

Digital Services Act: upgrading the rules applicable to digital platforms

Position Paper

20 years following the enactment of the eCommerce Directive¹, **eu travel tech** is committed to engage in the on-going reflections around the reappraisal of the rules applicable to digital platforms through the Digital Services Act. eu travel tech strongly defends the key cornerstones of the existing E-Commerce Directive, namely the limited liability and country of origin principles. If a review of the legislation is undertaken it should take into account the evolution of the European economy, now widely digitalised, but also acknowledge the key role of the existing rules in the boom of the European e-commerce sector. Limiting the current fragmentation process of e-commerce rules, with differing applications at national level (especially visible for instance in the short-term rental sector) should be a key objective of this new initiative.

THE DIGITAL SERVICES ACT SHOULD MAINTAIN THE KEY PRINCIPLES OF THE ECOMMERCE DIRECTIVE

- ✓ **The Country of Origin Principle**, cornerstone of the Digital Single Market, is essential for the seamless provision of online services, ensuring that platforms are not subject to 27 different legal regimes.
- ✓ **The Liability exemptions for platforms** (“safe harbour” principle), has been hugely important in enabling the growth and innovation of platforms: without actual knowledge of illegal activity or content, they should not be held liable for such content.
- ✓ **The absence of a general obligation to monitor** facts or circumstances indicating illegal activity has to be maintained, as any move toward such an obligation would prove impossible to implement.
- ✓ **A clear identification of advertising messages by platform users** remain very much needed, as shown by the discussions on the P2B Regulation. Transparency on platforms, especially in view of self-preferencing practices² whereby a platform holds a dual role as a platform and competitor to other businesses within that platform and thereby has the ability and incentive to tilt the playing field in its favour, are key to protect consumers, especially in a mobile environment.

HOWEVER, THEY SHOULD BE COMPLETED BY CLEARER OBLIGATIONS FOR PLATFORMS TO INCREASE LEGAL CERTAINTY.

- ✓ **Establishing a “duty of care” for platforms, with specific obligations for sectors such as short-term rental.** Platforms should have a duty to take reasonable steps to avoid hosting illegal contents, without affecting their liability exemption. It should encompass different obligations for each sector, based on the type of the platform and the nature of content it hosts. Contents on a short-term rental (STR) platform are different from contents on a social media platform. Specific obligations for the STR sector could be considered (ex: mandatory display of registration numbers for properties listed³), through legislation or the adoption of a code of conduct⁴, with a parallel obligation for suppliers to provide adequate and accurate information.
- ✓ **Clarifying the notice and take down procedures.** A clear and harmonised legal framework is needed for platforms to act efficiently against illegal contents (once they are made aware of them) while providing the best service for their customers, as opposed to the current fragmentation of rules across the Single Market. Notifications must be thorough and adapted for each sector: type of content to be

¹ Copyright Directive, Geoblocking Regulation, Platform to business Regulation Regulation.

² Whereby a platform holds a dual role as a platform and competitor to other businesses within that platform and has the ability and incentive to tilt the playing field in its favour.

³ Where such registration schemes exist

⁴ The [ETTSA/EHHA Roadmap](#) could be used as a basis for such a code of conduct.

removed shall be very specific with deadlines for takedown depending on gravity while being proportionate and feasible.

THE DSA SHOULD ALSO BE AN OPPORTUNITY TO IMPROVE ENFORCEMENT OF THE EXISTING RULES

- ✓ **Revamping the notification procedure and handing it to an EU regulatory oversight body.** To ensure a harmonised implementation of EU law, national and local regulations should be screened before adoption by an independent oversight body, charged with detecting any limitation to the provision of cross-border services.

About eu travel tech

eu travel tech represents the interests of travel technology companies. eu travel tech uses its position at the centre of the travel and tourism sector to promote a consumer-driven, innovative and competitive industry that is transparent and sustainable. Our membership⁵ spans Global Distribution Systems (GDSs), Online Travel Agencies (OTA), Travel Management Companies in business travel (TMCs) and metasearch sites.

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⁵ eu travel tech's members include Amadeus, Booking.com, eDreams Odigeo, Expedia Group and Travelport. Associate members include SkyScanner, TripAdvisor and American Express GBT. Strategic Partners include Lastminute.com, etraveli, Trainline, Travix, Travelgenio, Hitrail, OAG and CWT.