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.

This **consultation**

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

The questionnaire refers to **digital services** (or 'information society services', within the meaning of the E-Commerce Directive), as 'services provided through electronic means, at a distance, at the request of the user'. It also refers more narrowly to a subset of digital services here termed **online intermediary services**. By this we mean services such as internet access providers, cloud services, online platforms, messaging services, etc., i.e. services that generally transport or intermediate content, goods or services made available by third parties. Parts of the questionnaire specifically focus on **online platforms** – such as e-commerce marketplaces, search engines, app stores, online travel and accommodation platforms or mobility platforms and other collaborative economy platforms, etc.

Other terms and other technical concepts are explained in <u>a glossary</u>.

H o w   t o   r e s p o n d

Make sure to **save tour draft** regularly as you fill in the questionnaire.
You can break off and return to finish it at any time.
At the end, you will also be able to upload a document or add other issues not covered in d e t a i l   i n   t h e   q u e s t i o n n a i r e .

D e a d l i n e   f o r   r e s p o n s e s

8   S e p t e m b e r   2 0 2 0 .

L a n g u a g e s

You can submit your response in any official EU language. The questionnaire is available in 23 of the EU's official languages. You can switch languages from the menu at the top of the page.

About you

* 1 Language of my contribution

- ○ Bulgarian
- ○ Croatian
- ○ Czech
- ○ Danish
- ○ Dutch
- ● English
- ○ Estonian
- ○ Finnish

- ◎ 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

Dominika

* 4 Surname

Hajdu

* 5 Email (this won't be published)

dominika.hajdu@globsec.org

* 7 Organisation name

255 character(s) maximum

Alliance for Healthy Infosphere

* 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.

[   ]

*21 Country of origin

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

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

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

While prior to COVID-19, illegal content, such as incitement to hatred and violence, defamation of race, ethnicity or religion or public support to totalitarian ideologies (all of which are illegal under the EU Framework decision) was limited to political actors and fringe groups, during the COVID-19 pandemic, this content, paired with medical hoaxes and conspiracy theories, entered new channels and groups. Moreover, COVID-19 as a topic was exploited and used to further incite hatred towards minorities (Roma in case of Slovakia, illegal migrants in Hungary or LGBTI in Poland) by combining old narratives with the epidemic.

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

As the impact of online information during the lock-down intensified, both the authorities and to certain extent also online platforms stepped up their efforts in either debunking or taking down illegal content (dissemination of false alarm messages, incitement to hatred). In several instances, national authorities (Police force of the Slovak Republic or Centre Against Terrorism and Hybrid Threats in the Czech Republic) used their dedicated Facebook profiles to both debunk illegal content stoking fear and raising false alarms of impending martial law or to act preemptively and warn Facebook users that police will take the necessary measures to prosecute such illegal behavior.

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

Online platforms recently announced their pledge to ban advertisements promoting misleading or fraudulent goods such as fake COVID-19 "cures" or ads promoting sources with false and misleading content. Multiple reports (link 1 below), however, stated that the bans did not prevent all scammers to promote their products. The impact of such bans should be reviewed specifically in small markets and non-English language space. A Slovak portal infosecurity.sk has been monitoring the unfair practices of masks advertising, which Facebook had pledged to remove, and found a large scale of products despite the ban: https://infosecurity.sk/nezaradene/facebook-rusi-reklamy-na-rusky/
Link 1: https://www.telegraph.co.uk/technology/2020/04/15/google-showed-adverts-china-virus-cures-despite-banning-coronavirus/

21 Do you consider these measures appropriate?
- ○ Yes
- ● No
- ○ I don't know

22 Please explain.

3000 character(s) maximum

Ban on advertisement of false and misleading goods, services or content by online platforms should have been adopted a long time ago. On a national level, voluntary measures such as a list of websites spreading misleading and false content - https://www.konspiratori.sk/en/ - have existed for quite some time. There are even examples of international efforts such as https://www.newsguardtech.com/. Yet, none of these efforts were taken on board by the major online platforms.

