Spotify Comments on the EU Digital Services Act

At Spotify, we are fully committed to operating in a responsible and transparent manner, and see the Digital Services Act (DSA) as a way to help us achieve this and to promote trust with our users. Establishing a clear and harmonised set of rules for platforms across Europe is a welcome step forward.

Illegal content online is a real issue that requires action. However, the rules must be **clear, targeted and proportionate** to ensure that businesses can apply them in a reasonable and efficient way, without creating unwanted side effects.

We have some suggestions in this regard:

1. **It is imperative to clarify how DSA applies to hybrid platforms like Spotify.** The legislation does not state clearly that when one platform offers different types of content (user-generated content ["UGC"] and non-UGC), the obligations should only apply in relation to UGC. The obligations applying to UGC activities should not prejudice the non-UGC activities of platforms that happen to offer different types of content on the same service.

   This could be addressed by introducing a simple clarification, such as:

   Recital 15: *Where some of the services offered by a provider are covered by this Regulation whilst others are not, or where the services offered by a provider are covered by different sections of this Regulation, the relevant provisions of this Regulation should apply only in respect of those services that fall within their scope.* ***The term "hosting service" should be understood to apply only to the activities that involve information provided by a recipient of that service. Similarly, only those activities would be relevant in determining whether the service constitutes a very large online platform.***

2. **We call strongly for flexibility in how the DSA's obligations on recommender systems are to be implemented**. This is particularly important for the wording of the final text on recommender systems.

   Personalisation is at the heart of Spotify's business model and is how we add value to our users and creators, and remain competitive. Flexibility in how we implement the obligations of transparency and an opt-out from personalised recommendations will be essential, for example if we want to continue to promote local content and creators to our users. Specifically, we need to be able to explore different options to comply with the rules and avoid creating an intrusive and unattractive user experience (such as a "cookie wall" scenario, for instance). **We are happy to provide suggestions once the Parliament text is clearer on this point.**

3. While the discussions in the European Parliament are ongoing, we wish to highlight that certain amendments would be highly problematic if adopted. Examples include transparency requirements around recommender systems that are not technically feasible, and onerous risk assessments that would delay innovation or the launch of new services for European consumers. **Should these types of amendments be adopted, the Council should carefully assess whether they are proportionate and risk creating unnecessary obstacles to digital innovation and growth**.

4. **It is essential to provide adequate time to prepare for compliance with the DSA**, as it will require complex adjustments, particularly for some obligations, such as on recommender systems. A 12-month period to prepare is, for Spotify and companies like it, a very short compliance deadline, and it would divert important resources away from growing the business. This is a compliance cost that will impact medium-sized companies the most. **The Council should defend the 18 months for compliance in Trilogue negotiations. The same deadline should apply after a VLOP is designated.**
