

Digital Services Act package: open public consultation

Fields marked with * are mandatory.

Introduction

The Commission recently [announced](#) a Digital Services Act package with two main pillars:

- first, a proposal of new and revised rules to deepen the Single Market for Digital Services, by increasing and harmonising the responsibilities of online platforms and information service providers and reinforce the oversight over platforms' content policies in the EU;
- second, ex ante rules to ensure that markets characterised by large platforms with significant network effects acting as gatekeepers, remain fair and contestable for innovators, businesses, and new market entrants.

T h i s

c o n s u l t a t i o n

The Commission is initiating the present open public consultation as part of its evidence-gathering exercise, in order to identify issues that may require intervention through the Digital Services Act, as well as additional topics related to the environment of digital services and online platforms, which will be further analysed in view of possible upcoming initiatives, should the issues identified require a regulatory intervention.

The consultation contains 6 modules (you can respond to as many as you like):

1. **How to effectively keep users safer online?**
2. **Reviewing the liability regime of digital services acting as intermediaries?**
3. **What issues derive from the gatekeeper power of digital platforms?**
4. **Other emerging issues and opportunities, including online advertising and smart contracts**
5. **How to address challenges around the situation of self-employed individuals offering services through online platforms?**
6. **What governance for reinforcing the Single Market for digital services?**

Digital services and other terms used in the questionnaire

- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* 2 I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* 3 First name

Dimitar

* 4 Surname

DIMITROV

* 5 Email (this won't be published)

dimitar.dimitrov@wikimedia.de

* 7 Organisation name

255 character(s) maximum

Wikimedia (Free Knowledge Advocacy Group EU)

* 8 Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

10 Are you self-employed and offering services through an online platform?

- Yes
- No

16 Does your organisation play a role in:

- Flagging illegal activities or information to online intermediaries for removal
- Fact checking and/or cooperating with online platforms for tackling harmful (but not illegal) behaviours
- Representing fundamental rights in the digital environment
- Representing consumer rights in the digital environment
- Representing rights of victims of illegal activities online
- Representing interests of providers of services intermediated by online platforms
- Other

17 Is your organisation a

- Law enforcement authority, in a Member State of the EU
- Government, administrative or other public authority, other than law enforcement, in a Member State of the EU
- Other, independent authority, in a Member State of the EU
- EU-level authority
- International level authority, other than at EU level

Other

18 Is your business established in the EU?

- Yes
- No

19 Please select the EU Member States where your organisation is established or currently has a legal representative in:

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden

20 Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

191538712765-84

* 21 Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> Somalia |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |

- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago

- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen

- Czechia
- Lebanon
- Saint Helena
Ascension and
Tristan da
Cunha
- Zambia
- Democratic
Republic of the
Congo
- Lesotho
- Saint Kitts and
Nevis
- Zimbabwe
- Denmark
- Liberia
- Saint Lucia

* 22 Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the [personal data protection provisions](#)

I. How to effectively keep users safer online?

This module of the questionnaire is structured into several subsections:

First, it seeks evidence, experience, and data from the perspective of different stakeholders regarding illegal activities online, as defined by national and EU law. This includes the availability online of illegal goods (e.g. dangerous products, counterfeit goods, prohibited and restricted goods, protected wildlife, pet trafficking, illegal medicines, misleading offerings of food supplements), content (e.g. illegal hate speech, child sexual abuse material, content that infringes intellectual property rights), and services, or practices that infringe consumer law (such as scams, misleading advertising, exhortation to purchase made to children) online. It covers all types of illegal activities, both as regards criminal law and civil law.

It then asks you about other activities online that are not necessarily illegal but could cause harm to users, such as the spread of online disinformation or harmful content to minors.

It also seeks facts and informed views on the potential risks of erroneous removal of legitimate content. It also asks you about the transparency and accountability of measures taken by digital services and online platforms in particular in intermediating users' access to their content and enabling oversight by third parties. Respondents might also be interested in related questions in the module of the consultation focusing on online advertising.

Second, it explores proportionate and appropriate responsibilities and obligations that could be required

from online intermediaries, in particular online platforms, in addressing the set of issues discussed in the first sub-section.

This module does not address the liability regime for online intermediaries, which is further explored in the next module of the consultation.

1. Main issues and experiences

A. Experiences and data on illegal activities online

Illegal goods

1 Have you ever come across illegal goods on online platforms (e.g. a counterfeit product, prohibited and restricted goods, protected wildlife, pet trafficking, illegal medicines, misleading offerings of food supplements)?

- No, never
- Yes, once
- Yes, several times
- I don't know

3 Please specify.

3000 character(s) maximum

4 How easy was it for you to find information on where you could report the illegal good?

Please rate from 1 star (very difficult) to 5 stars (very easy)



5 How easy was it for you to report the illegal good?

Please rate from 1 star (very difficult) to 5 stars (very easy)



6 How satisfied were you with the procedure following your report?

Please rate from 1 star (very dissatisfied) to 5 stars (very satisfied)



7 Are you aware of the action taken following your report?

- Yes
- No

8 Please explain

3000 character(s) maximum

9 In your experience, were such goods more easily accessible online since the outbreak of COVID-19?

- No, I do not think so
- Yes, I came across illegal offerings more frequently
- I don't know

10 What good practices can you point to in handling the availability of illegal goods online since the start of the COVID-19 outbreak?

5000 character(s) maximum

Illegal content

11 Did you ever come across illegal content online (for example illegal incitement to violence, hatred or discrimination on any protected grounds such as race, ethnicity, gender or sexual orientation; child sexual abuse material; terrorist propaganda; defamation; content that infringes intellectual property rights, consumer law infringements)?

- No, never
- Yes, once
- Yes, several times
- I don't know

12 What measure did you take?

- I reported it to the platform via its existing reporting procedure
- I contacted the online platform by other means to report the illegal content
- I contacted a national authority
- I contacted a consumer organisation
- I did not take any action
- I took a different action. Please specify in the text box below

13 Please specify

3000 character(s) maximum

Wikimedia projects are moderated by volunteer communities. The Wikimedia Foundation that runs the servers employs legal staff. Wikimedia Chapters sometimes employ community managers and legal staff to assist the volunteers.

1. The project communities are setting up and enforcing own rules, which generally works well. The communities are very apt at moderating and removing illegal, illicit and infringing content. They also deal well with disinformation.

2. To fill some gaps in the moderation and help the communities remedy some innate frictions, there is a Trust and Safety team (https://meta.wikimedia.org/wiki/Trust_and_Safety). It focuses on hate speech, harassment, discrimination, abuse. Sometimes such conflicts require decisions to be made outside of the community.

3. The legal staff (non-volunteers) seldom remove illegal content (e.g. after a court decision) that hasn't been already removed by communities. In case of threat to life and limb they expeditiously cooperate with the relevant authorities.

14 How easy was it for you to find information on where you could report the illegal content/activity?

Please rate from 1 star (very difficult) to 5 stars (very easy)



15 How easy was it for you to report the illegal content/activity?

Please rate from 1 star (very difficult) to 5 stars (very easy)



16 How satisfied were you with the procedure following your report?

Please rate from 1 star (very dissatisfied) to 5 stars (very satisfied)



17 Are you aware of the action taken following your report?

- Yes
- No

18 How has the dissemination of illegal content changed since the outbreak of COVID-19? Please explain.

3000 character(s) maximum

Additional community focus was placed on Wikipedia articles related to the pandemic.

19 What good practices can you point to in handling the dissemination of illegal content online since the outbreak of COVID-19?

3000 character(s) maximum

Transparency and sometimes even longer discussions are important. The rationale for moderation decisions must be public and accessible.

20 What actions do online platforms take to minimise risks for consumers to be exposed to scams and other unfair practices (e.g. misleading advertising, exhortation to purchase made to children)?

3000 character(s) maximum

21 Do you consider these measures appropriate?

- Yes
- No
- I don't know

22 Please explain.

3000 character(s) maximum

B. Transparency

1 If your content or offering of goods and services was ever removed or blocked from an online platform, were you informed by the platform?

- Yes, I was informed before the action was taken
- Yes, I was informed afterwards
- Yes, but not on every occasion / not by all the platforms
- No, I was never informed
- I don't know

3 Please explain.

3000 character(s) maximum

On Wikimedia platforms the discussions and decision are public and can be seen on the "page" of the content.

4 If you provided a notice to a digital service asking for the removal or disabling of access to such content or offering of goods or services, were you informed about the follow-up to the request?

- Yes, I was informed
- Yes, but not on every occasion / not by all platforms
- No, I was never informed
- I don't know

5 When content is recommended to you - such as products to purchase on a platform, or videos to watch, articles to read, users to follow - are you able to obtain enough information on why such content has been recommended to you? Please explain.

3000 character(s) maximum

C. Activities that could cause harm but are not, in themselves, illegal

1 In your experience, are children adequately protected online from harmful behaviour, such as grooming and bullying, or inappropriate content?

3000 character(s) maximum

Bullying, as well is harassment and hate speech is a challenge. We employ Trust and Safety teams to help remedy some issues. Such action often requires a combination of trusted people working alongside the communities, but that are not part of them. These are issues that can only be handle on the human level.

2 To what extent do you agree with the following statements related to online disinformation?

| | Fully agree | Somewhat agree | Neither agree not disagree | Somewhat disagree | Fully disagree | I don't know/ No reply |
|---|----------------------------------|-----------------------|----------------------------------|----------------------------------|-----------------------|------------------------|
| Online platforms can easily be manipulated by foreign governments or other coordinated groups to spread divisive messages | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| To protect freedom of expression online, diverse voices should be heard | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Disinformation is spread by manipulating algorithmic processes on online platforms | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | | | | | | |
|--|---|---|---|---|---|---|
| <p>Online platforms can be trusted that their internal practices sufficiently guarantee democratic integrity, pluralism, non-discrimination, tolerance, justice, solidarity and gender equality.</p> | ○ | ○ | ○ | ● | ○ | ○ |
|--|---|---|---|---|---|---|

3 Please explain.

3000 character(s) maximum

Almost every source of information (advertisers, fact-based media as well as disinformation outlets) work to use the algorithms of platforms in order to gain more reach. It is not something unique to the spread of disinformation. Thus platforms can easily be used to spread both facts and manipulations. One of the underlying issues is the "click based" model of advertising that too many traditional outlets have bought into and helped develop over years.