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

2 Were you able to follow-up on the information?
- ☐ Yes, I complained to the platform
- ☐ Yes, I escalated to an out-of-court dispute mechanism
- ☐

☑ No, but it was useful to learn about the platform's policy

☑ No

☐ Other. Please specify in the text box below

3 Please explain.

3000 character(s) maximum

> There have been several instances when content was removed from Facebook due to alleged violation of its community standards (public display of extremist symbols, incitement to hatred etc.) while in fact the aim of the content was to educate or increase public awareness of specific cases or individuals spreading hate speech. In a well-documented case in Slovakia, the Facebook account of an NGO dedicated to Holocaust remembrance (Post Bellum) was blocked for several hours due to the fact they used an official name of an exhibition of Roma holocaust, which the Facebook algorithm found hateful. In a different example, Facebook deleted a post of a Slovak extremism expert Daniel Milo who used in a post explaining the meaning of a Neo-Nazi code 14/88 and used freely available picture showcasing its use by Neo-Nazis. The post was never reinstated. There were several instances of online platforms blocking articles by renowned experts and journalists in Slovakia, published in high-quality media due to algorithmic mistakes (https://dennikn.sk/659792 /facebook-kopi-chyby-zmazal-text-michala-havrana-napalmove-dievca-aj-humoristickeho-boha/).

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

> Users are neither able to receive enough information about the rules and conditions of suggested and targeted content, nor they see what kind of personal data was used for these purposes.
>
> The information provided about micro-targeting for advertising purposes is very general. Phrases such as "estimation of your interest", "there could also be more factors not listed here" or "based on your activity on the internet" are disrespecting the users' right to be informed about how their data are being used and sold to third parties.
>
> Moreover, recommended content on online platforms such as Facebook and YouTube completely lacks any option to check the data and reasoning behind recommended content.

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

> Children online are exposed to numerous risks, grooming and bullying included. The recent Czech documentary film 'Caught in the Net' (https://www.vsitifilm.cz/about-the-film.html) demonstrates how easy and common it is for children to be preyed upon on social media by predators. Minors can join any private or open groups once they provide incorrect information about their age when they register.

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	◉	○	○	○	○	○
To protect freedom of expression online, diverse voices should be heard	◉	○	○	○	○	○
Disinformation is spread by manipulating algorithmic processes on online platforms	◉	○	○	○	○	○
Online platforms can be trusted that their internal practices sufficiently guarantee democratic integrity, pluralism, non-discrimination, tolerance, justice, solidarity and gender equality.	○	○	○	○	◉	○

3 Please explain.

3000 character(s) maximum

> Exploitation of online platforms for influence operations by Chinese, Russian and other actors is well-documented, particularly in relation to the elections. Information about such operations can be found in the Mueller Report (link 1 below), GMF Alliance for Securing Democracy's Covert Foreign Money report (link 2 below), etc. Even though the discussion on foreign state interference and countermeasures has been

ongoing for years, it still poses a serious problem.

Disinformation actors do not need foreign state support any longer (see e.g. report by Avaaz and ISD (link 3 below) on EP Elections 2019 or GLOBSEC Slovak Election 2020 Report (link 4)), as due to lack of action by tech giants, disinformation ecosystems are profitable models generating vast incomes through advertising, as GDI reports confirm. Furthermore, polarising messaging and conspiracy theories have found their way into political mainstream and far-right public figures benefit from these, while disseminating hate.

Manipulating algorithmic processes is a reality documented for example in the New York Times Rabbit Hole podcast demonstrating radicalisation on YouTube. Closed groups on social media perpetuate echo chambers while increasing engagement and reach away from public eye. Algorithms are exploited through ad and content suggestions, for example in Google search and autocomplete results or through offering content liked by friends. All of these are designed to motivate users to spend as much time as possible on the platform, even if that means promoting harmful content.

Online platforms cannot be trusted to address social issues as they are businesses and it should not be expected of them to act as arbiters of justice. Efforts such as Voluntary Code of Practice have not led to significant improvements and hateful content such as Holocaust denial, proliferates on Facebook (link 5), despite violating legislations on hate speech. These issues are exacerbated by a lack of transparency as the public and institutions rely on platforms' self-reporting. Changes introduced such as ad libraries are unreliable cosmetic changes rather than systematic solutions and smaller markets are even more impacted as specific languages are not adequately served by content moderators and fact-checkers. This results in inability of digital platforms to enforce their own standards as well as lack of PoCs to cooperate with state authorities in each European market.
Link 1: https://www.google.com/search?client=firefox-b-d&q=mueller+report
Link 2: https://securingdemocracy.gmfus.org/covert-foreign-money/
Link 3: https://www.isdglobal.org/wp-content/uploads/2019/05/Disinfo-European-Elections-Interim-report-ISD-2-V2.pdf
Link 4: https://www.globsec.org/publications/slovak-parliamentary-election-2020/
Link 5: https://www.fairobserver.com/region/europe/miroslava-sawiris-globsec-slovakia-european-union-eu-facebook-mark-zuckerberg-social-media-16837/

