

DSA trilogues: Do EU policy-makers know how digital businesses work?

By EPPP – European Public Policy Partnership

Following our brief analysis of legal problems in DSA, let's take a peek at business impacts. Will the DSA in its current form promote the growth of innovative businesses in Europe? Or is it on the best way to stifle innovation?

- 1) Latest proposals seem to impose unnecessary red tape – for instance requirements regarding placement of recommendation system control bars in specific locations of the online interface of platforms. Nobody contests that such controls must be easily accessible but making such specific demands would hamper the freedom to design online services in the best way to serve the users. These proposals are as meaningless as to dictate to computer manufacturers where to place the turn on/off button on their products.
- 2) French Presidency has recently pushed for granting rights to appeal and redress also to those flagging a piece of content for allegedly breaching the community guidelines. However, the reality is that users can flag content anytime only because they disagree with it. For instance, not even 2% of 32 million videos reported to YouTube from March to September 2021 violated the platform's terms and conditions. Just imagine a new and growing platform getting bogged down in a myriad of unsubstantiated complaints used unfairly by bad actors to sap platform's resources and slow down its growth. This is not the way to foster new European digital champions.
- 3) Obligation to conduct risk assessments in advance of launching a new service or product would amount to a bureaucratic barrier on par with the placement of recommender system control bars mentioned above. This would significantly reduce the ability of platforms to quickly react to emerging crises such as COVID-19 or war in Ukraine with roll-out of new functions. Platforms perform thousands of tests before launching new features or services – that is the only way to stay competitive on the market and succeed. It would be unwise to think that the state knows better.
- 4) Insisting that the interaction between online services and users “shall not solely rely on automated tools” is another incursion into the freedom of doing business. A case in the point are automated money refunds that are a win-win situation for both the user and the platform. Any regulation should respect that business models of different services vary and there is no one-size-fits-all solution
- 5) Last but not least, Parliament still attempts to smuggle through provisions that could lead to excessive restrictions of targeted ads. For instance by extending the ban to users whose age verification could not be properly performed, meaning de facto to all ages. Numerous studies have proven the benefits of targeted ads for businesses when reaching their audience. Restricting them would deal a blow to innovations in Europe.

Are you interested to learn more about the impact of DSA on doing business in Europe? A very good summary of the main issues is provided in the letter of the Allied for Startups association:

<https://alliedforstartups.org/wp-content/uploads/2021/10/DSA-Startup-Letter.pdf>

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