

# **European media** call on policymakers to further strengthen the **Digital Services Act** proposal and to ensure that citizens can continue to engage online with the media they most trust and value



**NEWS MEDIA EUROPE**



**Brussels, 22 June 2021.**

Europe's media sector welcomes the Commission's proposal on the Digital Services Act (DSA) and supports its aim of creating a safer, fairer, and more transparent online environment, based on European values and the protection of fundamental rights.

Global online platforms have become an important gateway for citizens to access and consume reliable information and diverse content of public and commercial broadcasters and press publishers. Many of these players, however, restrict the dissemination of lawful media content, and their monetisation, based on their unilaterally imposed terms and conditions. Their recommender systems have a profound impact on the information and facts that users can access, the way they are presented to, and on how opinions are shaped. At the same time, online piracy continues to deprive Europe's creative and cultural ecosystems of revenues for reinvestment in production and creating jobs.

It is therefore time for Europe to impose more responsibilities on global online platforms – which have long ceased to be mere providers of technological infrastructure – and make them more accountable by reflecting their market power, daily mass reach and influence on societies. It is time to restore trust in the online environment and provide a safe space where media can fulfil its broader democratic function.

For these reasons, we advocate for targeted amendments to the DSA proposal, in no particular order of importance, to ensure that the DSA reflects the significant influence of global online platforms on access to content and information, on opinion-making and on the creative ecosystem. Certain smaller platforms operated by media organisations, such as discussion fora, should, however, not be overburdened by due diligence obligations. Particularly, we call on European policymakers to:

- **Ensure that the principle of “what is illegal offline should be illegal online” becomes an enforceable reality.** Certain targeted amendments should be introduced on the notice and action mechanism (Art. 14), i.e. making the condition of the validity of notices less stringent, more future proof and less costly, for example by deleting the obligation to provide the exact URL when notifying illegal content. Moreover, the status of trusted flaggers (Art. 19) should be extended to rightsholders, which have demonstrated expertise and competence for the purpose of detecting, identifying and notifying copyright infringements.

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- Protect the editorial freedom of media organisations** by introducing safeguards as to prohibit global online platforms from interfering with the content media organisation make available on their services, based on the platforms' terms and conditions, moderation policies or community guidelines. To promote trust in media and press online, global online platforms should refrain from taking any editorial decision, in the sense of removing, suspending, disabling access to or otherwise interfering with editorial content and services lawfully uploaded by a media organisation. Global online platforms with no editorial responsibility should not take any editorial decisions or exercise unjustified scrutiny over content that is produced by editorially responsible and regulated actors. If a dispute arises, it is up to courts or national regulators to decide and instruct the platform operators to act accordingly. Such an obligation should, however, be without prejudice to the liability of global online platforms for illegal uploads of our members' content by third parties.
  - Ensure proper brand attribution of media content.** When audiences access media content through social networks, news aggregators, or search engines, they need to be able to easily identify who bears the editorial responsibility over it. Failure by platform operators to attribute content to its source or incorrect attribution of logos and branding deprives audiences of an essential element to judge the information they see and hear. The DSA should thus ensure that the identity of media organisations (e.g. logos/branding) is clearly visible alongside the content and services they provide.
  - Further enhance transparency in the online environment by extending the know-your-business-customer obligation** (Art. 22). Only a broad obligation on platform operators to verify the identity of their business users will truly contribute to combatting fraudulent activities online and the dissemination of illegal content, such as copyright infringements.
  - Further enhance the transparency of platform operators' recommender systems,** as they impact the way media content can be found online. In particular, they should inform (business) users and regulators about the functionality of their **recommender systems** and the main criteria for aggregating, selecting and presenting content (Art. 29).
  - Oblige platform operators to set clear, transparent, non-discriminatory, unambiguous and predictable terms and conditions** (Art. 12). The obligation should however clearly limit the possibility of platform operators to remove or delist content that is under the editorial responsibility of a media organisation. It is equally important to ensure that changes in the platform operators' terms and conditions are duly communicated in advance, in order to limit the potential damages this could have on business users, such as media organisations and the content they made available, in terms of visibility, ranking, user traffic, advertising, etc.
  - Clarify the interplay with sector-specific laws and the Member States' competence to regulate.** Sector-specific rules best reflect the dual nature of the media, being cultural as well as economic goods. In particular, the Audiovisual Media Services Directive and national rules taken in accordance with it should not be affected by the DSA. Moreover, it should be specified that the DSA does not affect Member States' competence to regulate issues related to cultural diversity and media pluralism, also in relation to intermediary service providers.
  - Ensure proper enforcement of the DSA rules.** We agree with maintaining the country of origin principle, which is key for the free movement of digital services in Europe. With a view to ensuring swift and effective enforcement of the DSA throughout the EU, cross-border cooperation between the Digital Services Coordinators should be strengthened. As regards the European Board for Digital Services, we would consider useful if stakeholders could engage and raise concerns in cross-border cases. We also urge policymakers to make sure that independent national regulatory authorities for the media, which hold a great expertise in the regulation of certain online services with a view to promoting freedom of expression, are properly involved in the enforcement of the DSA, within the scope of their mandate.
  - Ensure the sustainability of the press and media.** Online advertising is a particularly important source of revenue for media organisations. Funding their operations through advertising should not be undermined by the DSA. This could have a detrimental effect to media freedom and pluralism in the EU. Balanced legislation on advertising that safeguards both citizens' fundamental rights and equal competitive opportunities in the online environment is crucially needed. The DSA should therefore tackle the data practices and monopolisation of advertising revenues by global online platforms, while ensuring the sustainability of the press and media.