Another issue is that disinformation sources are usually free for the user and easy to share without restrictions. This is not always the case for traditional, trustworthy outlets. Public broadcasters and Wikimedia projects play an important role to balance this, but can only do so much. We again are in the need of novel financing and business models for trustworthy information sources that don't restrict the sharing of their information online.

4 In your personal experience, how has the spread of harmful (but not illegal) activities online changed since the outbreak of COVID-19? Please explain.

3000 character(s) maximum

At first it seems a credit of trust was given to health experts and traditional, public media. It looks like this has worn off. This is an array of questions best tackled by a dedicated Eurobarometer survey.

5 What good practices can you point to in tackling such harmful activities since the outbreak of COVID-19?

3000 character(s) maximum

We need to avoid too many parallel conversations and bubbles when it comes to official, expert information. There must be information available to all and a place where all users can even disagree. Otherwise groups with differing views will simply keep branching out into separate bubbles.

D. Experiences and data on erroneous removals

This section covers situation where content, goods or services offered online may be removed erroneously contrary to situations where such a removal may be justified due to for example illegal nature of such content, good or service (see sections of this questionnaire above).

1 Are you aware of evidence on the scale and impact of erroneous removals of content, goods, services, or banning of accounts online? Are there particular experiences you could share?

5000 character(s) maximum

***The following questions are targeted at organisations.
Individuals responding to the consultation are invited to go to section 2 here below on
responsibilities for online platforms and other digital services***

3 What is your experience in flagging content, or offerings of goods or services you deemed illegal to online platforms and/or other types of online intermediary services? Please explain in what capacity and through what means you flag content.

3000 character(s) maximum

The vast amount of flagging and disputes is done online by the volunteers communities that are responsible for applying the laws and the project rules (that they adopt themselves). The key is to have a critical mass of constructive and trusted community members.

4 If applicable, what costs does your organisation incur in such activities?

3000 character(s) maximum

We employ a small legal team to handle external notices. Most activity is handled by volunteer communities online.

5 Have you encountered any issues, in particular, as regards illegal content or goods accessible from the EU but intermediated by services established in third countries? If yes, how have you dealt with these?

3000 character(s) maximum

We usually try to apply both the US and EU laws, so sometimes we need to take down content that is legal in the EU, but illegal in the US or vice-versa.

6 If part of your activity is to send notifications or orders for removing illegal content or goods or services made available through online intermediary services, or taking other actions in relation to content, goods or services, please explain whether you report on your activities and their outcomes:

- Yes, through regular transparency reports
- Yes, through reports to a supervising authority
- Yes, upon requests to public information
- Yes, through other means. Please explain
- No , no such reporting is done

8 Does your organisation access any data or information from online platforms?

- Yes, data regularly reported by the platform, as requested by law
- Yes, specific data, requested as a competent authority
- Yes, through bilateral or special partnerships
- On the basis of a contractual agreement with the platform
- Yes, generally available transparency reports
- Yes, through generally available APIs (application programme interfaces)
- Yes, through web scraping or other independent web data extraction approaches
- Yes, because users made use of their right to port personal data
- Yes, other. Please specify in the text box below
- No

10 What sources do you use to obtain information about users of online platforms and other digital services – such as sellers of products online, service providers, website holders or providers of content online? For what purpose do you seek this information?

3000 character(s) maximum

11 Do you use WHOIS information about the registration of domain names and related information?

- Yes
- No
- I don't know

13 How valuable is this information for you?

| | |
|---|---|
| Please rate from 1 star (not particularly important) to 5 (extremely important) |  |
|---|---|

14 Do you use or are you aware of alternative sources of such data? Please explain.

3000 character(s) maximum

The following questions are targeted at online intermediaries.

A. Measures taken against illegal goods, services and content online shared by users

1 What systems, if any, do you have in place for addressing illegal activities conducted by the users of your service (sale of illegal goods -e.g. a counterfeit product, an unsafe product, prohibited and restricted goods, wildlife and pet trafficking - dissemination of illegal content or illegal provision of services)?

- A notice-and-action system for users to report illegal activities
- A dedicated channel through which authorities report illegal activities
- Cooperation with trusted organisations who report illegal activities, following a fast-track assessment of the notification
- A system for the identification of professional users ('know your customer')
- A system for penalising users who are repeat offenders
- A system for informing consumers that they have purchased an illegal good, once you become aware of this
- Multi-lingual moderation teams
- Automated systems for detecting illegal activities. Please specify the detection system and the type of illegal content it is used for
- Other systems. Please specify in the text box below
- No system in place

2 Please explain.

5000 character(s) maximum

Moderation is in the vast majority of cases efficiently done by volunteer project communities.

3 What issues have you encountered in operating these systems?

5000 character(s) maximum

Decisions may take time. In some cases and on some projects popular users might get away with actions that newbie users won't.
In some situations external mediation or decision-making is beneficial.

4 On your marketplace (if applicable), do you have specific policies or measures for the identification of sellers established outside the European Union ?

- Yes
- No

5 Please quantify, to the extent possible, the costs of the measures related to 'notice-and-action' or other measures for the reporting and removal of different types of illegal goods, services and content, as relevant.

5000 character(s) maximum

6 Please provide information and figures on the amount of different types of illegal content, services and goods notified, detected, removed, reinstated and on the number or complaints received from users. Please explain and/or link to publicly reported information if you publish this in regular transparency reports.

5000 character(s) maximum

As the community handles most cases itself, the legal team received only 281 content alteration and takedown requests. This is extremely low for a Top 5 website and its sister projects and allows our teams to look into the cases with more nuance.

7 Do you have in place measures for detecting and reporting the incidence of suspicious behaviour (i.e. behaviour that could lead to criminal acts such as acquiring materials for such acts)?

3000 character(s) maximum

B. Measures against other types of activities that might be harmful but are not, in themselves, illegal

1 Do your terms and conditions and/or terms of service ban activities such as:

- Spread of political disinformation in election periods?
- Other types of coordinated disinformation e.g. in health crisis?
- Harmful content for children?
- Online grooming, bullying?
- Harmful content for other vulnerable persons?
- Content which is harmful to women?
- Hatred, violence and insults (other than illegal hate speech)?
- Other activities which are not illegal per se but could be considered harmful?

2 Please explain your policy.

5000 character(s) maximum

We have policies and teams that are working hard on countering abuse, bullying and harassment of any sort. Civil conversation is expected. It is not easy to apply these rules and ensure a civil and respectful

dialogue. It takes humans and long conversation. Decisions are made on a case-by-case basis and are individual. It is often necessary to repeat discussions and arguments.

3 Do you have a system in place for reporting such activities? What actions do they trigger?

3000 character(s) maximum

Yes, one can trigger both the project communities where administrators and bureaucrats discuss the interactions publicly and can issue temporary or indefinite bans or moderate content. We also have a trust and safety team (staff) which can be contacted. They also can issue bans, but mostly try to remedy.

4 What other actions do you take? Please explain for each type of behaviour considered.

5000 character(s) maximum

5 Please quantify, to the extent possible, the costs related to such measures.

5000 character(s) maximum

10-20 staff

6 Do you have specific policies in place to protect minors from harmful behaviours such as online grooming or bullying?

- Yes
- No

7 Please explain.

3000 character(s) maximum

C. Measures for protecting legal content goods and services

1 Does your organisation maintain an internal complaint and redress mechanism to your users for instances where their content might be erroneously removed, or their accounts blocked?

- Yes
- No

2 What action do you take when a user disputes the removal of their goods or content or services, or restrictions on their account? Is the content/good reinstated?

5000 character(s) maximum

In layman's terms: There is another discussion, this time longer and including more people. Ultimately, if it is impossible to reach consensus, a vote can be held.

3 What are the quality standards and control mechanism you have in place for the automated detection or removal tools you are using for e.g. content, goods, services, user accounts or bots?

3000 character(s) maximum

Automated detection tools help human editors. They don't make the decisions.

4 Do you have an independent oversight mechanism in place for the enforcement of your content policies?

- Yes
- No

5 Please explain.

5000 character(s) maximum

D. Transparency and cooperation

1 Do you actively provide the following information:

- Information to users when their good or content is removed, blocked or demoted
- Information to notice providers about the follow-up on their report
- Information to buyers of a product which has then been removed as being illegal

2 Do you publish transparency reports on your content moderation policy?

- Yes
- No

3 Do the reports include information on:

- Number of takedowns and account suspensions following enforcement of your terms of service?
- Number of takedowns following a legality assessment?
- Notices received from third parties?
- Referrals from authorities for violations of your terms of service?
-

Removal requests from authorities for illegal activities?

- Number of complaints against removal decisions?
- Number of reinstated content?
- Other, please specify in the text box below

4 Please explain.

5000 character(s) maximum

transparency.wikimedia.org

5 What information is available on the automated tools you use for identification of illegal content, goods or services and their performance, if applicable? Who has access to this information? In what formats?

5000 character(s) maximum

All the code is public and open source. The discussions surrounding it and the people responsible for running are also public and known.

6 How can third parties access data related to your digital service and under what conditions?

- Contractual conditions
- Special partnerships
- Available APIs (application programming interfaces) for data access
- Reported, aggregated information through reports
- Portability at the request of users towards a different service
- At the direct request of a competent authority
- Regular reporting to a competent authority
- Other means. Please specify

7 Please explain or give references for the different cases of data sharing and explain your policy on the different purposes for which data is shared.

5000 character(s) maximum

The entire project is offered as a data dump and can be copied without restrictions. Personal data is only available through the legal team after a court order or, in rare cases expeditiously, when there is a credible threat to life and limb.

The following questions are open for all respondents.