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

The situation with harmful content has become worse and more pronounced since the Covid-19 outbreak (e.g. https://visegradinsight.eu/infodemic-covid19-wake-up-call/). Medical disinformation, once a fringe aspect of the disinformation scene, has been catapulted to centre state, politicised, and caused unnecessary loss of life. Furthermore, political actors now exploit the pandemic to profit from anti-mask movements and 5G conspiracy theories, which can lead to even more deaths and endangering of the successful overcoming of the global pandemic. Recent Avaaz study documents that misinformation content from top 10 websites spreading such messaging had 4 times as many views as information from top 10 health institutions, once again demonstrating that disinformation travels faster than facts and that digital platforms are failing in addressing the crisis. Health hoaxes became part of mainstream discussions as a result of this failure. (https://secure.avaaz.org/campaign/en/facebook_threat_health/?slideshow).

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

> Good practices are not that numerous. However, the promotion of legitimate sources of information to the top search results by the platform has been helpful, especially amid the pandemic. Most of the mobilisation and cooperation to manage the infodemic has been initiated by civil society actors and researchers. Similarly, state efforts in strategic communication as manifested in setting up state digital platforms accounts to communicate with their constituents have been helpful. Google's attempt to limit ad profits from Covid-19 disinformation is commendable, however it remains to be seen whether it will take the issue of economies of disinformation truly seriously.

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

> A number of texts and accounts in Slovakia were erroneously temporarily removed from Facebook, while hateful content proliferates. For example, text by Slovak public figure Michal Havran criticising fascism in Slovakia has been removed or several pages of Petit Press published were suspended by Facebook without any explanation as to why (https://dennikn.sk/659792/facebook-kopi-chyby-zmazal-text-michala-havrana-napalmove-dievca-aj-humoristickeho-boha/). Similarly, Post Bellum page documenting atrocities of totalitarian regimes in 20th century has been recently erroneously removed by Facebook. This has happened without providing information on which piece of content was allegedly problematic or why. Admins of Post Bellum page were lucky to have personal contacts in Facebook, who have been able to advocate for human analysts to review the decision, the page admins would have been unable to rectify the situation due to lack of POCs in Slovakia.

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

> We flag content only via flagging on the social media, sometimes through reaching out to Facebook contact point for our region. Our experience has not been positive, as even the few contacts we have are typically unresponsive. Slovak state authorities have no communication and no real cooperation vis-à-vis digital platforms. In Hungary, there were several instances of feedback directly from Facebook point of contact that the flagged content cannot be reviewed as Facebook did not have personnel with Hungarian language.

Furthermore, the user experience of flagging content is substandard as well: Flagging content for Google is confusing and response rates are either slow or non-existent. As for Facebook, categorisation of the issues is arbitrary, the decision-making process non-transparent and discussion of the outcome non-existent. As a result, vast amounts of posts reported to Facebook remain on the platform, which perpetuates attacks against marginalised communities and their ability to take part in public discussions.

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

3000 character(s) maximum

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

In many EU countries, including Slovakia and the Czech Republic, state authorities are faced with serious difficulties with accessing information on criminal activities online, particularly related to hate speech, through official channels. This results from the discrepancy between legal regimes in the EU and the US, where hate speech is not illegal. Hence, when authorities request information on those individuals who perpetuate hate speech in Europe from a US based service such as Facebook, YouTube or other major platforms, such requests are turned down based on grounds that such activities are not illegal in the US, and therefore there is no legal reason to provide such information. This is a long-standing issue, yet with the increasing use of online platforms its impact has intensified.

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

9 Please indicate which one(s). What data is shared and for what purpose, and are there any constraints that limit these initiatives?

3000 character(s) maximum

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

> This usually is not part of our research due to GDPR. If we need more information about certain users we use publicly available online tools.

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

◉ Yes

◯ No

◯ I don't know

12 Please specify for what specific purpose and if the information available to you sufficient, in your opinion?

3000 character(s) maximum

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 ar you aware of alternative sources of such data? Please explain.

3000 character(s) maximum

> There are other OSINT channels which can be used to seek out more information.

