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NOTE

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

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

Proposal for a Regulation of the European Parliament and of the Council on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC

Questions from the Romanian delegation

Dear Presidency ,

I wish to submit to your attention the following remarks and questions on Chapter 1 and 2 of the DSA Regulation.

Chapter I – General provisions

Article.1 Subject matter and scope

Paragraph 1 The text provides that the regulation lays down *"harmonised rules on the provision of intermediary services in the internal market"..." in particular"*

The bundling of diverse problems as copyright infringement, illegal speech, advertising under the same umbrella of "intermediary services" could be problematic. Experience has proven that the difference between these problems justify differences in the regulatory approach (telecoms, audio-video and e-commerce have their own regulatory frameworks) thus **a precise scope** is needed to justify and explain the intention of the Regulation.

We wish to understand what message we provide with the expression "in particular", in fact what do we regulate?

Paragraph 1c) provides that the Regulation establishes *"rules on the implementation and enforcement of this Regulation, including as regards the cooperation of and coordination between the competent authorities"*. Read together with the provisions of Article 8 and 9 could raise some questions about the legal bases.

We are kindly asking the written opinion of the Council Legal Service on the legal base.

Paragraph 3 - place of establishment - for legal persons providers, it needs to be stricter defined to avoid interpretations.

Paragraph 4 - This Regulation shall not apply to any service that is not an intermediary service or to any requirements imposed in respect of such a service, irrespective of whether the service is provided through the use of an intermediary service - **unclear**

We are interested to clarify the role of the intermediary service providers according to the provisions of DSA.

Paragraph 5 - is preferable to indicate the relation of the Regulation with other provisions of Union Law through a more general approach (lex specialis and lex generalis) and also the relation with national Laws, in the cases where national Laws are stricter and ensure a stricter content moderation processes. **Recital 9 could be moved in the operative part and redesigned.**

We wish to understand why the Regulation EU 2019/1020 is not included and whether for letter (h) "a list of the Union law on consumer protection and product safety" ... can be included in an annex.

Art.2 Definition

The definition list needs to be completed at least with the following:

e) Notion '*trader*' needs adjustments according to national laws (includes professions and this could be problematic).

f) *communication network* requires a definition

g) *illegal content* - COM agreed that DSA will not define what is illegal content explaining that the proposal will not touch upon national or EU laws that specify what is illegal.

p) *content moderation* is defined as an activity aimed at *detecting information incompatible with their terms and conditions*. This is too broad and unclear.

Trusted flagger

Digital Services Coordinator

Chapter II – Liability of providers of intermediary services

Art.5 Hosting

Para. 1 letter b) - the provider acts *expeditiously*? **Could a timeframe be envisaged?**

Art.8 Orders to act against illegal content and Art. 9 Orders to provide information - Enforcement and territorial scope needs to be better explained.

Besides all above we have the following questions:

- 1. What are the criteria to qualify a platform in the "very large platforms" category?**
- 2. What will be the role of the IMI system in the process of DSA implementation.**

Thank you for considering our questions.

On behalf of the Romanian team,

Cosmina MIU