2. Clarifying responsibilities for online platforms and other digital services

1 What responsibilities (i.e. legal obligations) should be imposed on online platforms and under what conditions?

Should such measures be taken, in your view, by all online platforms, or only by specific ones (e.g. depending on their size, capability, extent of risks of exposure to illegal activities conducted by their users)? If you consider that some measures should only be taken by large online platforms, please identify which would these measures be.

| | Yes, by all online platforms, based on the activities they intermediate (e.g. content hosting, selling goods or services) | Yes, only by larger online platforms | Yes, only platforms at particular risk of exposure to illegal activities by their users | Such measures should not be required by law |
|--|---|--------------------------------------|---|---|
| Maintain an effective 'notice and action' system for reporting illegal goods or content | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Maintain a system for assessing the risk of exposure to illegal goods or content | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Have content moderation teams, appropriately trained and resourced | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Systematically respond to requests from law enforcement authorities | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Cooperate with national authorities and law enforcement, in accordance with clear procedures | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Cooperate with trusted organisations with proven expertise that can report illegal activities for fast analysis ('trusted flaggers') | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Detect illegal content, goods or services | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| In particular where they intermediate sales of goods or services, inform their professional users about their obligations under EU law | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Request professional users to identify themselves clearly ('know your customer' policy) | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

| | | | | |
|---|----------------------------------|-----------------------|----------------------------------|----------------------------------|
| Provide technical means allowing professional users to comply with their obligations (e.g. enable them to publish on the platform the pre-contractual information consumers need to receive in accordance with applicable consumer law) | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Inform consumers when they become aware of product recalls or sales of illegal goods | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Cooperate with other online platforms for exchanging best practices, sharing information or tools to tackle illegal activities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Be transparent about their content policies, measures and their effects | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Maintain an effective 'counter-notice' system for users whose goods or content is removed to dispute erroneous decisions | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other. Please specify | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

2 Please elaborate, if you wish to further explain your choices.

5000 character(s) maximum

3 What information would be, in your view, necessary and sufficient for users and third parties to send to an online platform in order to notify an illegal activity (sales of illegal goods, offering of services or sharing illegal content) conducted by a user of the service?

- Precise location: e.g. URL
- Precise reason why the activity is considered illegal
- Description of the activity
- Identity of the person or organisation sending the notification. Please explain under what conditions such information is necessary:
- Other, please specify

4 Please explain

3000 character(s) maximum

Identity is helpful to avoid mass notifications (trolling). So it should be required for infringing content claims. But it should not be required in all circumstances (e.g. when it would have a chilling effect on reporting bullying and some abuse).

5 How should the reappearance of illegal content, goods or services be addressed, in your view? What approaches are effective and proportionate?

5000 character(s) maximum

Human oversight and redress must be available at all times. Exact matches of already removed content and goods should remain unavailable unless the decision is overridden by a human procedure.

6 Where automated tools are used to detect illegal content, goods or services, what opportunities and risks does their use present as regards different types of illegal activities and the particularities of the different types of tools?

3000 character(s) maximum

They can't recognise context. They should be used to help humans in their decisions.

7 How should the spread of illegal goods, services or content across multiple platforms and services be addressed? Are there specific provisions necessary for addressing risks brought by:

- a. Digital services established outside of the Union?
- b. Sellers established outside of the Union, who reach EU consumers through online platforms?

3000 character(s) maximum

8 What would be appropriate and proportionate measures for digital services acting as online intermediaries, other than online platforms, to take – e.g. other types of hosting services, such as web hosts, or services deeper in the internet stack, like cloud infrastructure services, content distribution services, DNS services, etc.?

5000 character(s) maximum

9 What should be the rights and responsibilities of other entities, such as authorities, or interested third-parties such as civil society organisations or equality bodies in contributing to tackle illegal activities online?

5000 character(s) maximum

We do believe that online communities can handle much of the illegal cases autonomously if given the right space to do so.

10 What would be, in your view, appropriate and proportionate measures for online platforms to take in relation to activities or content which might cause harm but are not necessarily illegal?

5000 character(s) maximum

This answer is highly dependent on the type of platform and the audience it attracts. Again, activities that are undesired on a specific platform (e.g. adult content on a platform aimed at children, disinformation on a service for news exchange) are best dealt with by active and engaged community. The European lawmaker would be wise in encouraging such models as an alternative to current content moderation systems.

11 In particular, are there specific measures you would find appropriate and proportionate for online platforms to take in relation to potentially harmful activities or content concerning minors? Please explain.

5000 character(s) maximum

12 Please rate the necessity of the following measures for addressing the spread of disinformation online. Please rate from 1 (not at all necessary) to 5 (essential) each option below.

| | 1 (not at all necessary) | 2 | 3 (neutral) | 4 | 5 (essential) | I don't know / No answer |
|---|--------------------------|-----------------------|-----------------------|-----------------------|----------------------------------|--------------------------|
| Transparently inform consumers about political advertising and sponsored content, in particular during election periods | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Provide users with tools to flag disinformation online and establishing transparent procedures for dealing with user complaints | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Tackle the use of fake-accounts, fake engagements, bots and inauthentic users behaviour aimed at amplifying false or misleading narratives | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Transparency tools and secure access to platform data for trusted researchers in order to monitor inappropriate behaviour and better understand the impact of | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

| | | | | | | |
|--|----------------------------------|----------------------------------|----------------------------------|-----------------------|-----------------------|----------------------------------|
| disinformation and the policies designed to counter it | | | | | | |
| Transparency tools and secure access to platform data for authorities in order to monitor inappropriate behaviour and better understand the impact of disinformation and the policies designed to counter it | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Adapted risk assessments and mitigation strategies undertaken by online platforms | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Ensure effective access and visibility of a variety of authentic and professional journalistic sources | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Auditing systems for platform actions and risk assessments | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Regulatory oversight and auditing competence over platforms' actions and risk assessments, including on sufficient resources and staff, and responsible examination of metrics and capacities related to fake accounts and their impact on the manipulation and amplification of disinformation. | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other (please specify) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

13 Please specify

3000 character(s) maximum

14 In special cases, where crises emerge and involve systemic threats to society, such as a health pandemic, and fast-spread of illegal and harmful activities online, what are, in your view, the appropriate cooperation mechanisms between digital services and authorities?

3000 character(s) maximum

Public Service Announcements that are to be featured prominently on each service.

15 What would be effective measures service providers should take, in your view, for protecting the freedom of expression of their users? Please rate from 1 (not at all necessary) to 5 (essential).

| | | | | | | |
|--|--|--|--|--|--|--|
| | | | | | | |
|--|--|--|--|--|--|--|

| | 1 (not at all necessary) | 2 | 3 (neutral) | 4 | 5 (essential) | I don't know / No answer |
|---|--------------------------|-----------------------|-----------------------|-----------------------|----------------------------------|--------------------------|
| High standards of transparency on their terms of service and removal decisions | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Diligence in assessing the content notified to them for removal or blocking | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Maintaining an effective complaint and redress mechanism | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Diligence in informing users whose content/goods/services was removed or blocked or whose accounts are threatened to be suspended | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| High accuracy and diligent control mechanisms, including human oversight, when automated tools are deployed for detecting, removing or demoting content or suspending users' accounts | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Enabling third party insight – e.g. by academics – of main content moderation systems | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Other. Please specify | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

16 Please explain.

3000 character(s) maximum

Main content moderation systems must be transparent or at least understandable to everyone, not just academics.

17 Are there other concerns and mechanisms to address risks to other fundamental rights such as freedom of assembly, non-discrimination, gender equality, freedom to conduct a business, or rights of the child? How could these be addressed?

5000 character(s) maximum

18 In your view, what information should online platforms make available in relation to their policy and measures taken with regard to content and goods offered by their users? Please elaborate, with regard to the identification of illegal content and

goods, removal, blocking or demotion of content or goods offered, complaints mechanisms and reinstatement, the format and frequency of such information, and who can access the information.

5000 character(s) maximum

As much transparency as possible. We understand that businesses need to keep some algorithms hidden, but in order for users and society to understand what is happening it need to know how the systems work.

19 What type of information should be shared with users and/or competent authorities and other third parties such as trusted researchers with regard to the use of automated systems used by online platforms to detect, remove and/or block illegal content, goods, or user accounts?

5000 character(s) maximum

Full transparency is necessary.

20 In your view, what measures are necessary with regard to algorithmic recommender systems used by online platforms?

5000 character(s) maximum

Transparency and possiblity to change settings.

21 In your view, is there a need for enhanced data sharing between online platforms and authorities, within the boundaries set by the General Data Protection Regulation? Please select the appropriate situations, in your view:

- For supervisory purposes concerning professional users of the platform - e.g. in the context of platform intermediated services such as accommodation or ride-hailing services, for the purpose of labour inspection, for the purpose of collecting tax or social security contributions
- For supervisory purposes of the platforms' own obligations – e.g. with regard to content moderation obligations, transparency requirements, actions taken in electoral contexts and against inauthentic behaviour and foreign interference
- Specific request of law enforcement authority or the judiciary
- On a voluntary and/or contractual basis in the public interest or for other purposes

22 Please explain. What would be the benefits? What would be concerns for companies, consumers or other third parties?

5000 character(s) maximum

It is risky to give authorities in Member States such as Hungary, Poland and Bulgaria access to too much data on the platforms. Therefore it should be limited to requests by the judiciary and law enforcement. Online payments already produce data that is available to tax authorities (credit card payments, bank transfers).

23 What types of sanctions would be effective, dissuasive and proportionate for online platforms which systematically fail to comply with their obligations (See also the last module of the consultation)?

5000 character(s) maximum

Fines, ban to use payment systems, ban to show advertising

24 Are there other points you would like to raise?

3000 character(s) maximum

II. Reviewing the liability regime of digital services acting as intermediaries?

The liability of online intermediaries is a particularly important area of internet law in Europe and worldwide. The E-Commerce Directive harmonises the liability exemptions applicable to online intermediaries in the single market, with specific provisions for different services according to their role: from Internet access providers and messaging services to hosting service providers.

The previous section of the consultation explored obligations and responsibilities which online platforms and other services can be expected to take – i.e. processes they should put in place to address illegal activities which might be conducted by users abusing their service. In this section, the focus is on the legal architecture for the liability regime for service providers when it comes to illegal activities conducted by their users. The Commission seeks informed views on how the current liability exemption regime is working and the areas where an update might be necessary.

2 The liability regime for online intermediaries is primarily established in the E-Commerce Directive, which distinguishes between different types of services: so called ‘mere conduits’, ‘caching services’, and ‘hosting services’.

In your understanding, are these categories sufficiently clear and complete for characterising and regulating today’s digital intermediary services? Please explain.

5000 character(s) maximum

Yes, they establish a rather simple set of liability levels, and simplicity is here a cornerstone of legal certainty. Any further complexity would thus produce significant friction for the single market and also rid the EU rules in this area of the blueprint function they have so far for other regions of the world, which in turn would destroy a key competitive edge for EU businesses active worldwide regarding internet services.