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

3 What issues have you encountered in operating these systems?
5000 character(s) maximum

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

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

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

3000 character(s) maximum

> [ ]

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

> [ ]

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

> [ ]

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

>

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

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

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 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	◉	○	○	○
Maintain a system for assessing the risk of exposure to illegal goods or content	○	◉	○	○
Have content moderation teams, appropriately trained and resourced	◉	○	○	○
Systematically respond to requests from law enforcement authorities	◉	○	○	○
Cooperate with national authorities and law enforcement, in accordance with clear procedures	◉	○	○	○
Cooperate with trusted organisations with proven expertise that can report illegal activities for fast analysis ('trusted flaggers')	○	◉	○	○
Detect illegal content, goods or services	◉	○	○	○
In particular where they intermediate sales of goods or services, inform their professional users about their obligations under EU law	○	◉	○	○
Request professional users to identify themselves clearly ('know your customer' policy)	◉	○	○	○
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)	○	○	◉	○

Inform consumers when they become aware of product recalls or sales of illegal goods	◉	○	○	○
Cooperate with other online platforms for exchanging best practices, sharing information or tools to tackle illegal activities	○	○	◉	○
Be transparent about their content policies, measures and their effects	◉	○	○	○
Maintain an effective 'counter-notice' system for users whose goods or content is removed to dispute erroneous decisions	◉	○	○	○
Other. Please specify	○	○	○	○

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

5000 character(s) maximum

> The transparency of the online platforms' content policies should be reinforced by publication of examples and case studies, some of which should serve as a precedent and reference point for the measures applied in similar instances. Measures and policies, however, should respect country-specific diversity and social and political context.
>
> The counter-notice system and disputes should be led by an EU-independent platform or institution.

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

> Description should be optional

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

Firstly, automation should be implemented to limit the spread of illegal content. A robust database of illegal content should be built by online platforms with each piece marked by a digital watermark or footprint. Subsequently, a mechanism designated for searching such watermarked content should be employed in all EU member states.

Secondly, accounts which repeatedly violate community standards and policies should be placed under supervision and monitored. Subsequently, the process of removing illegal content from that user should be sped-up.

Political and public personalities should not be exempted from these rules.

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

Risks: Erroneous removal of content impacting free speech. For example, ironic and educational materials were sometimes taken off. It appears that tools deployed in some markets lack the ability to pick up on important nuances.
Possible remedy: Human intervention by an independent party responsible for disputes.
Risks: Implementation of advanced NLP mechanisms in all EU languages is a challenge, especially in case of smaller-state languages.
Possible remedy: Investment into the advancement of NLP in all EU countries.
Opportunity: Sharing of best practices across online platforms and other responsible stakeholders and quicker identification of illegal content. For example, In Lithuania, a few years before the pandemic, several successful campaigns of reporting propaganda pages on Facebook took place. These campaigns were organised by the prominent public figures. The reaction from Facebook was slow, but those pages were deleted.

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

The Alliance believes that a basic rule of what is illegal offline in the EU member states should be illegal online for all providers of goods and services to any EU citizens. If an online platform enables the sellers from third countries to reach EU citizens, the online platforms should ensure they comply with the EU law.

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

> The principle of rule of law should apply in all cases, i.e. if the court orders the hosting service or platform to delete a particular service provider deemed illegal by the court decision, the hosting service should comply. Also, a reporting mechanism should always be available for the consumers to report any suspicion for illegal content or services online.

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

> Trusted organisations and national authorities should receive access to data in order to tackle illegal activities online. The data provision, however, should be limited and correspond to the nature of the organisation concerned.
> ● National authorities and authorities within the criminal justice system should be able to access illegal content and behavior in order to take appropriate measures quickly and efficiently.
> ● Equally, trusted bodies and registered civil society organisations should have access to aggregated data in accordance with GDPR for research purposes.
>
> However, the means and techniques of usage of the data should also be recorded and made available for research purposes.

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

> Increased protection should be granted to individuals or organisations constantly targeted by hate speech and other forms of online harassment and abuse. Harassment cases should be taken more seriously, and strong protection mechanisms should be implemented preemptively.

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	○	○	○	○	●	○
Provide users with tools to flag disinformation online and establishing transparent procedures for dealing with user complaints	○	○	○	○	●	○
Tackle the use of fake-accounts, fake engagements, bots and inauthentic users behaviour aimed at amplifying false or misleading narratives	○	○	○	○	●	○
Transparency tools and secure access to platform data for trusted researchers in order to monitor inappropriate behaviour and better understand the impact of 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	○	○	○	○	●	○
Adapted risk assessments and mitigation strategies undertaken by online platforms	○	○	○	○	●	○
Ensure effective access and visibility of a variety of authentic and professional journalistic sources	○	○	○	○	●	○
Auditing systems for platform actions and risk assessments	○	○	○	○	●	○
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.	○	○	○	○	●	○
Other (please specify)	○	○	○	○	○	○

13 Please specify

3000 character(s) maximum

following recommendations should be considered:

● Create a designated contact/office for each EU Member State, which will be responsible for: a) communication with state authorities, delivery of comprehensive databases about political advertisements, as well as reported and deleted content; b) posting advance notice of planned modifications to community standards on a specific social medium in order to explain proposed modifications to relevant authorities prior to their implementation, especially in cases when it concerns removal of misleading, objectively false content or content which violates the European Convention on Human Rights.

