



06/05/2020

AMENDMENTS: 14

Dita Charanzová

Digital Services Act: adapting commercial and civil law rules for commercial entities operating online

Draft opinion PE648.645 - 2020/2019(INL)

Amendments created with

at4am

Go to <http://www.at4am.ep.parl.union.eu>

\000000EN.doc

Amendments per language:

EN: 14

Amendments justification with more than 500 chars : 0

Amendments justification number with more than 500 chars :

Amendment 1

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 1

Draft opinion

1. **Welcomes** the “CPC Common Position COVID-19”³ issued by the Commission and the Consumer Protection Cooperation (CPC) authorities of the Member States on the most recent reported scams and unfair practices in relation to the COVID-19 outbreak; calls ***on all platforms to cooperate with*** the Commission and the competent authorities to better identify illegal practices, ***take down scams and asks the Commission to constantly review the common guidelines for*** the placement and/or sale of items and services of a false, misleading or otherwise abusive content for consumers; believes ***such guidelines should not only seek to apply*** Union and national consumer law, ***but to proactively seek to*** put in place the means to react to the crisis in the market rapidly;

³ European Commission / Consumer Protection Cooperation (CPC) Network, Common Position of CPC Authorities, “Stopping scams and tackling unfair business practices on online platforms in the context of the Coronavirus outbreak in the EU”.

Amendment

1. **Notes** the “CPC Common Position COVID-19”³ issued by the Commission and the Consumer Protection Cooperation (CPC) authorities of the Member States on the most recent reported scams and unfair practices in relation to the COVID-19 outbreak; calls the Commission and the competent authorities to better identify illegal practices, ***instead of general descriptions in order to speed up the tackling of*** the placement and/or sale of items and services of a false, misleading or otherwise abusive content for consumers; believes ***that the current scrutiny of*** Union and national consumer law ***should*** put in place the means to react to the crisis in the market rapidly;

³ European Commission / Consumer Protection Cooperation (CPC) Network, Common Position of CPC Authorities, “Stopping scams and tackling unfair business practices on online platforms in the context of the Coronavirus outbreak in the EU”.

Or. en

Amendment 2

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion
Paragraph 1 a (new)

Draft opinion

Amendment

1 a. Calls on the Commission to introduce a notice and action legislation, in order to make the removal of illegal content faster and more efficient; Stresses that in order to uphold the right to effective remedy, notice and action procedures shall provide users with the right to appeal decisions honouring removal requests, but also decisions denying such requests.

Or. en

Amendment 3
Marcel Kolaja
on behalf of the Greens/EFA Group

Draft opinion
Paragraph 1 b (new)

Draft opinion

Amendment

1 b. Reminds that in line with Directive (EU) 2018/1808 (AVMS Directive) ex-ante control measures or upload filtering of content do not comply with article 15 of the Directive 2000/31/EC. Underlines therefore that the future Digital Services Act shall prohibit imposing on hosting service providers or other intermediary services mandatory automated technologies to control content;

Or. en

Amendment 4
Marcel Kolaja
on behalf of the Greens/EFA Group

Draft opinion
Paragraph 1 c (new)

Draft opinion

Amendment

1 c. Asks the Commission to improve consumer rights in the future DSA regulation, by introducing safeguards to prevent violations of fundamental rights of user, which is missing from Directive 2000/31/EC; notes that this should include as a minimum internal and external dispute mechanism, and the clearly stated possibility of judicial redress;

Or. en

Amendment 5

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 1 d (new)

Draft opinion

Amendment

1 d. Welcomes efforts to bring transparency to content removal; in order to verify compliance with the rules, underlines that the requirement to publish periodic transparency reports should be mandatory, and include the number of notices, type of entities notifying content, nature of the content subject of complaint, response time by the intermediary, the number of appeals.

Or. en

Amendment 6

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 1 e (new)

Draft opinion

Amendment

1 e. In order to verify such transparency reports and compliance with legal obligations, and in line with the Council of Europe, Recommendation CM/Rec(2018)2, Member States should equally make available, publicly and in a regular manner, comprehensive information on the number, nature and legal basis of content restrictions or disclosures of personal data that they have addressed to intermediaries, including those based on international mutual legal assistance treaties, and on steps taken as a result of those requests.