For hosting services, the liability exemption for third parties’ content or activities is conditioned by a knowledge standard (i.e. when they get ‘actual knowledge’ of the illegal activities, they must ‘act expeditiously’ to remove it, otherwise they could be found liable).

3 Are there aspects that require further legal clarification?

5000 character(s) maximum

No substantial statutory changes are advisable here, as they would render much of the extensive caselaw on knowledge standards void. Clarifications that might still be required in individual cases, which have become fewer and fewer over the years, should only be provided by courts of law including the ECJ as additions to the caselaw body.

4 Does the current legal framework dis-incentivize service providers to take proactive measures against illegal activities? If yes, please provide your view on how disincentives could be corrected.

5000 character(s) maximum

To the contrary, there is already a plethora of incentives leading services to resort to general monitoring, in violation of the principles of Art. 15 of the E-Commerce Directive. If anything, those incentives to monitor and intervene should be corrected, and instead beneficial incentives to strengthen self governance of users of internet services should be created.

5 Do you think that the concept characterising intermediary service providers as playing a role of a 'mere technical, automatic and passive nature' in the transmission of information ([recital 42 of the E-Commerce Directive](#)) is sufficiently clear and still valid? Please explain.

5000 character(s) maximum

Yes, as a technical fact there are still many services within the OSI layer model that have no qualified relation to the contents carried by them and would not be sustainable should their actually passive dealings be legally deemed otherwise. The automation level has also rather increased than decreased since the E-Commerce Directive entered into force.

6 The E-commerce Directive also prohibits Member States from imposing on intermediary service providers general monitoring obligations or obligations to seek facts or circumstances of illegal activities conducted on their service by their users. In your view, is this approach, balancing risks to different rights and policy objectives, still appropriate today? Is there further clarity needed as to the parameters for 'general monitoring obligations'? Please explain.

5000 character(s) maximum

Yes, the balancing is still crucial and the approach still appropriate. And over and above this, the interdiction of general monitoring is in need of more robust means for its enforcement. A useful clarification in this respect would be to establish in EU primary law a principle clearly saying that even a set of monitoring activities that in themselves are not 'general' can amount to general monitoring if they form a mosaic of complementary monitored fields that users cannot reasonably avoid.

7 Do you see any other points where an upgrade may be needed for the liability regime of digital services acting as intermediaries?

5000 character(s) maximum

III. What issues derive from the gatekeeper power of digital platforms?

There is wide consensus concerning the benefits for consumers and innovation, and a wide-range of efficiencies, brought about by online platforms in the European Union’s Single Market. Online platforms facilitate cross-border trading within and outside the EU and open entirely new business opportunities to a variety of European businesses and traders by facilitating their expansion and access to new markets. At the same time, regulators and experts around the world consider that large online platforms are able to control increasingly important online platform ecosystems in the digital economy. Such large online platforms connect many businesses and consumers. In turn, this enables them to leverage their advantages – economies of scale, network effects and important data assets- in one area of their activity to improve or develop new services in adjacent areas. The concentration of economic power in then platform economy creates a small number of ‘winner-takes it all/most’ online platforms. The winner online platforms can also readily take over (potential) competitors and it is very difficult for an existing competitor or potential new entrant to overcome the winner’s competitive edge.

The Commission [announced](#) that it ‘will further explore, in the context of the Digital Services Act package, ex ante rules to ensure that markets characterised by large platforms with significant network effects acting as gatekeepers, remain fair and contestable for innovators, businesses, and new market entrants’.

This module of the consultation seeks informed views from all stakeholders on this framing, on the scope, the specific perceived problems, and the implications, definition and parameters for addressing possible issues deriving from the economic power of large, gatekeeper platforms.

[The Communication ‘Shaping Europe’s Digital Future’](#) also flagged that ‘competition policy alone cannot address all the systemic problems that may arise in the platform economy’. Stakeholders are invited to provide their views on potential new competition instruments through a separate, dedicated open public consultation that will be launched soon.

In parallel, the Commission is also engaged in a process of reviewing EU competition rules and ensuring they are fit for the modern economy and the digital age. As part of that process, the Commission has launched a consultation on the proposal for a New Competition Tool aimed at addressing the gaps identified in enforcing competition rules. The initiative intends to address as specific objectives the structural competition problems that prevent markets from functioning properly and that can tilt the level playing field in favour of only a few market players. This could cover certain digital or digitally-enabled markets, as identified in the report by the Special Advisers and other recent reports on the role of competition policy, and/or other sectors. As such, the work on a proposed new competition tool and the initiative at stake complement each other. The work on the two impact assessments will be conducted in parallel in order to ensure a coherent outcome. In this context, the Commission will take into consideration the feedback received from both consultations. We would therefore invite you, in preparing your responses to the questions below, to also consider your response to [the parallel consultation on a new competition tool](#).

1 To what extent do you agree with the following statements?

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

| | Fully agree | Somewhat agree | Neither agree not disagree | Somewhat disagree | Fully disagree | I don't know/ No reply |
|---|----------------------------------|-----------------------|----------------------------|-----------------------|----------------------------------|------------------------|
| Consumers have sufficient choices and alternatives to the offerings from online platforms. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| It is easy for consumers to switch between services provided by online platform companies and use same or similar services provider by other online platform companies ("multi-home"). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| It is easy for individuals to port their data in a useful manner to alternative service providers outside of an online platform. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| There is sufficient level of interoperability between services of different online platform companies. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| There is an asymmetry of information between the knowledge of online platforms about consumers, which enables them to target them with commercial offers, and the knowledge of consumers about market conditions. | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| It is easy for innovative SME online platforms to expand or enter the market. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| Traditional businesses are increasingly dependent on a limited number of very large online platforms. | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| There are imbalances in the bargaining power between these online platforms and their business users. | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| | | | | | | |

| | | | | | | |
|---|----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Businesses and consumers interacting with these online platforms are often asked to accept unfavourable conditions and clauses in the terms of use/contract with the online platforms. | <input checked="" type="radio"/> | <input type="radio"/> |
| Certain large online platform companies create barriers to entry and expansion in the Single Market (gatekeepers). | <input checked="" type="radio"/> | <input type="radio"/> |
| Large online platforms often leverage their assets from their primary activities (customer base, data, technological solutions, skills, financial capital) to expand into other activities. | <input checked="" type="radio"/> | <input type="radio"/> |
| When large online platform companies expand into such new activities, this often poses a risk of reducing innovation and deterring competition from smaller innovative market operators. | <input checked="" type="radio"/> | <input type="radio"/> |

Main features of gatekeeper online platform companies and the main criteria for assessing their economic power

1 Which characteristics are relevant in determining the gatekeeper role of large online platform companies? Please rate each criterion identified below from 1 (not relevant) to 5 (very relevant):

| | |
|--|--|
| Large user base | <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> |
| Wide geographic coverage in the EU | <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> |
| They capture a large share of total revenue of the market you are active/of a sector | <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> |
| | <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> |

| | |
|--|--------------|
| Impact on a certain sector | ★ |
| They build on and exploit strong network effects | ★ ★ ★ ★ ★ |
| They leverage their assets for entering new areas of activity | ★ ★ ★ ★ ★ |
| They raise barriers to entry for competitors | ★ ★ ★ ★ ★ |
| They accumulate valuable and diverse data and information | ★ ★ ★ ★ ★ |
| There are very few, if any, alternative services available on the market | ★ ★ ★ ★ ★ |
| Lock-in of users/consumers | ★ ★ ★ ★ ★ |
| Other | ★ ★ ★ ★ ★ |

2 If you replied "other", please list

3000 character(s) maximum

3 Please explain your answer. How could different criteria be combined to accurately identify large online platform companies with gatekeeper role?

3000 character(s) maximum

We argue that characteristics of gatekeepers that exacerbate competition harms include a) content curation practices that lead to presenting different users with different information and opportunities of interaction, and b) data-driven business model based on the use of algorithmic tools in order to commercialise behavioral data. These platforms' main clients often are not the users that generate content and interact with them, but services and businesses that benefit from being connected with many consumers through their services. We believe that these parameters should be incorporated in establishing whether a platform displays a gatekeeping potential or is, in fact, a gatekeeper.

4 Do you believe that the integration of any or all of the following activities within a single company can strengthen the gatekeeper role of large online platform companies ('conglomerate effect')? Please select the activities you consider to strengthen the gatekeeper role:

- online intermediation services (i.e. consumer-facing online platforms such as e-commerce marketplaces, social media, mobile app stores, etc., as per [Regulation \(EU\) 2019/1150](#) - see glossary)
- search engines
- operating systems for smart devices
- consumer reviews on large online platforms
- network and/or data infrastructure/cloud services
- digital identity services
- payment services (or other financial services)
- physical logistics such as product fulfilment services
- data management platforms
- online advertising intermediation services
- other. Please specify in the text box below.

5 Other - please list

1000 character(s) maximum

Ability to offer analytical tools or engagement buttons / management of user comments to external (third-party owned) web services - the ability to create shadow profiles of customers based on the activities they carry out online outside of the core services of the firm in question (cookies of a social media platform embedded in the news website, etc.). Moreover, these tracking activities collect shadow profiles of people that do not use the services of a platform by being a registered user of the social networking platform for example, but are simply visiting websites that happen to use these tools. In both cases, the gatekeeping role is reinforced not only on the ability to attract customers but also on the practices of these firms to extract data by offering services to third parties that ultimately benefit the platform's data extraction-based business model.

Emerging issues

The following questions are targeted particularly at businesses and business users of large online platform companies.

2 As a business user of large online platforms, do you encounter issues concerning trading conditions on large online platform companies?

- Yes
-

No

3 Please specify which issues you encounter and please explain to what types of platform these are related to (e.g. e-commerce marketplaces, app stores, search engines, operating systems, social networks).

5000 character(s) maximum

4 Have you been affected by unfair contractual terms or unfair practices of very large online platform companies? Please explain your answer in detail, pointing to the effects on your business, your consumers and possibly other stakeholders in the short, medium and long-term?

5000 character(s) maximum

The following questions are targeted particularly at consumers who are users of large online platform companies.

