

# DOT Europe's key messages on the Digital Services Act

As negotiations continue in the IMCO committee on the Digital Services Act (DSA), DOT Europe; the trade association representing leading internet companies in Brussels, would like to take the opportunity to share some key issues that we believe to be crucial for this text to work for EU businesses while enabling a safer environment for users.

Despite the Commission's proposal being a good basis to reach these two objectives, some changes proposed during the negotiations in the European Parliament could ultimately render this piece of legislation too complex to implement for companies and detrimental for the EU economy as a whole. Some of these changes would considerably broaden the scope of the proposal without any proper impact assessment. Below please find a listing of what we consider to be the most concerning changes currently being discussed in the European Parliament for your consideration.

## Introduction of stay down measures

- The final opinions of the ITRE and JURI committees on the DSA, feature so-called 'stay-down' provisions. If they are transposed in the IMCO report, such measures will require hosting service providers to prevent the reappearance of identical or equivalent content already taken down on their services.
- In practice, it will force hosting service providers to create, put in place and maintain expensive automated systems that will permanently scan all the content uploaded in real time. This obligation, apart from directly contradicting article 7 of the DSA, will prove **impossible to fulfil by smaller providers, who will have to stop operating**.
- This task is impossible to fulfil manually by human operators given the volume of content uploaded on online platforms or online marketplaces. Most of the smaller economic operators will have to close shop rather than try to comply with this disproportionate provision.

## Restrictions on targeted advertising

- Targeted advertising is at the forefront of the DSA debate and DOT Europe believes that it is **very premature to prescribe measures on targeted advertising** without any proper impact assessment nor any identification of the specific problems the legislators want to address.
- Many different pieces of legislation already cover online advertising so the priority should be to make sure these pieces of legislation are properly being enforced and implemented.
- An outright ban on targeted advertising will have far reaching and unintended consequences for many different stakeholders in the online world. **Targeted advertising allows brands to better reach their potential customers**. It also supports the growth of companies that have a smaller advertising budget allowing them to compete directly against bigger players.
- Restricting the ways businesses can advertise online and the potential revenue sources for publishers of the ad will ultimately force some businesses to stop operating, leading to reduced consumer choice, higher prices, reduction of variety in accessible services, etc.

## Measures interfering with platforms' design

- Several amendments aim at introducing new requirements for online platforms regarding their online interface design. While it is important that every user feels comfortable using the platform, DOT Europe does not believe prescribing specific measures on aspects of the service, which sometimes enable it to stand out from the rest of online services, is going in the good direction.
- The DSA should not interfere with valid business decisions on how an online service is presented to users and companies should be able to assess themselves whether the objective to have an accessible platform is met. Freedom to conduct a business should also be considered when writing the rules of the Internet of tomorrow.
- Furthermore, the newly introduced requirements on interface design have not been assessed thoroughly beforehand, leading to **some of the provisions being unachievable in practice**.

## Far-reaching requirements on recommender systems

- Recommender systems are used in a variety of applications (playlist generators, product recommenders for online stores, content recommenders for social media platforms, etc). Users can discover things they love thanks to personalised recommendations that suit their tastes and preferences.
- **Thanks to recommender systems, businesses can earn their customers' trust and loyalty** by proving how well they understand them. Restricting the use of recommender systems by businesses (be they an online marketplace specialised in refurbished goods, a local flower shop's website or a video-sharing platform) would mean attracting and retaining less users on the service at a time where people want a more personalised experience online.
- Some policy makers have proposed requiring online platforms to offer recommender systems developed by third-party actors. DOT Europe would caution against introducing this new requirement in the DSA as **no proper impact assessment has been conducted to evaluate the consequences of introducing unchecked third-party systems in an online platform functioning**. In addition to negating the wide variety of online services which use recommender systems, this raises a number of questions and issues, notably regarding transparency, responsibility and compliance. Would the third party also moderate content that flows from their recommender system? Is the third party taking on the responsibility to explain their recommender system to users? How would online platforms continue to address their compliance obligations within the DSA if they have no insight on the third party's actions?

## Mandating broad and unjustified access to platforms' internal systems

- One of the objectives of the DSA, which DOT Europe fully subscribes to, is foster transparency in the online environment in order to better protect users and consumers.
- Transparency cannot however be absolute, as it constantly needs to be balanced with two other goals: the **protection of users against bad actors and the protection of the economic operator's trade secrets**.
- Some proposals put forward by opinion-giving committees and currently in discussion in IMCO would, in the name of transparency, provide an unjustified access to the internal functioning of online platforms to a very broad range of stakeholders. The consequences if such provisions were to be adopted in IMCO are clear: competitors could gain access to the algorithms and other information that makes the platform successful, **distorting competition**, and most importantly this **information could fall in the hands of bad actors which could exploit it to gain access to users' personal data**.

# Prohibition to remove editorial content

- Press publishers and broadcasters have been pushing for the introduction of a prohibition to remove editorial content. In practice, it would mean that online platforms will no longer be able to moderate their services and take down editorial content that goes against their terms and conditions, or content that is simply illegal. While we are fully committed to protecting freedom of expression and media pluralism, such a measure would **give a free pass for bad actors to spread illegal and harmful content online and will prevent platforms from protecting their users.**
- There is no proper definition of what a 'media' is at EU level in this context. Third-party media outlets could use this opportunity to run foreign interference campaigns, spreading misinformation and disinformation and destabilising EU Member States. Ultimately, these campaigns could only be stopped following the intervention of a judge, after most of the harm is done.
- Last but not least, this provision is in direct contradiction with some of our obligations laid out in the Audiovisual Media Services Directive, the GDPR as well as some provisions of the DSA itself. We call on you to prevent the introduction of this dangerous provision which will ultimately harm users and our societies.