● Ensure the enforcement of rules that secure the transparency of targeted ads and thus increase the users' awareness by providing a possibility to access full set of data on why a user is seeing the targeted ads. At the same time, task social media platforms with the automatic and regular delivery of information about all paid ads to national institutions supervising the financing of political campaigns.

● Accelerate and increase the effectiveness of the removal of problematic content reported to Facebook, or other social media platform, by a verified trusted flagger.

● Develop a complaint system for cases when social media fail in the removal of content sharing hate speech, extremism, or targeted bullying of individuals. The complaints should be promptly taken over by relevant EU institutions with possible competences to issue a financial penalisation of the social media platform for such failures.

● Hire more local experts to oversee the quality of content-moderation and provide data about the numbers and language competence of the personnel responsible for resolving individual cases to independent institutions and analysts for auditing purposes. Czech verified third-party fact-checking organisation Demagog.cz is an example of good practice.

● Provide reasoning behind any account deletion or post-removal with a possibility to appeal against the decision to prevent the spread of conspiracies about censorship and make the process more transparent.

● Information about money spent by political parties/representatives on paid ads should not be indicated by social media platforms in bulk sums, but each ad should have a specific sum.

● Address issues around ad library inconsistencies (falsely categorised content, content disappearing from ad libraries, etc.)

● Address issue of political affiliation with specific parties - there are cases in which public pages are operating for benefit of a particular political party, but this is not made public. Social media need to increase transparency in this respect. After disregarding community standards and account suspension, the same admins should not have the ability to simply create a copy of the same page.

● Social media platforms should provide more detailed information on

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

Each digital platform should have a country-specific point of contact to be easily accessible for the public authorities' queries. There should be a clear determination of action and reaction period of country-specific point of contact in case of emergency situations. In the case of elections, pro-active communication and cooperation with state authorities must be ensured.

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	○	○	○	○	◉	○
Diligence in assessing the content notified to them for removal or blocking	○	○	○	○	◉	○
Maintaining an effective complaint and redress mechanism	○	○	○	○	◉	○
Diligence in informing users whose content/goods/services was removed or blocked or whose accounts are threatened to be suspended	○	○	○	○	◉	○
High accuracy and diligent control mechanisms, including human oversight, when automated tools are deployed for detecting, removing or demoting content or suspending users' accounts	○	○	○	○	◉	○
Enabling third party insight – e.g. by academics – of main content moderation systems	○	○	○	○	◉	○
Other. Please specify	○	○	○	○	○	○

16 Please explain.

3000 character(s) maximum

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

AI deployed by digital platforms displays racial and sexist biases. For example, Google search over-represents white people while also perpetuating gender stereotypes. AI technology needs to be checked for biases prior to deployment as well as regularly audited and updated if biases are found.

Furthermore, it is important to stress the fundamental right to privacy. Currently, T&Cs (terms & conditions) provided by digital platforms are not based on meaningful consent. Users do not know what information the platforms are gathering about them which needs to be made very clear. Similarly, the users should have right to access the metadata track of their digital imprints as well as the information about where these imprints were collected and which 3rd parties they have been shared with.

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

● Online platforms should provide more information and be more transparent about its taken measures and policies. National authorities should be provided with full access to this information.
● Online platforms should also provide full explanation of their policies supported by examples and case studies, that would enable clear understanding of their community standards.
● Online platforms should publish regular detailed reports (including country specific data), what measures were taken if the relevant national/EU legislation and consequently platforms' terms have been breached. These decisions should be provided in all languages to make it accessible to the wider public.

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

● Information about content removal, or blocking illegal content, goods or user accounts should be shared publicly in accordance with data protection legislation (more detailed information with competent authorities and aggregated data with third parties).
● With national authorities should be shared non-public information pertaining to illegal content and its producers.
● On the EU level, there should be an independent oversight of the functioning of algorithms, carried by Joint Research Centre or other independent scientific body, to oversee the implementation and impact.