6 Do you encounter issues concerning commercial terms and conditions when accessing services provided by large online platform companies?
Please specify which issues you encounter and please explain to what types of platform these are related to (e.g. e-commerce marketplaces, app stores, search engines, operating systems, social networks).

5000 character(s) maximum

7 Have you considered any of the practices by large online platform companies as unfair? Please explain.

3000 character(s) maximum

The following questions are open to all respondents.

9 Are there specific issues and unfair practices you perceive on large online platform companies?

5000 character(s) maximum

Digital market, due to its high concentration, tipping, and the capital digital giants have at their disposal is a convincing example of a space dominated by gatekeepers that drive the innovation pace, dictate dominating business model (data extraction and exploitation), and pushing the race beyond ethical boundaries with careless approach to privacy/data protection and employing technologies that raise grave ethical concerns (unconsented and pervasive facial recognition for example) and/or take their origin on the military sphere and are subsequently deployed on European citizens (for example advanced discreet tracking and surveillance technologies).

10 In your view, what practices related to the use and sharing of data in the platforms' environment are raising particular challenges?

5000 character(s) maximum

Platforms hosting user-generated content accessible to the public are the prime example, especially social media. They do not operate on a market as much as they create their own market by being on the forefront of digital innovation that aims at building what we now call the "attention economy".

Today, people often have little choice between platforms or are unable to freely move between spaces online. The dominance of a number of platforms as well as the limited interoperability and portability of data keep people in "walled gardens." Dominant platforms can then leverage their market position and incorporate further functions that people depend on to access and make full use of the internet. "Walled gardens" isolate both people and content by preventing information from being fully shared or discovered across different platforms, including in the digital commons, thus preventing exchange of knowledge, information, and other forms of content between spaces. At the same time, the aggregation of people's data creates incentives for service providers to reinforce the lock in.

It is important to underline that gatekeeping platforms make companies quit from running their own websites or organise their own services (delivery, booking, etc.), redirecting internet traffic to their own walled garden. It is not good for consumers, even if businesses can cut costs, and not for the low paid workers who work in delivery or in various kinds of "fulfilment centers". Certainly the "free/cheap for business" often means "customers pay with data" and with the valuable kind - on their consumption preferences, life and work habits, and even religious and political views.

Even when platforms accurately and comprehensively inform users about how they use personal data and how they curate content, users often have little to no choice. They can exercise only limited rights against the platform and they have no competing alternatives on the market that offer them substantially different bargains in exchange for their informational self-determination. Users are often not offered customization choices about how they are displayed content (e.g. algorithmically curated vs. timeline).

11 What impact would the identified unfair practices can have on innovation, competition and consumer choice in the single market?

3000 character(s) maximum

Capital aggregated on data and the constant inflation of data market value stemming from the proprietary and opaque character of tools used for behavioral advertising (which effectiveness has been disputed especially for small businesses) fuels further innovation of the algorithmic tools, which (among others) creates high barriers of entry as the costs of creating these solutions are high. This combined with high purchase power of services that may potentially compete, further add to the decreased variety of entities at a given part of a digital market.

The ever-intermediated nature of most online interactions that are run via gatekeeper platforms' servers, contributes to an internet in which every information on behaviour of a user/consumer is inspected, valued, classified, sold and often used against them and their best interests. All that is done not by the partner in the transaction but an intermediary that makes the business and the customers meet. On such an internet, there are a few private, centralised, prosperous gardens, and the remaining actors in the ecosystem are deprived of key resources and often simply hard to find and make use of.

12 Do startups or scaleups depend on large online platform companies to access or expand? Do you observe any trend as regards the level of dependency in the last five years (i.e. increases; remains the same; decreases)? Which difficulties in your view do start-ups or scale-ups face when they depend on large online platform companies to access or expand on the markets?

3000 character(s) maximum

Data-based market dominance is pervasive on the digital market, be it social media, online marketplaces or "collaborative economy" services. Success stories of the greatest companies also heavily shape startup culture, where many businesses are established to explore new opportunities of consumers' attention capture, to generate new data, only to be sold to a more powerful market player with a good profit. In this distorted market a startup is not designed to be a "stay-up" - its destiny is to be an object of market speculation that is sooner or later incorporated into a bigger structure and doesn't grow or flourish on its own. Therefore very few new initiatives pose any real competition to market incumbents, on the contrary, the dominant actors can externalise some costs of experimentation by acquiring startup "survivors" who already tested the market to accept their product and built their position on their own.

13 Which are possible positive and negative societal (e.g. on freedom of expression, consumer protection, media plurality) and economic (e.g. on market contestability, innovation) effects, if any, of the gatekeeper role that large online platform companies exercise over whole platform ecosystem?

3000 character(s) maximum

The current legal and market structure creates a vast power imbalance between platforms and their users. That power imbalance stems from their market positions and the lack of transparency of platforms about their use of personal data, reliance on algorithmic systems, and what constitutes paid content.

The existing incentive structure for platform operators in content moderation neither aligns with users' needs nor promotes fundamental rights. This manifests in two ways: First, since commercial operators need to demonstrate strong user engagement to advertisers, their main source of income, this, instead of a concern for users' needs and their fundamental rights, is the primary yardstick for content moderation decisions. Second, the sheer volume of user-generated content and the resulting cost of scaling up moderation disincentivizes human oversight as well as grievance and redress mechanisms.

The apparent tension with freedom of expression created by content moderation laws leads many states to pressure private platforms to remove speech that the state itself may be barred from removing, which in the worst case scenario creates a form of proxy-censorship.

14 Which issues specific to the media sector (if any) would, in your view, need to be addressed in light of the gatekeeper role of large online platforms? If available, please provide additional references, data and facts.

3000 character(s) maximum

The tendency of a small number of platforms to dominate their respective markets means that the rules, which those platforms set themselves, are the de facto rules for their particular category of services. This concentration means that the behaviour of internet users is governed by content curation practices that can be influenced in particular ways, whether by the commercial incentives of the dominant platform, other powerful third parties, or through political pressure.

This issue needs to be addressed by enabling consumers to comprehend how information is selected and organized in their timelines; offered some form of choice in how to organize their timeline or the content that is suggested to them.

While this does not directly address the media sector, we believe that a lot of problems that this sector faces come from the fact that media try to imitate the ad-revenue based model (that the platforms thrive on) to a greater extent than before the rise of intermediation in access to news and information. The reliance on clickbait titles is done at the responsibility of the media and only they can fix this problem. Also reliance on reaching their audience through “free” services (social media) is something only they themselves can change.

Regulation of large online platform companies acting as gatekeepers

1 Do you believe that in order to address any negative societal and economic effects of the gatekeeper role that large online platform companies exercise over whole platform ecosystems, there is a need to consider dedicated regulatory rules?

- I fully agree
- I agree to a certain extent
- I disagree to a certain extent
- I disagree
- I don't know

2 Please explain

3000 character(s) maximum

Dedicated regulatory rules are needed to address structural issues that enable gatekeeping scenarios on the digital market where this situation is pervasive. This set of rules should both create ex ante conditions and enable a better, expeditious intervention on a case-by-case basis.

3 Do you believe that such dedicated rules should prohibit certain practices by large online platform companies with gatekeeper role that are considered particularly harmful for users and consumers of these large online platforms?



- Yes
- No
- I don't know

4 Please explain your reply and, if possible, detail the types of prohibitions that should in your view be part of the regulatory toolbox.

3000 character(s) maximum

Gatekeeping platforms' main clients often are not the users that generate content and interact with them, but services and businesses that benefit from being connected with many consumers through their services. We believe that these parameters should be incorporated in establishing whether a platform displays a gatekeeping potential or is, in fact, a gatekeeper.

Restrictions/prohibitions should include unfair trading practices by gatekeepers. The restricted unfair trading practices should include, among others, deceptively vague or imprecise information in terms of service/user agreements (on behavioral data collection etc.). ToS could be audited by a regulatory body that would restrict these bad practices.

In addition, incentivising overblocking/overreliance on automatic decision making (content filters) should be banned. Making platforms liable by default only leads to transferring of that risk to users. Exemption from liability for platforms hosting user-generated content helps users exercise their right to freedom of receiving and imparting information. This doesn't mean platforms should not be held responsible for their actions. This is why we need mechanisms that are described in this section of the consultation in more detail.

5 Do you believe that such dedicated rules should include obligations on large online platform companies with gatekeeper role?

- Yes
- No
- I don't know

6 Please explain your reply and, if possible, detail the types of obligations that should in your view be part of the regulatory toolbox.

3000 character(s) maximum

To successfully apply remedies and ensure users' rights to receive and impart information, a degree of transparency about algorithmic tools used to curate content and act on users' engagement and behaviour should be required. It should encompass the right of a user to understand why they are presented with certain content.

Human oversight and human decision-making in content moderation should also be an obligation. It is an important factor of making sure that the gatekeeper platforms do not abuse their position as a leader in developing content recognition technologies - that no one can evaluate and therefore challenge their effectiveness - to the detriment of other smaller companies that cannot afford such technologies.

Accountability and transparency requirements may also include description of the technical and contractual access of (third-party) business users to any personal data (which categories of data, under which conditions, forms of aggregation, any data that is provided to third parties that is not necessary for the proper functioning of the service provided by the intermediary).

Algorithmic accountability as an obligation means that people need to be able to comprehend how information is selected and organized in their timelines and it may include transparency of rankings (being relative prominence of goods and services). Terms and conditions should set out the main parameters determining rankings and the reason of relative importance of given parameters.

Advertising transparency should include information on what content is paid for by whom. advertisement archives/flagging of political advertisement should be accessible for users to verify the sources of information they are being presented with. Platforms should also provide users with a description of differentiated treatment to providers of information that users have access to - including main economic, commercial, or legal consideration leading to such differentiation.

7 If you consider that there is a need for such dedicated rules setting prohibitions and obligations, as those referred to in your replies to questions 3 and 5 above, do you think there is a need for a specific regulatory authority to enforce these rules?

- Yes
- No
- I don't know

8 Please explain your reply.

3000 character(s) maximum

On the digital market we see that actors that are practically governing public communications, monopolising many spheres of our commercial activity online, and basically running surveillance capitalism which value exceeds value of other markets by an order of magnitude (U.S. tech stocks are now worth more than the entire European stock market) can do so with no supervision, and face no remedies or consequences applicable to their scale and wealth in existing regulation. Moreover, there is no dedicated body (including at the EU level) that could intervene to prohibit harmful behaviour other than Data Protection authorities - who sometimes do not have adequate means of correcting the undesired behaviour (for example cannot impose fines adequate to the scale of wealth of the fined company).

