



# European Parliament on the Digital Services Act

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HOW THE COMMITTEES COMPARE

On 20 October 2020, the European Parliament adopted three non-legislative reports on the Digital Services Act, drafted respectively by the Internal Market and Consumer Protection (IMCO), Legal Affairs (JURI) and Civil Liberties, Justice and Home Affairs (LIBE) Committees. The Reports call on the European Commission to address the shortcomings of current EU rules on digital services, including the e-Commerce Directive. While each Committee identifies a different aspect of the digital ecosystem as a priority for regulatory intervention, all three focus on similar themes and indicate the Parliament’s response and priorities on the upcoming Digital Services Act proposal.

Inline Policy has prepared a comparative overview of the three reports, comparing the positions of each Committee on key issues, such as online content, transparency and due diligence, oversight and enforcement, as well as regulation of gatekeeping platforms. We have also outlined which additional issues each Committee would like to see addressed under the Digital Services Act framework.






## Online content

Issue	Internal Market and Consumer Protection (IMCO) Committee	Legal Affairs (JURI) Committee	Civil Liberties, Justice and Home Affairs (LIBE) Committee
<p>Notice-and-action mechanism</p>	<ul style="list-style-type: none"> <li>Establish harmonised notice-and-action mechanism for illegal content.</li> </ul>	<ul style="list-style-type: none"> <li>Establish formal and procedural standards for a notice and action mechanism for illegal content only.</li> </ul>	<ul style="list-style-type: none"> <li>Harmonised and legally enforceable content take-down measures to be introduced for illegal content only.</li> <li>Potentially introduce requirement for digital platforms to execute periodic searches for distinct pieces of content that a court has already declared unlawful.</li> </ul>
<p>Harmful content</p>	<ul style="list-style-type: none"> <li>Platforms to potentially adopt voluntary notice-and-action mechanisms similar to those for illegal content.</li> </ul>	<ul style="list-style-type: none"> <li>Should not be addressed by the DSA.</li> </ul>	<ul style="list-style-type: none"> <li>Platforms to label ‘harmful’ legal content on their own initiative.</li> <li>Relevant stakeholders to adopt a ‘soft-law’ approach to harmful content (e.g. Code of Practice on Disinformation).</li> <li>Establishment of a European Digital Media Observatory for harmful content.</li> </ul>
<p>E-commerce directive principles</p>	<ul style="list-style-type: none"> <li>Country of origin to be strengthened.</li> <li>Limited liability provisions for online platforms to be retained; CJEU law on distinction between active and passive hosts to be codified.</li> <li>No general monitoring obligation for platforms.</li> </ul>	<ul style="list-style-type: none"> <li>Country of origin to be retained.</li> <li>Limited liability provisions for online platforms to be retained.</li> <li>No general monitoring obligation for platforms.</li> </ul>	<ul style="list-style-type: none"> <li>Country of origin to be retained.</li> <li>Limited liability provisions for online platforms to be retained; exemptions for intermediaries that do not have ‘actual knowledge’ of the illegal activity to be introduced.</li> <li>No general monitoring obligation for platforms.</li> </ul>
<p>Voluntary actions</p>	<ul style="list-style-type: none"> <li>Should be accompanied by procedural safeguards and meaningful transparency and accountability requirements, as well as be subject to human review.</li> </ul>	<ul style="list-style-type: none"> <li>Should not lead to ex-ante control measures based on automated tools or upload-filtering of content.</li> </ul>	<ul style="list-style-type: none"> <li>Are insufficient on their own.</li> </ul>
<p>Dispute settlement</p>	<ul style="list-style-type: none"> <li>Out-of-court dispute settlement process to be made available to all parties.</li> </ul>	<ul style="list-style-type: none"> <li>Independent dispute settlement bodies to be located in MS in which the disputed content has been uploaded to provide extra-judicial resource on legality of content.</li> </ul>	<ul style="list-style-type: none"> <li>Users to be given right to appeal against the take down of their content.</li> <li>DSA to ensure access to appropriate judicial redress mechanisms.</li> </ul>
<p>Automated content moderation</p>	<ul style="list-style-type: none"> <li>No imposition of automated content moderation tools.</li> <li>Option to opt-out, limit or personalise the use of any automated personalisation features.</li> </ul>	<ul style="list-style-type: none"> <li>No obligation to employ automated ex ante control of content (automated tools; upload filtering of content).</li> </ul>	<ul style="list-style-type: none"> <li>No automated tools to flag and take down illegal content.</li> </ul>