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

5000 character(s) maximum

● Recommending systems should offer diverse content to its users. Currently, several studies (link below) indicate that online platforms use algorithms that show users similar content related to users history or connections, that can create echo-chambers of only disinformative content being consumed by online platform users. Also, the recommended system should not suggest to the users increasingly polarising or radical content.

● Through independent oversight of all online platforms' algorithms conducted by Joint Research Centre or other independent scientific institutions should be tested before its implementation, similarly to products or services in other branches of economy (i.e. medicaments testing before being offered on the market). The oversight should test the impact on the society and if they meet given standards.

Link: https://avaazimages.avaaz.org/facebook_threat_health.pdf

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

Enhanced data sharing between online platforms and authorities would significantly speed-up the supervisory processes and reaction in the case of breaking the regulation. In principle, the Alliance believes that all legislation which applies in the offline world should apply fully in the online world. That would bridge the gap between offline and online environments.

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)?

> Sanctions should bring an impact and correspond meaningfully to revenue proportion (20%). In the case of systematic failure to comply with the obligations, application of anti-monopoly legislation should be considered.

24 Are there other points you would like to raise?

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 hos 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.

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?

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

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

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

The current regime prohibiting general monitoring obligation does not seem to be corresponding to the reality on the ground and the impact illegal content has. While the responsibility for content should not be fully on the providers of such services, the existing regime should be adapted and service providers should have a more active role in monitoring and removing illegal content, thus the general exemption from monitoring obligation should be removed and replaced by a more balanced approach.

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

Liability not only for illegal, but for harmful content which meets certain criteria defined by law, could be considered as well.

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.	○	○	○	◉	○	○
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").	○	○	○	◉	○	○
It is easy for individuals to port their data in a useful	○	○	○	○	◉	○

manner to alternative service providers outside of an online platform.	◉				

There is sufficient level of interoperability between services of different online platform companies.	○	○	○	◉	○	○
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.	◉	○	○	○	○	○
It is easy for innovative SME online platforms to expand or enter the market.	○	○	○	○	◉	○
Traditional businesses are increasingly dependent on a limited number of very large online platforms.	◉	○	○	○	○	○
There are imbalances in the bargaining power between these online platforms and their business users.	◉	○	○	○	○	○
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.	◉	○	○	○	○	○
Certain large online platform companies create barriers to entry and expansion in the Single Market (gatekeepers).	○	◉	○	○	○	○
Large online platforms often leverage their assets from their primary activities (customer base, data, technological solutions, skills, financial capital) to expand into other activities.	◉	○	○	○	○	○

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.	●	○	○	○	○	○

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	★★★★★
Wide geographic coverage in the EU	★★★★☆
They capture a large share of total revenue of the market you are active/of a sector	★★★★★
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

> All the criteria listed above constitute a relevant framework to define the gatekeeper role of platforms. While not all of them should be applied at the same time to constitute such a position, a combination of 3 at the same time could serve as a guidance in determining whether a particular platform is a gatekeeper or not.

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 steengthen 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

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.

> Inability to opt out of certain features or functionalities of a given platform without losing access to other functionalities. Promotion of own content, products or services (Amazon, Google) on top of other providers or competitors.

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

> Even despite opting out from the targeted ads (available e.g. on Google), there is evidence of wide use of tracking cookies and other ways of targeted marketing and advertisement based on tracking users and their past online behaviour. In a situation of a de-facto monopoly of certain companies over a particular service (search engine), consumers have little choice but to use such tools and services.

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

> Usage of user data across different services/platforms without explicit consent from the user. A good example is the use of a single Google profile across mobile phone, email account, YouTube account, navigation etc. which accumulates and uses all the data gathered across different platforms (mobile phone, desktop computer – search engine, Chrome browser etc.).
>
> While Google enables users to opt out of certain features such as targeted ads, based on user behaviour, other parts of this ecosystem are based on algorithmic processing of user data and offering content which is deemed relevant to a particular user.

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

3000 character(s) maximum

> They can limit free competition and innovation by restricting users' access to alternative providers. Users then face an almost monopolistic situation whereby they need to use the platform simply because there is no realistic alternative. As digital platforms gradually expand the type of services they provide, users have often realistically no choice to opt out. This is particularly worrying from the perspective of privacy rights, as single entities hold swathes of personal data and metadata on users the utilisation of which is not really known and often, they are unscrupulously shared with third parties for profit.

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

> Start-ups depend on online platforms to gain entry into the market which essentially means that it is very difficult for any start-up to become successful without participating in the platforms' business model. In terms of scale-ups, large digital platforms have a habit of 'eating up' competitors by either acquiring them and making them part of their business venture, or by developing similar services which are then provided to users, effectively preventing the competition from growing.