The platform ecosystem will not sufficiently self-regulate, as any changes that could benefit users, consumers, citizens, and other business actors would need to modify data extractivism, so the companies would need to act against their commercial interests. We need an independent regulator on this market.

9 Do you believe that such dedicated rules should enable regulatory intervention against specific large online platform companies, when necessary, with a case by case adapted remedies?

- Yes
- No
- I don't know

10 If yes, please explain your reply and, if possible, detail the types of case by case remedies.

3000 character(s) maximum

We strongly believe that, on a case-by-case basis, requirements regarding personal data portability and interoperability should be among the remedies. This could be reinforced by a request to demonstrate that a platform is capable of offering adequate services in a given Member State by providing adequate human overview/moderation services in the language of the MS and within its cultural and historical context.

11 If you consider that there is a need for such dedicated rules, as referred to in question 9 above, do you think there is a need for a specific regulatory authority to enforce these rules?

- Yes
- No

12 Please explain your reply

3000 character(s) maximum

On the digital market we see that actors that are practically governing public communications, monopolising many spheres of our commercial activity online, and basically running surveillance capitalism which value exceeds value of other markets by an order of magnitude (U.S. tech stocks are now worth more than the entire European stock market) can do so with no supervision, and face no remedies or consequences applicable to their scale and wealth in existing regulation. Moreover, there is no dedicated body (including at the EU level) that could intervene to prohibit harmful behaviour other than Data Protection authorities - who sometimes do not have adequate means of correcting the undesired behaviour (for example cannot impose fines adequate to the scale of wealth of the fined company).

The platform ecosystem will not sufficiently self-regulate, as any changes that could benefit users, consumers, citizens, and other business actors would need to modify data extractivism, so the companies would need to act against their commercial interests. We need an independent regulator on this market.

13 If you consider that there is a need for a specific regulatory authority to enforce dedicated rules referred to questions 3, 5 and 9 respectively, would in your view these rules need to be enforced by the same regulatory authority or could they be enforced by different regulatory authorities? Please explain your reply.

3000 character(s) maximum

There should be one regulatory body at the EU level. Not only is the internet a global network, but also gatekeeper platforms operate globally. The Digital Service Act should reinforce the Digital Single Market and both its legal form (possibly a regulation), competent authorities and remedies envisioned should reinforce the DSM and not further fragment it into state-level disputes.

It is important that the entities in question do not “shop” for the best and regulatory environment across the EU to be formally seated in to avoid liability and enjoy a lenient approach in case of wrongdoing. It is enough that this happens regarding a fiscal situation (as unfortunately there are still tax havens in the EU) and ensuring that any gatekeeper is equal before the law regardless where they are established in Europe is a necessary step.

This does not exclude creation of various necessary structures that are currently missing at the Member-State level, to ensure coordination, gathering of evidence and swift cross-border cooperation. This way Member States will actively contribute to shaping this regulatory environment and gain relevant capacity and competence to influence outcomes that will benefit their citizens.

14 At what level should the regulatory oversight of platforms be organised?

- At national level
- At EU level
- Both at EU and national level.
- I don't know

15 If you consider such dedicated rules necessary, what should in your view be the relationship of such rules with the existing sector specific rules and/or any future sector specific rules?

3000 character(s) maximum

The specificities of those markets and existing legislation should be considered and, if necessary, adjusted. Some solutions that are inherent to the digitalisation and not possible to repeat with goods and services existing offline only, may be specific to the digital market. However, as digitisation becomes more and more a feature of many more business operations, this should be considered as well.

16 Should such rules have an objective to tackle both negative societal and negative economic effects deriving from the gatekeeper role of these very large online platforms? Please explain your reply.

3000 character(s) maximum

Yes these rules should have such an objective. In particular, the objective of interventions should be that people are empowered to freely express their opinions and ideas and impart information and knowledge online without undue interference, harassment, or fear of retaliation. Therefore, in cases of conflict, users should have access to effective and robust grievance and redress mechanisms both at the level of platform operators and public authorities. It would be the role of ex ante regulation and then of the regulatory authority to, respectively, create and enforce meaningful options of such access.

The new rules should aim at providing users with access to an easy accessible, free of charge complaint handling system that handles complaints within a reasonable timeframe. There should also be a possibility of collective redress (apart from access to courts that citizens have) when infringements on users rights have a notorious character. There should be an obligation to duly consider complaints, process them swiftly and effectively, and communicate the outcome in an individualised manner (specific to the nature of a given collective action) delivered in plain and intelligible language.

For collective redress there should be a possibility to make use of mediation, by mediators who are independent, affordable, easily accessible either physically or remotely, and without undue delay. The providers of services should bear a reasonable proportion of the total costs of mediation as suggested by the mediator.

Economically, the desired legal framework should discourage business and revenue models that exploit people's trust and their data. Instead, it should encourage models that prioritise business relationships with people who use platforms or contribute in other ways, and not just advertisers.

17 Specifically, what could be effective measures related to data held by very large online platform companies with a gatekeeper role beyond those laid down in the General Data Protection Regulation in order to promote competition and innovation as well as a high standard of personal data protection and consumer welfare?

3000 character(s) maximum

As much as many call data the new oil, from the perspective of consumers, (personal) data is more a new glitter, in the sense that it is easily spread and once spread can be found in unexpected places pretty much forever. From the perspective of the businesses that experience the competitive disadvantage it would be better that the anti-competitive monopolies share more data. From the perspective of the consumers, whose data has been excessively collected, used in intransparent way (sometimes unethically) and entered into dataset that inform secret market strategies to target whole cohorts of the population, not only is it better that this data is not further shared; it is also better if it not collected at all.

In other words, there can be two strategies to promote competition and innovation as well as a high standard of personal data protection: one to open the datasets to others under a high standard data-protection model. And another to limit the data that is extracted from users'/consumers' attention and engagement and morphed into metadata containing population-wide market characteristics and behavioral patterns. It needs to be reiterated, that from the perspective of users/consumers the latter is the better option as it ensures greater self-determination and at the same time curbs the competitive advantages coming from any data-driven gatekeeper position.

18 What could be effective measures concerning large online platform companies with a gatekeeper role in order to promote media pluralism, while respecting the subsidiarity principle?

3000 character(s) maximum

What can be done regarding the rise of misinformation - that is in no way a new phenomenon but the amplification that social media platforms offer is giving it a new dimension - is to direct the intervention on the ad-based business model of the platforms. They monetise engagement, and that engagement proves to be particularly successful over content that is controversial, viral, fuelled by conspiracy theories, etc. The platforms have a conflict of interest in curbing access to that content as it may potentially diminish their income. So the intervention here can include targeting that model and making it at the minimum more transparent. In addition, users should be able to know what protocol leads to recognising information as problematic under any given, well defined category. We opt for transparency in flagging that material to users upon notification rather than overblocking content based on unclear, intransparent criteria.

19 Which, if any, of the following characteristics are relevant when considering the requirements for a potential regulatory authority overseeing the large online platform companies with the gatekeeper role:

- Institutional cooperation with other authorities addressing related sectors – e. g. competition authorities, data protection authorities, financial services authorities, consumer protection authorities, cyber security, etc.
- Pan-EU scope
-

Swift and effective cross-border cooperation and assistance across Member States

- Capacity building within Member States
- High level of technical capabilities including data processing, auditing capacities
- Cooperation with extra-EU jurisdictions
- Other

21 Please explain if these characteristics would need to be different depending on the type of ex ante rules (see questions 3, 5, 9 above) that the regulatory authority would be enforcing?

3000 character(s) maximum

No.

22 Which, if any, of the following requirements and tools could facilitate regulatory oversight over very large online platform companies (multiple answers possible):

- Reporting obligation on gatekeeping platforms to send a notification to a public authority announcing its intention to expand activities
- Monitoring powers for the public authority (such as regular reporting)
- Investigative powers for the public authority
- Other

23 Other – please list

3000 character(s) maximum

See answer to question 4 in this section.

24 Please explain if these requirements would need to be different depending on the type of ex ante rules (see questions 3, 5, 9 above) that the regulatory authority would be enforcing?

3000 character(s) maximum

No.

25 Taking into consideration [the parallel consultation on a proposal for a New Competition Tool](#) focusing on addressing structural competition problems that prevent markets from functioning properly and tilt the level playing field in favour of only a few market players. Please rate the suitability of each option below to address market issues arising in online platforms ecosystems. Please rate the policy options below from 1 (not effective) to 5 (most effective).

| | 1 (not effective) | 2 (somewhat effective) | 3 (sufficiently effective) | 4 (very effective) | 5 (most effective) | Not applicable /No relevant experience or knowledge |
|--|-----------------------|----------------------------------|----------------------------|----------------------------------|----------------------------------|---|
| 1. Current competition rules are enough to address issues raised in digital markets | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 2. There is a need for an additional regulatory framework imposing obligations and prohibitions that are generally applicable to all large online platforms with gatekeeper power | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| 3. There is a need for an additional regulatory framework allowing for the possibility to impose tailored remedies on individual large online platforms with gatekeeper power, on a case-by-case basis | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| 4. There is a need for a New Competition Tool allowing to address structural risks and lack of competition in (digital) markets on a case-by-case basis. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| 5. There is a need for combination of two or more of the options 2 to 4. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |

26 Please explain which of the options, or combination of these, would be, in your view, suitable and sufficient to address the market issues arising in the online platforms ecosystems.

3000 character(s) maximum

There are significant overlaps between the requirements for regulating gatekeeping platforms as actors in the Digital Single Market and as potential threats to fair competition in the understanding of articles 101 and 102 of the Lisbon Treaty. The two issues should therefore be considered jointly. For how FKAGEU envisions the regulatory environment (rules and authorities) regarding competition, please see our contribution to the consultation on the New Competition Tool.

27 Are there other points you would like to raise?

3000 character(s) maximum

IV. Other emerging issues and opportunities, including online advertising and smart contracts

Online advertising has substantially evolved over the recent years and represents a major revenue source for many digital services, as well as other businesses present online, and opens unprecedented opportunities for content creators, publishers, etc. To a large extent, maximising revenue streams and optimising online advertising are major business incentives for the business users of the online platforms and for shaping the data policy of the platforms. At the same time, revenues from online advertising as well as increased visibility and audience reach are also a major incentive for potentially harmful intentions, e.g. in online disinformation campaigns.