## Due diligence

Issue	Internal Market and Consumer Protection (IMCO) Committee	Legal Affairs (JURI) Committee	Civil Liberties, Justice and Home Affairs (LIBE) Committee
 Verification	<ul style="list-style-type: none"> <li>• Reinforcement of information requirements in the E-Commerce Directive, in line with P2B regulation.</li> <li>• Know Your Business Customer Principle: legal obligation on hosting providers to verify business users with whom they have a direct commercial relationship.</li> <li>• Verification of businesses users against EU VAT or EORI databases.</li> </ul>	<ul style="list-style-type: none"> <li>• Platforms to verify the identity of advertisers with which they have a commercial relationship to ensure accountability.</li> </ul>	<ul style="list-style-type: none"> <li>• Human oversight and verification to allow content owners to defend their rights.</li> <li>• Creation of a verification system for users to ensure the protection of personal data and age verification (eIDAS), especially for minors. Should not be used commercially or to track the users cross-site.</li> </ul>
 Transparency	<ul style="list-style-type: none"> <li>• Establishment of principles of 'transparency-by-design' and 'transparency-by-default'.</li> <li>• Identification of advertisement/placement in rankings.</li> </ul>	<ul style="list-style-type: none"> <li>• Platforms to make available an archive of sponsored content and advertisements that were shown to their users.</li> <li>• Platforms to publish their decisions on content removal on public database.</li> <li>• Platforms to allow access to archive of sponsored content and advertisements that were shown to their users.</li> </ul>	<ul style="list-style-type: none"> <li>• Algorithmic transparency and explainability obligations (penalties foreseen).</li> </ul>
 Reporting obligations	<ul style="list-style-type: none"> <li>• Online intermediaries to publish annual reports on notice-and-action mechanism (number of notices; types of content; number of contested decisions; content moderation model used).</li> </ul>	<ul style="list-style-type: none"> <li>• Content hosting platforms to regularly submit transparency reports to a European supervisory entity with information on the notice-and-action mechanism (number of notices; types of content; number of contested decisions; content moderation model used).</li> </ul>	<ul style="list-style-type: none"> <li>• Annual, comprehensive and consistent public reporting obligation for platforms, proportionate to their scale of reach and operational capacities. This obligation should cover their content moderation procedures.</li> <li>• Annual public reporting obligation for national authorities (e.g. standardised data on the number of removal requests etc.)</li> </ul>



## Oversight and enforcement

Issue	Internal Market and Consumer Protection (IMCO) Committee	Legal Affairs (JURI) Committee	Civil Liberties, Justice and Home Affairs (LIBE) Committee
<p>Oversight body</p>	<ul style="list-style-type: none"> <li>Hybrid system for oversight purposes, based on coordination and cooperation of national and EU authorities.</li> </ul>	<ul style="list-style-type: none"> <li>European entity, tasked with ensuring compliance with the DSA, and imposing fines for non-compliance.</li> </ul>	<ul style="list-style-type: none"> <li>Independent Union body to exercise oversight of procedural efforts of digital service providers and impose proportionate penalties when necessary.</li> </ul>



## Gatekeeping platforms

<p>Definition</p>	<ul style="list-style-type: none"> <li>Systemic platforms to be defined based on clear indicators outlined by the Commission.</li> </ul>	<ul style="list-style-type: none"> <li>Platforms that 'hold significant market power' identified by clear indicators (size of network, financial strength, access to data, vertical integration, lock-in effect etc.)</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
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## Other

<p>Additional issues</p>	<ul style="list-style-type: none"> <li>Collaborative economy platforms: DSA to formalise relationship between authorities and platforms; establish set of information obligations of platforms vis-à-vis service providers on relevant national legislations; set up comprehensive data sharing framework for short-term rental platforms.</li> <li>Online marketplaces: DSA to address liability of online marketplaces for damages and influence over suppliers; platforms to inform users on main parameters used in rankings and on content removals; enhance cooperation with market surveillance authorities; promote sustainable products.</li> <li>Advertising: DSA to include transparency requirements for paid advertising; Commission to introduce additional rules on micro-targeted and behavioural advertising; distinguish between commercial and political online advertising; introduce accountability criteria for algorithms used for advertising optimisation.</li> </ul>	<ul style="list-style-type: none"> <li>Targeted advertising: DSA to include measures to minimise data collected by content hosting platforms for targeted advertising purposes; users to be given a choice whether or not to be shown targeted advertisements; Commission to assess options for regulation, including a phase-out leading to a prohibition of targeted advertising.</li> <li>Distributed ledger technologies: Commission to assess development and use of distributed ledger technologies (blockchains; smart contracts) in view of potential proper regulation of civil and commercial law.</li> <li>Interoperability: DSA to potentially define fair contractual conditions to facilitate data sharing with the aim of addressing imbalances in market power, in particular through the interoperability, interconnectivity and portability of data; ensure fair implementation of rights of users on interoperability and interconnectivity of services.</li> </ul>	<ul style="list-style-type: none"> <li>Targeted and behavioural advertising: DSA to take into consideration the potential negative impact of micro-targeted and behavioural advertisements on fundamental rights; make targeted content curation subject to an opt-in decision.</li> <li>Personal data protection: DSA to build on GDPR and e-Privacy Directive; ensure citizens' control over their data and identity; the legitimate use of algorithms; as well as the data minimisation principle.</li> </ul>
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