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NOTE

From: LU Delegation
To: Working Party on Competitiveness and Growth (Internal Market - Attachés)
Working Party on Competitiveness and Growth (Internal Market)

Subject: Questions from LU delegation: Digital Services Act - Chapters I and II

Chapter I (Art 1-2)

- 1) Could the Commission provide a table explaining for each legislation listed in Article 1(5) how the articulation with the DSA would work? I.e. is the DSA « without prejudice » to specific provisions, or entire issues ? Is there complementarity or exclusivity between the DSA and these other texts?
- 2) Could the Commission provide concrete examples for the different definitions in Article 2(f) (intermediary services) and sub-bullets (mere conduit, caching, hosting), (h) (online platform)?
- 3) Could the Commission provide an example of how the “service-based” liability would work in practice (as opposed to provider-based liability), particularly if an intermediary provides several different services?
- 4) Based on the definition in Article 1(g): If a given content is defined as illegal in Member State A, but not in Member State B, does it mean that the relevant provisions of the DSA won't be applicable in Member State B?

Chapter II (Art 3-9)

- 1) With regard to Article 8, could the Commission explain how, in practice, an order with a territorial scope covering 27 EUMS issued by an administrative authority is to be recognised and executed in the jurisdictions of the other 26 EUMS?
- 2) Can the information gathered under Article 9 be used for purposes in other legislations, such as DMA?
- 3) Given that the Commission explained that Articles 8 and 9 only come into play based on national rules, what happens if there are no corresponding rules in national law?
- 4) Does the order Article 8 have to be addressed to any establishment of the intermediary or the main establishment?
- 5) Could the Commission play through an example of the process of a DSA order and articulation with existing legislations, such as a copyright infringement of a movie uploaded to a videosharing platform that is the object of an order from MS A to MS B where the platform is established? Which provisions of the DSA would apply, and which provisions of the Copyright Directive would apply? Would the platform have to comply with orders/procedure of the DSA, and if so, which are its possibilities for redress and dispute resolution (under DSA or under the Copyright Directive)?