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

> A lot of small entrepreneurs are provided access to customers and audiences on digital platforms who would not previously have the opportunity to do so. However, the large digital platforms now wield too much power by virtue of having the chance to decide who effectively enters the market and by almost requiring individuals to become users if they are to access certain services. The terms and conditions are several pages long and non-negotiable, consent to data sharing and monetisation is thus not provided in a meaningful way. This has serious implications not only on freedom of choice but also on privacy rights of users.

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

> Social media have completely overhauled the traditional media model as news becomes accessed from digital platforms. Not only are reliable sources of information packaged in the same way as personal content from users and disinformation sources, the income generated from ad revenues no longer goes toward financing quality journalism – an essential pillar for any functional democracy. Digital platforms need to be meaningfully regulated and taxed. Income from such taxation should go towards new models of quality journalism funding. Media outlets ranked as good quality journalism by independent ranking institutions should not be packaged on digital platforms in the same way as all other content.

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

> Large digital platforms have become too influential for all the reasons stated above. Their primary interest is profit and hence it should not be required of them to act as arbiters of democracy. This role is reserved for independent institutions which are responsible for making sure that democratic rules are upheld across the board, in both online and offline spaces. Furthermore, digital platforms have been unable to efficiently self-regulate or even to comply with their own policies. Meaningful regulation needs to be truly independent of any business interest, otherwise it will be ineffective. All other private business areas are regulated, whether we speak of products or services. There is no reason why digital platforms should be exempt from the rule. On the contrary, the exemption has resulted in truly alarming infodemic which needs to be addressed through systematic checks and balances model to create a truly democratic information environment.

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

> Large digital platforms with gatekeeper role need to be prohibited from requiring users to accept long, changing, and complicated T&Cs (terms & conditions). These T&Cs serve as a veil to provide digital platforms with almost absolute freedom on selling user data and metadata, as well as utilising it to further provide themselves with unfair market advantage.
> Digital platforms need to be prohibited from ignoring and violating national legislations of EU member states, particularly when it comes to hate speech laws.
> Digital platforms need to be prohibited from operating in secrecy – their algorithms and operation need to be subject to regulatory audits and oversight.

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

> Large digital platforms with gatekeeper role need to be prohibited from requiring users to accept long, changing and complicated T&Cs. These T&Cs serve as a veil to provide digital platforms with almost absolute freedom on selling user data and metadata, as well as utilising it to further provide themselves with unfair market advantage.
>
> Digital platforms need to be prohibited from ignoring and violating national legislations of EU member states, particularly when it comes to hate speech laws.
>
> Digital platforms need to be prohibited from operating in secrecy – their algorithms and operation need to be subject to regulatory audits and oversight.

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

> Digital platforms' operation in the EU is a multi-faceted complex phenomenon spanning important issues such as free market rules, respect for national legislations, human rights, freedom of speech as well as technology development, deployment, and innovation.
>
> Far simpler products have regulatory regimes and oversight bodies, and nobody questions the need for those. Given the immense importance that digital platforms have in individuals' lives, as well as societies and state of democracies more broadly, creation of a regulatory authority to oversee performance and impact of digital platforms is in fact long overdue.
>
> On a European level such authority would also ensure that digital platforms pay equal attention to following the rule in each European member state, not only those with the largest user bases. So far, the impact of digital platforms on European smaller markets have been neglected. This issue is of urgent importance to ensure all users' rights are respected in the EU, that everyone has a chance of redress and that hate crime online is not tolerated.

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

>

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

> There should be an overarching institution on the EU level.

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

> One authority to increase effectiveness, efficiency, and impact of regulation.

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

> N/A – not enough context provided in the question

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, due to all reasons stated above.

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

>

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

> ● Cooperation with EU institutions to support high-quality journalism and implementation of the EU taxation of digital platforms, from which a certain share should be channelled into the financing of the media, including smaller, regional outlets.
> ● Involvement of media in cooperation with the online platforms in the fact-checking or flagging processes.

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

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

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

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	○	○	○	○	○	○
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	○	○	○	○	○	○
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	○	○	○	○	○	○
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.	○	○	○	○	○	○
5. There is a need for combination of two or more of the options 2 to 4.	○	○	○	○	○	○

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

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 though 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

> Online platforms provide very general information about ads that is very vague and not indicative. In particular, they provide information only about a range of finances spent on an ad (this is vague especially for smaller markets, a more specific sum would be more indicative), estimated potential reach, gender and age of the target audience, regional focus of an ad and who paid for it

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

> No information

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 though 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

Initiative on behalf of online platforms and ad agencies, as well as their pro-active cooperation with research institutions and civil society. For example in Slovakia and Czech Republic, we already have konspiratori.sk and nelez.cz initiatives which gather and rank websites with problematic content. However, digital platforms and online ad agencies have not displayed any wish to cooperate so far.