Another emerging issue is linked to the conclusion of 'smart contracts' which represent an important innovation for digital and other services, but face some legal uncertainties.

This section of the open public consultation seeks to collect data, information on current practices, and informed views on potential issues emerging in the area of online advertising and smart contracts.

Respondents are invited to reflect on other areas where further measures may be needed to facilitate innovation in the single market. This module does not address privacy and data protection concerns; all aspects related to data sharing and data collection are to be afforded the highest standard of personal data protection.

Online advertising

1 When you see an online ad, is it clear to you who has placed it online?

- Yes, always
- Sometimes: but I can find the information when this is not immediately clear
- Sometimes: but I cannot always find this information
- I don't know
- No

2 As a publisher online (e.g. owner of a website where ads are displayed), what types of advertising systems do you use for covering your advertising space? What is their relative importance?

| | % of ad space | % of ad revenue |
|--|---------------|-----------------|
| Intermediated programmatic advertising through real-time bidding | | |
| Private marketplace auctions | | |
| Programmatic advertising with guaranteed impressions (non-auction based) | | |
| Behavioural advertising (micro-targeting) | | |
| Contextual advertising | | |
| Other | | |

3 What information is publicly available about ads displayed on an online platform that you use?

3000 character(s) maximum

4 As a publisher, what type of information do you have about the advertisement placed next to your content/on your website?

3000 character(s) maximum

5 To what extent do you find the quality and reliability of this information satisfactory for your purposes?

| | |
|--|--|
| Please rate your level of satisfaction |  |
|--|--|

6 As an advertiser or an agency acting on behalf of the advertiser (if applicable), what types of programmatic advertising do you use to place your ads? What is their relative importance in your ad inventory?

| | % of ad inventory | % of ad expenditure |
|--|-------------------|---------------------|
| Intermediated programmatic advertising through real-time bidding | | |
| Private marketplace auctions | | |
| Programmatic advertising with guaranteed impressions (non-auction based) | | |
| Behavioural advertising (micro-targeting) | | |
| Contextual advertising | | |
| Other | | |

7 As an advertiser or an agency acting on behalf of the advertiser (if applicable), what type of information do you have about the ads placed online on your behalf?

3000 character(s) maximum

8 To what extent do you find the quality and reliability of this information satisfactory for your purposes?

| | |
|--|--|
| Please rate your level of satisfaction |  |
|--|--|

The following questions are targeted specifically at online platforms.

10 As an online platform, what options do your users have with regards to the advertisements they are served and the grounds on which the ads are being served to them? Can users access your service through other conditions than viewing advertisements? Please explain.

3000 character(s) maximum

11 Do you publish or share with researchers, authorities or other third parties detailed data on ads published, their sponsors and viewership rates? Please explain.

3000 character(s) maximum

12 What systems do you have in place for detecting illicit offerings in the ads you intermediate?

3000 character(s) maximum

The following questions are open to all respondents.

14 Based on your experience, what actions and good practices can tackle the placement of ads next to illegal content or goods, and/or on websites that disseminate such illegal content or goods, and to remove such illegal content or goods when detected?

3000 character(s) maximum

15 From your perspective, what measures would lead to meaningful transparency in the ad placement process?

3000 character(s) maximum

16 What information about online ads should be made publicly available?

3000 character(s) maximum

17 Based on your expertise, which effective and proportionate auditing systems could bring meaningful accountability in the ad placement system?

3000 character(s) maximum

18 What is, from your perspective, a functional definition of 'political advertising'? Are you aware of any specific obligations attached to 'political advertising' at national level ?

3000 character(s) maximum

19 What information disclosure would meaningfully inform consumers in relation to political advertising? Are there other transparency standards and actions needed, in your opinion, for an accountable use of political advertising and political messaging?

3000 character(s) maximum

20 What impact would have, in your view, enhanced transparency and accountability in the online advertising value chain, on the gatekeeper power of major online platforms and other potential consequences such as media pluralism?

3000 character(s) maximum

21 Are there other emerging issues in the space of online advertising you would like to flag?

3000 character(s) maximum

Smart contracts

1 Is there sufficient legal clarity in the EU for the provision and use of “smart contracts” – e.g. with regard to validity, applicable law and jurisdiction?

Please rate from 1 (lack of clarity) to 5 (sufficient clarity)



2 Please explain the difficulties you perceive.

3000 character(s) maximum

3 In which of the following areas do you find necessary further regulatory clarity?

- Mutual recognition of the validity of smart contracts in the EU as concluded in accordance with the national law
- Minimum standards for the validity of “smart contracts” in the EU
- Measures to ensure that legal obligations and rights flowing from a smart contract and the functioning of the smart contract are clear and unambiguous, in particular for consumers
- Allowing interruption of smart contracts
- Clarity on liability for damage caused in the operation of a smart contract
- Further clarity for payment and currency-related smart contracts.

4 Please explain.

3000 character(s) maximum

5 Are there other points you would like to raise?

3000 character(s) maximum

V. How to address challenges around the situation of self-employed individuals offering services through online platforms?

Individuals providing services through platforms may have different legal status (workers or self-employed). This section aims at gathering first information and views on the situation of self-employed individuals

offering services through platforms (such as ride-hailing, food delivery, domestic work, design work, micro-tasks etc.). Furthermore, it seeks to gather first views on whether any detected problems are specific to the platform economy and what would be the perceived obstacles to the improvement of the situation of individuals providing services through platforms. This consultation is not intended to address the criteria by which persons providing services on such platforms are deemed to have one or the other legal status. The issues explored here do not refer to the selling of goods (e.g. online marketplaces) or the sharing of assets (e.g. sub-renting houses) through platforms.

The following questions are targeting self-employed individuals offering services through online platforms.

Relationship with the platform and the final customer

1 What type of service do you offer through platforms?

- Food-delivery
- Ride-hailing
- Online translations, design, software development or micro-tasks
- On-demand cleaning, plumbing or DIY services
- Other, please specify

2 Please explain.

3 Which requirements were you asked to fulfill in order to be accepted by the platform(s) you offer services through, if any?

4 Do you have a contractual relationship with the final customer?

- Yes
- No

5 Do you receive any guidelines or directions by the platform on how to offer your services?

- Yes
- No

7 Under what conditions can you stop using the platform to provide your services, or can the platform ask you to stop doing so?

8 What is your role in setting the price paid by the customer and how is your remuneration established for the services you provide through the platform(s)?

9 What are the risks and responsibilities you bear in case of non-performance of the service or unsatisfactory performance of the service?

Situation of self-employed individuals providing services through platforms

10 What are the main advantages for you when providing services through platforms?

3000 character(s) maximum

11 What are the main issues or challenges you are facing when providing services through platforms? Is the platform taking any measures to improve these?

3000 character(s) maximum

12 Do you ever have problems getting paid for your service? Does/do the platform have any measures to support you in such situations?

3000 character(s) maximum

13 Do you consider yourself in a vulnerable or dependent situation in your work (economically or otherwise), and if yes, why?

14 Can you collectively negotiate vis-à-vis the platform(s) your remuneration or other contractual conditions?

- Yes
- No

15 Please explain.

The following questions are targeting online platforms.

Role of platforms

17 What is the role of your platform in the provision of the service and the conclusion of the contract with the customer?

18 What are the risks and responsibilities borne by your platform for the non-performance of the service or unsatisfactory provision of the service?

19 What happens when the service is not paid for by the customer/client?

20 Does your platform own any of the assets used by the individual offering the services?

- Yes
- No

22 Out of the total number of service providers offering services through your platform, what is the percentage of self-employed individuals?

- Over 75%
- Between 50% and 75%
- Between 25% and 50%
- Less than 25%

Rights and obligations

23 What is the contractual relationship between the platform and individuals offering services through it?

3000 character(s) maximum

24 Who sets the price paid by the customer for the service offered?

The platform

- The individual offering services through the platform
- Others, please specify

25 Please explain.

3000 character(s) maximum

26 How is the price paid by the customer shared between the platform and the individual offering the services through the platform?

3000 character(s) maximum

27 On average, how many hours per week do individuals spend offering services through your platform?

3000 character(s) maximum

28 Do you have measures in place to enable individuals providing services through your platform to contact each other and organise themselves collectively?

- Yes
- No

29 Please describe the means through which the individuals who provide services on your platform contact each other.

3000 character(s) maximum

30 What measures do you have in place for ensuring that individuals offering services through your platform work legally - e.g. comply with applicable rules on minimum working age, hold a work permit, where applicable - if any?

(If you replied to this question in your answers in the first module of the consultation, there is no need to repeat your answer here.)

3000 character(s) maximum

The following questions are open to all respondents

Situation of self-employed individuals providing services through platforms

32 Are there areas in the situation of individuals providing services through platforms which would need further improvements? Please rate the following issues from 1 (no improvements needed) to 5 (substantial issues need to be addressed).

| | 1 (no improvements needed) | 2 | 3 | 4 | 5 (substantial improvements needed) | I don't know / No answer |
|---|----------------------------|-----------------------|-----------------------|-----------------------|-------------------------------------|--------------------------|
| Earnings | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Flexibility of choosing when and /or where to provide services | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Transparency on remuneration | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Measures to tackle non-payment of remuneration | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Transparency in online ratings | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Ensuring that individuals providing services through platforms can contact each other and organise themselves for collective purposes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Tackling the issue of work carried out by individuals lacking legal permits | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Prevention of discrimination of individuals providing services through platforms, for instance based on gender, racial or ethnic origin | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Allocation of liability in case of damage | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other, please specify | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

33 Please explain the issues that you encounter or perceive.

3000 character(s) maximum

34 Do you think individuals providing services in the 'offline/traditional' economy face similar issues as individuals offering services through platforms?

Yes

No

I don't know

35 Please explain and provide examples.

3000 character(s) maximum

36 In your view, what are the obstacles for improving the situation of individuals providing services

1. through platforms?
2. in the offline/traditional economy?

