



4.5.2021

## NOTICE TO MEMBERS

**Subject: Petition No 0874/2020 by P.N.K. (Greek) on human audience trade in internet**

### 1. Summary of petition

The petitioner objects to the use of the posts on social media platforms for political, ideological or religious agitation. Users that have previously followed these posts are then subjected to such advertising, which they may not have signed up for initially.

### 2. Admissibility

Declared admissible on 17 November 2020. Information requested from Commission under Rule 227(6).

### 3. Commission reply, received on 4 May 2021

‘ The Commission analysed the issues related to the way content is sorted and how information flows are shaped through the intermediation of online platforms in its preliminary work ahead of the proposal of the Digital Services Act<sup>1</sup>. In its proposal, the Commission proposed a series of measures to ensure that users are protected online and that manipulations of the online environment for spreading illegal content or other abuses are appropriately tackled, while protecting the rights and legitimate interests of all affected parties, such as the fundamental freedom to conduct a business and freedom of expression and information.

In the impact assessment, several areas of relevance to the issues raised by the petitioner were identified, notably in relation to systems used by online platforms for recommending content to their users, through fully or partially automated systems, based on search, user profiles, preferences or other past online behavior of their users, as well as for advertising content and

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<sup>1</sup> COM(2020) 825 final.

offers for goods or services. Such systems are often based on profiles of users, connections with other users and similarity of preferences with other groups of users.

The way recommender and advertising systems are shaped and developed remains part of the strategy of online platforms to build and maintain a competitive advantage through the quality and relevance of their service, and is part of their freedom to conduct a business and freedom of contract. At the same time, they must comply with the relevant provisions of Union law, notably the General Data Protection Regulation<sup>2</sup> and the ePrivacy Directive<sup>3</sup>.

Further, in the context of the Commission's proposal for the Digital Services Act, recommender systems are regulated through several types of measures, some of them applicable to very large online platforms that reach the threshold currently estimated to be amounting to more than 45 million users in the EU. First, the proposal includes obligations on such platforms to ensure that their users are appropriately informed about the functioning of recommender systems and that users can influence what information is suggested for them. This includes a presentation of the main parameters of the recommender systems and a prohibition to constrain users into being subject to recommender systems built on profiling based on their personal data, as well as an obligation to offer them choices in this regard.

With regard to advertising on online platforms, all platforms will have to clearly distinguish when a third party paid for content. This requirement applies regardless of other users' engagement with the content, as per the petitioner's example. In addition, the platforms will have to clearly inform the user about who has paid for the advertisement, as well as why they are presented with the advertisement, for example, the criteria on the basis of which they are profiled.

For very large online platforms, the proposed regulation also includes a series of additional transparency obligations through the maintenance and access to an advertisement repository, including information about all advertisements presented on the platform and their targeting and delivery to different types of users.

Furthermore, very large platforms will have to assess the systemic risks posed by the design and the functioning of their recommender systems and their advertising systems as regards the spread of illegal content, limitations to certain fundamental rights, as well as the intentional manipulation of their service with an actual or foreseeable negative effect on the protection of public health, minors, civic discourse, or actual or foreseeable effects in relation to electoral processes and public security. They will also have to give access to data to researchers, under certain conditions, for inspecting the way such systems contribute to a series of societal risks.

This system allows the competent authorities in the Member States, as well as the Commission,

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<sup>2</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) (Text with EEA relevance), *OJ L 119*, 4.5.2016, p. 1–88.

<sup>3</sup> Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance), *OJ L 337*, 18.12.2009, p. 11–36.

to better supervise and enforce the rules.

### Conclusion

The Commission cannot take specific and direct measures with regard to the issues flagged by the petitioner.

The proposed regulation for a Digital Services Act is intended to provide enhanced transparency, user agency, and regulatory and public supervision of such recommender and advertising systems on online platforms.

Should the petitioner's issue refer specifically to an infringement of rights under the General Data Protection Regulation, the petitioner has the right to lodge a complaint with the competent data protection authority in their Member State<sup>4</sup>, without prejudice to any other administrative or judicial remedy.'

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<sup>4</sup> <http://www.dpa.gr/>