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

3000 character(s) maximum

independent rankings of sites - many already exists, for example Global Disinformation Index produces such rankings, as well as konspiratori.sk or nelez.cz. Based on these ranking a safe system for placing ads could be developed.

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

It would help create healthier information environment, as users would have more information and context provided for them.

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	○	○	○	○	○	○
Flexibility of choosing when and /or where to provide services	○	○	○	○	○	○
Transparency on remuneration	○	○	○	○	○	○
Measures to tackle non-payment of remuneration	○	○	○	○	○	○
Transparency in online ratings	○	○	○	○	○	○
Ensuring that individuals providing services through platforms can contact each other and organise themselves for collective purposes	○	○	○	○	○	○
Tackling the issue of work carried out by individuals lacking legal permits	○	○	○	○	○	○
Prevention of discrimination of individuals providing services through platforms, for instance based on gender, racial or ethnic origin	○	○	○	○	○	○
Allocation of liability in case of damage	○	○	○	○	○	○
Other, please specify	○	○	○	○	○	○

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	○	○	○	○	○	○
Requirements to have a legal representative or an establishment in more than one Member State	○	○	○	○	○	○
Different procedures and points of contact for obligations to cooperate with authorities	○	○	○	○	○	○
Other types of legal requirements. Please specify below	○	○	○	○	○	○

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

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

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

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

> The cooperation between the authorities is advanced on the EU level within ERGA, which is an active body interacting with platforms and providing them with relevant feedback and recommendations. National authorities which form a part of ERGA, however, especially in smaller member states, have limited opportunity to have their voices being heard.

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	○	○	○	○	●	○

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.)	○	○	○	○	●	○
Cooperation mechanism with swift procedures and assistance across national competent authorities across Member States	○	○	○	○	●	○
Coordination and technical assistance at EU level	○	○	○	○	●	○
An EU-level authority	○	○	○	○	●	○
Cooperation schemes with third parties such as civil society organisations and academics for specific inquiries and oversight	○	○	○	○	●	○
Other: please specify in the text box below	○	○	○	○	○	○

3 Please explain

5000 character(s) maximum

There should be a structural approach. An overarching regulatory body at a European level, office representation in each member state which will be responsible for overseeing, communicating and cooperating with digital platforms operating in the particular market, and every larger online platform should have an office dedicated to each EU member state with a considerable number of users.

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

3000 character(s) maximum

The institution and a regulatory process should be transparent to a maximum possible level. Competent authorities should provide general information about the institution to the public, its mandate, goals, main activities. The public authority should explain the general rules and standards and provide access to the directive/law in national language. Authority should provide general information to the public about actions and decisions taken with sufficient reasoning for the action with a possibility for the public to communicate with the authority.

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

Overarching structure, system, procedures, and mandate are a necessary basis for supervision of online platforms. In each member state, there should be a competent authority with sufficient technical, regulatory, and digital expertise. The authorities should invest into state-of-the-art AI capabilities and algorithmic rules which would enable them to monitor and process large volumes of data in real time. Also, they should be based on the principles of flexibility, adaptability, and agility.

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

Yes, in case the services are provided to any EU citizen.

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

Services established outside the EU operating on the European Market should comply with the European rules. In the case of breaking these rules, European authorities should have the option to impose penalties and eventually block the access to the single market.

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

Overarching regulatory body at a European level, office representation in each member state which will be responsible for overseeing, communicating and cooperating with digital platforms as well as relevant national authorities in each EU member state would ensure that multiple authorities can jointly regulate the digital sphere.

By creating a European authority which would consist of national authority bodies multinational cooperation should be ensured. Clear distinction of roles and duties on every level should be provided and the European authority should provide a platform for further cooperation between several national authorities in case some of the online platforms do not comply with the rules in more countries, in order to take common action. Joint European authority would be responsible for action in larger multinational cases, would be the main contact point to European governmental bodies and responsible for observing large multinational providers.

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

> ERGA is a useful tool to provide digital platforms with feedback, however its competences are limited and its work could be politically influenced. When a new oversight institution with regulatory powers is established, ERGA can be integrated into this overarching structure.

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

Useful links

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) ά

(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