Or. en

Amendment 7

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 2

Draft opinion

2. Welcomes efforts to bring transparency to advertising online and considers that further clarity ***and guidance*** is needed as regards professional diligence and obligations ***for platforms; believes that where advertisers and intermediaries are established in a third country, they should designate a legal representative, established in the Union, who can be held accountable for the content of advertisements, in order to allow for consumer redress in the case of false or misleading advertisements;***

Amendment

2. Welcomes efforts to bring transparency to advertising online and considers that further clarity is needed as regards ***the functioning of online advertising ecosystem in order to establish*** professional diligence and obligations;

Or. en

Amendment 8

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion
Paragraph 3

Draft opinion

3. Asks the Commission to clarify what sanctions or other restrictions *those* advertisement intermediaries *and platforms* should be subject to if they knowingly accept false or misleading advertisements; *believes that online platforms should actively monitor the advertisements shown on their sites, in order to ensure they do not profit from false or misleading advertisements, including from influencer marketing content which is not being disclosed as sponsored*; underlines that advertisements for commercial products and services, and advertisements of a political *or other nature* are different in form and function and therefore should be subject to different guidelines and rules;

Amendment

3. Asks the Commission to clarify what sanctions or other restrictions advertisement intermediaries should be subject to if they knowingly accept false or misleading advertisements; underlines that advertisements for commercial products and services, and advertisements of a political, *or public interest announcement* are different in form and function and therefore should be subject to different guidelines and rules;

Or. en

Amendment 9
Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3 a. Underlines that video sharing platforms and social media have the capacity to amplify illegal content; Calls for recommendation algorithms, to be transparent, in order to give consumers and researchers insight into these processes notably on the data used, the purpose of the algorithm, personalisation, its outcomes and potential dangers, in respect with the principles of explicability,

fairness and responsibility; stresses the need to guarantee and properly implement the right of users to opt in for recommended and personalised services;

Or. en

Amendment 10

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 5

Draft opinion

5. Underlines that EULAs should always make the sharing of *all* data with third parties *optional unless vital to the functioning* of the *services*; asks the Commission to ensure that consumers can still use a connected device for all its primary functions even if a consumer withdraws their consent to share non-operational data with the device manufacturer or third parties;

Amendment

5. Underlines that EULAs should always make the sharing of *any* data with third parties *based on the consent* of the *user*; asks the Commission to ensure that consumers can still use a connected device for all its primary functions even if a consumer withdraws their consent to share non-operational data with the device manufacturer or third parties; *calls for development of enforcement mechanisms providing monitoring of consumer's right to informed consent and freedom of choice when submitting data;*

Or. en

Amendment 11

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 6

Draft opinion

6. Underlines that the Directive (EU) 2019/770 and Directive (EU) 2019/771 are still to be properly transposed and implemented; *asks the Commission to take this into account before taking additional*

Amendment

6. Underlines that the Directive (EU) 2019/770 and Directive (EU) 2019/771 are still to be properly transposed and implemented;

measures;

Or. en

Amendment 12

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 7

Draft opinion

7. Notes the rise of “smart contracts” based on distributed ledger technologies; asks the Commission to analyse if certain aspects of “smart contracts” should be clarified and if guidance should be given in order to ensure legal certainty for businesses and consumers; asks especially for the Commission to work to ensure that such contracts ***with consumers are valid and binding throughout the Union; that they*** meet the standards of consumer law, for example the right of withdrawal under Directive 2011/83/EU⁴ ; ***and that they are not subject to national barriers to application, such as notarisation requirements;***

⁴ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

Amendment

7. Notes the rise of “smart contracts”, ***such as those*** based on distributed ledger technologies; asks the Commission to analyse if certain aspects of “smart contracts” should be clarified and if guidance should be given in order to ensure legal certainty for businesses and consumers; asks especially for the Commission to work to ensure that such contracts meet the standards of consumer law, for example the right of withdrawal under Directive 2011/83/EU⁴ ;

⁴ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

Or. en

Amendment 13

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion
Paragraph 8

Draft opinion

8. Stresses that any future legislative proposals should seek to remove current and prevent potentially new barriers in the supply of digital services by online platforms; underlines, at the same time, that new Union obligations on platforms must be proportional and clear in nature in order to avoid unnecessary regulatory burdens or unnecessary restrictions; underlines the need to prevent gold-plating practices of Union legislation by Member States.

Amendment

8. Stresses that any future legislative proposals should seek to remove current and prevent potentially new barriers, ***lock-ins and reduced competition*** in the supply of digital services by online platforms; underlines, at the same time, that new Union obligations on platforms must ***have the public good at their core***, be proportional and clear in nature in order to avoid unnecessary regulatory burdens or unnecessary restrictions; underlines the need to prevent gold-plating practices of Union legislation by Member States.

Or. en

Amendment 14

Marcel Kolaja

on behalf of the Greens/EFA Group

Draft opinion

Paragraph 8 a (new)

Draft opinion

Amendment

8 a. Welcomes the Commission's agreement with collaborative economy platforms allowing Eurostat to publish key data on tourism accommodation, as first steps. Asks the Commission to introduce further information obligation for collaborative economy platforms in line with data protection rules, as it is essential for local authorities in order to ensure the availability of affordable housing.

Or. en