3000 character(s) maximum

37 To what extent could the possibility to negotiate collectively help improve the situation of individuals offering services:

| | |
|-------------------------------------|--|
| through online platforms? |  |
| in the offline/traditional economy? |  |

38 Which are the areas you would consider most important for you to enable such collective negotiations?

3000 character(s) maximum

39 In this regard, do you see any obstacles to such negotiations?

3000 character(s) maximum

40 Are there other points you would like to raise?

3000 character(s) maximum

VI. What governance for reinforcing the Single Market for digital services?

The EU's Single Market offers a rich potential for digital services to scale up, including for innovative European companies. Today there is a certain degree of legal fragmentation in the Single Market . One of the main objectives for the Digital Services Act will be to improve opportunities for innovation and '[deepen the Single Market for Digital Services](#)'.

This section of the consultation seeks to collect evidence and views on the current state of the single market and steps for further improvements for a competitive and vibrant Single market for digital services. This module also inquires about the relative impact of the COVID-19 crisis on digital services in the Union. It then focuses on the appropriate governance and oversight over digital services across the EU and means to enhance the cooperation across authorities for an effective supervision of services and for the equal protection of all citizens across the single market. It also inquires about specific cooperation arrangements such as in the case of consumer protection authorities across the Single Market, or the regulatory oversight and cooperation mechanisms among media regulators. This section is not intended to focus on the enforcement of EU data protection rules (GDPR).

Main issues

1 How important are - in your daily life or for your professional transactions - digital services such as accessing websites, social networks, downloading apps, reading news online, shopping online, selling products online?

| | |
|--|---|
| Overall |  |
| Those offered from outside of your Member State of establishment |  |

The following questions are targeted at digital service providers

3 Approximately, what share of your EU turnover is generated by the provision of your service outside of your main country of establishment in the EU?

- Less than 10%
- Between 10% and 50%
- Over 50%
- I cannot compute this information

4 To what extent are the following obligations a burden for your company in providing its digital services, when expanding to one or more EU Member State(s)? Please rate the following obligations from 1 (not at all burdensome) to 5 (very burdensome).

| | 1 (not at all burdensome) | 2 | 3 (neutral) | 4 | 5 (very burdensome) | I don't know / No answer |
|---|---------------------------|-----------------------|----------------------------------|----------------------------------|-----------------------|--------------------------|
| Different processes and obligations imposed by Member States for notifying, detecting and removing illegal content/goods/services | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Requirements to have a legal representative or an establishment in more than one Member State | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Different procedures and points of contact for obligations to cooperate with authorities | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other types of legal requirements. Please specify below | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

6 Have your services been subject to enforcement measures by an EU Member State other than your country of establishment?

- Yes
- No
- I don't know

7 Please specify the grounds on which these measures were taken (e.g. sale of illegal goods on your service, obligations related to tackling disinformation) and what was your experience?

3000 character(s) maximum

Usually copyright, national security or privacy/libel cases demanding the altering of information on Wikipedia or the removal of photographs on Wikimedia Commons.

8 Were you requested to comply with any 'prior authorisation' or equivalent requirement for providing your digital service in an EU Member State?

- Yes
- No
- I don't know

10 Are there other issues you would consider necessary to facilitate the provision of cross-border digital services in the European Union?

3000 character(s) maximum

Harmonised exceptions and limitations in copyright law. Or, country of origin principle for IP and related laws.

11 What has been the impact of COVID-19 outbreak and crisis management measures on your business' turnover

- Significant reduction of turnover
- Limited reduction of turnover
- No significant change
- Modest increase in turnover
- Significant increase of turnover
- Other

13 Do you consider that deepening of the Single Market for digital services could help the economic recovery of your business?

- Yes

- No
- I don't know

14 Please explain

3000 character(s) maximum

The following questions are targeted at all respondents.

Governance of digital services and aspects of enforcement

The 'country of origin' principle is the cornerstone of the Single Market for digital services. It ensures that digital innovators, including start-ups and SMEs, have a single set of rules to follow (that of their home country), rather than 27 different rules.

This is an important precondition for services to be able to scale up quickly and offer their services across borders. In the aftermath of the COVID-19 outbreak and effective recovery strategy, more than ever, a strong Single Market is needed to boost the European economy and to restart economic activity in the EU.

At the same time, enforcement of rules is key; the protection of all EU citizens regardless of their place of residence, will be in the centre of the Digital Services Act.

The current system of cooperation between Member States foresees that the Member State where a provider of a digital service is established has the duty to supervise the services provided and to ensure that all EU citizens are protected. A cooperation mechanism for cross-border cases is established in the E-Commerce Directive.

1 Based on your experience, how would you assess the cooperation in the Single Market between authorities entrusted to supervise digital services?

5000 character(s) maximum

Varying, from great to nonexistent.

2 What governance arrangements would lead to an effective system for supervising and enforcing rules on online platforms in the EU in particular as regards the intermediation of third party goods, services and content (See also Chapter 1 of the consultation)?

Please rate each of the following aspects, on a scale of 1 (not at all important) to 5 (very important).

| | | | | | | |
|--|--|--|--|--|--|--|
| | | | | | | |
|--|--|--|--|--|--|--|

| | 1 (not at all important) | 2 | 3 (neutral) | 4 | 5 (very important) | I don't know / No answer |
|---|--------------------------|-----------------------|----------------------------------|----------------------------------|-----------------------|--------------------------|
| Clearly assigned competent national authorities or bodies as established by Member States for supervising the systems put in place by online platforms | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Cooperation mechanism within Member States across different competent authorities responsible for the systematic supervision of online platforms and sectorial issues (e.g. consumer protection, market surveillance, data protection, media regulators, anti-discrimination agencies, equality bodies, law enforcement authorities etc.) | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Cooperation mechanism with swift procedures and assistance across national competent authorities across Member States | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Coordination and technical assistance at EU level | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| An EU-level authority | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Cooperation schemes with third parties such as civil society organisations and academics for specific inquiries and oversight | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other: please specify in the text box below | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

3 Please explain

5000 character(s) maximum

4 What information should competent authorities make publicly available about their supervisory and enforcement activity?

3000 character(s) maximum

Full transparency.

5 What capabilities – type of internal expertise, resources etc. - are needed within competent authorities, in order to effectively supervise online platforms?

3000 character(s) maximum

Knowing the functioning of different types of moderation systems, including self-governing communities.

6 In your view, is there a need to ensure similar supervision of digital services established outside of the EU that provide their services to EU users?

- Yes, if they intermediate a certain volume of content, goods and services provided in the EU
- Yes, if they have a significant number of users in the EU
- No
- Other
- I don't know

7 Please explain

3000 character(s) maximum

The hosting organisation Wikimedia Foundation is not EU based, but our projects do strive to comply with EU rules and the staff cooperates with EU authorities when necessary. The internet is global in nature and we need to find a good governance model that works worldwide. The EU could play a leadership role here.

8 How should the supervision of services established outside of the EU be set up in an efficient and coherent manner, in your view?

3000 character(s) maximum

We believe that existing multi-stakeholder fora of internet governance, including the UN Internet Governance Forum, could be developed further to agree on authoritative rules where needed. We urge the EU to think about solutions that are multilateral in nature, accountable, transparent, and involve a broad range of stakeholders, including from civil society.

9 In your view, what governance structure could ensure that multiple national authorities, in their respective areas of competence, supervise digital services coherently and consistently across borders?

3000 character(s) maximum

Currently, there is no such structure that would be ready to take on this task. Again, we encourage the EU to build on existing multilateral fora to create an accountable and transparent governance structure that allows for the cross-border coordination of national and continental authorities and involve other stakeholders, including from civil society.

10 As regards specific areas of competence, such as on consumer protection or product safety, please share your experience related to the cross-border cooperation of the competent authorities in the different Member States.

3000 character(s) maximum

11 In the specific field of audiovisual, the Audiovisual Media Services Directive established a regulatory oversight and cooperation mechanism in cross border cases between media regulators, coordinated at EU level within European Regulators' Group for Audiovisual Media Services (ERGA). In your view is this sufficient to ensure that users remain protected against illegal and harmful audiovisual content (for instance if services are offered to users from a different Member State)? Please explain your answer and provide practical examples if you consider the arrangements may not suffice.

3000 character(s) maximum

12 Would the current system need to be strengthened? If yes, which additional tasks be useful to ensure a more effective enforcement of audiovisual content rules?

Please assess from 1 (least beneficial) – 5 (most beneficial). You can assign the same number to the same actions should you consider them as being equally important.

| | |
|--|---|
| Coordinating the handling of cross-border cases, including jurisdiction matters |  |
| Agreeing on guidance for consistent implementation of rules under the AVMSD |  |
| Ensuring consistency in cross-border application of the rules on the promotion of European works |  |
| Facilitating coordination in the area of disinformation |  |
| Other areas of cooperation |  |

13 Other areas of cooperation - (please, indicate which ones)

3000 character(s) maximum

14 Are there other points you would like to raise?

3000 character(s) maximum

Final remarks

If you wish to upload a position paper, article, report, or other evidence and data for the attention of the European Commission, please do so.

1 Upload file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

2 Other final comments

3000 character(s) maximum

The Wikimedia Foundation is also submitting answers. As they are the legal hosts of the projects, our submission is more a reflection of the views of the editing communities.

Useful links

[Digital Services Act package \(https://ec.europa.eu/digital-single-market/en/digital-services-act-package \)](https://ec.europa.eu/digital-single-market/en/digital-services-act-package)

Background Documents

[\(BG\) Речник на термините](#)

[\(CS\) Glosř](#)

[\(DA\) Ordliste](#)

[\(DE\) Glossar](#)

[\(EL\) á](#)

[\(EN\) Glossary](#)

[\(ES\) Glosario](#)

[\(ET\) Snastik](#)

[\(FI\) Sanasto](#)

[\(FR\) Glossaire](#)

[\(HR\) Pojmovnik](#)

[\(HU\) Glosszrium](#)

[\(IT\) Glossario](#)

[\(LT\) Žodynėlis](#)

[\(LV\) Glosārijs](#)

[\(MT\) Glossarju](#)

[\(NL\) Verklarende woordenlijst](#)

[\(PL\) Słowniczek](#)

[\(PT\) Glossrio](#)

[\(RO\) Glosar](#)

[\(SK\) Slovnk](#)

[\(SL\) Glosar](#)

[\(SV\) Ordlista](#)

Contact

CNECT-consultation-DSA@ec.europa.eu