services and messaging services should be given a right to cross-platform interaction via open

interfaces (interconnectivity).