



European Commission - Speech
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Digital Platforms as Regulated Entities: our Single Market, our rules | Annual Conference of the European Commission Legal Service | Speech by Commissioner Thierry Breton

Brussels, 17 March 2023

Ladies and Gentlemen,

President of the General Court,

Dear Daniel [Calleja],

I am honoured to be here today to open the very first annual conference of the European Commission Legal Service.

Being the first is always an honour, but it is also a responsibility, something we know very well in this house. By passing the Digital Services Act and the Digital Markets Act into law in record time, the EU has become the first jurisdiction in the world where online platforms no longer set their own rules. They are now regulated entities in the same way financial institutions are.

Our ambition is to ensure a safe and trustworthy online space that enables free choice of innovative products and services and respects fundamental rights.

[Safe and trustworthy internet]

Before the Digital Services Act, it was primarily the platforms who decided how information is moderated online. There were no due diligence requirements, no rules on transparency of content moderation practices, and no effective democratic oversight.

The fundamental rights of users online were not consistently respected and there was no common standard for online protection in the Single Market. The COVID-19 pandemic and the Russian war against Ukraine have shown how digital services can be misused to spread illegal and harmful information.

The Digital Services Act fundamentally changes this:

- It sets clear rules on online content moderation practices, in particular concerning the removal of illegal content, and their role in protecting both freedom of speech and healthy, well-informed public debate.
- It equips European citizens with the tools to understand and interact with the information they see online, giving them unequivocal rights rather than leaving them to the discretion of private actors and opaque recommender systems.
- It also provides special protection for the most vulnerable user groups online. It prohibits online advertising based on profiling using sensitive personal data, such as those revealing racial or ethnic origin, and bans all targeted advertising towards children.

The Digital Services Act – the DSA – is set to be the gold standard that ensures transparency and accountability of the online space.

And it will do this in a very innovative way. We will see an about-turn in the way very large online platforms behave. Before the DSA, some of these platforms behaved as if they were “too big to care”. But with size comes systemic relevance, and that entails responsibility. These platforms will now be required to do more in terms of the organisation and design of their systems.

[Safeguarding fair and innovative internet]

And that's not all. Our ground-breaking digital regulatory framework provides for more stringent rules for the conduct of a specific group of online platforms. I am talking of the platforms which are not only systemically relevant, but also “gatekeepers” between business users and consumers. As such, these platforms can create a bottleneck in the digital economy.

This is the remit of the Digital Markets Act – the DMA – which tackles unfair practices by gatekeepers

and lack of market contestability. The Digital Markets Act provides simple and clear obligations and prohibitions for gatekeepers to foster innovation, competitiveness and resilience of the Single Market. It will help start-ups grow and expand in, and into, Europe, regardless of their geographic origin.

Let me pause here a bit to outline a few very important principles that I believe are particularly relevant for this audience, where competition law practitioners are well represented:

- Firstly, speed. The DMA is a new Single Market tool that deals with the unfair practices of online platforms. In the past, this would have been the territory of antitrust enforcement. However, antitrust enforcement could not tackle these issues in an effective and timely manner.
- To meet this need for speed, going forward, the DMA will be our default tool. It not only applies to the unfair practices of today, which are already set out in the DMA legal text, but also to the unfair practices of tomorrow. Indeed, the DMA gives us the power to conduct targeted market investigations to swiftly update the list of services and practices it addresses. In this way, we will be able to keep up with the evolution of digital markets.
- Of course, competition law will still be relevant and will complement the DMA in a number of ways, which you will hear from Roberto and Olivier in the panel discussions in a few minutes.
- And of course, experience gained in competition cases will help us update the DMA using the market investigation instrument I have just presented. That is why Olivier and Roberto are working together on the DMA and building synergies.
- At the same time, there could be other experiences and insights which may prompt us to launch an investigation to update the DMA. For example, insights from the High-Level Group for the DMA, which we are about to set-up.

[Enforcement of the Digital Services Package]

Which brings me to the last point I wanted to touch upon today: our enforcement activity.

Introducing new obligations on platforms and rights for users is pointless if they are not properly and robustly enforced.

Well, here I am proud to say that our work as enforcement authority is already well under way.

As you know, all online platforms had to publish their user numbers for the first time by 17 February. My team is analysing the numbers which have been published and we will proceed with the designation of very large online platforms and very large online search engines in the coming weeks. We are doing this accurately and speedily because this is what the DSA is all about.

I regret to say that there are a few online platforms that have not respected their obligations and have either failed to provide user numbers altogether or simply stated that they do not meet the designation thresholds.

Let me be clear on this: when I say online platforms have to publish “user numbers” I mean NUMBERS, not some generic statements. Allow me to also be clear on the consequences: we will not tolerate delaying tactics when it comes to enforcing the DSA; we will take action and go after the companies which have not complied.

For gatekeepers, the designation process is still a few months away: companies have until early July to prepare their notifications. Our DMA team is actively engaging with potential gatekeepers to prepare the designation process, which will be undertaken within the very short timeframe of 45 days during this year's summer period.

But our work will not stop with the designations – far from it. Rather, this is where it begins.

Once designated, platforms will have to abide by our rules of conduct. Very large online platforms will have to ensure compliance with the DSA obligations within four months from their designation. This will occur at the latest on 1 September this year. For gatekeepers, the date the DMA obligations and prohibitions kick in is 6 March 2024.

One obligations of particular interest is the conducting of a risk assessment, which should be reported to the Commission. I expect that designated platforms will do this seriously and comprehensively the first time around.

Then, the risk management cycle established by the DSA will start. A key part of this cycle is independent audits. In this respect, we are finalising as we speak a delegated act to give more legal certainty to platforms and auditors on (i) what an audit needs to cover, (ii) what a “good audit” should look like and (iii) the necessary procedural steps. In this way, we will have a solid base for the enforcement of the audit obligation.

When it comes to gatekeepers, you will also have seen that we have organised three workshops with stakeholders on DMA issues such as the ban on self-preferencing, the interoperability requirement for messenger services and the provisions applicable to app stores.

But of course, online platforms must comply with all the DSA and DMA obligations. And we will not hesitate to use the strong sanctioning powers entrusted to us by the co-legislators if necessary.

The good news is that some companies have already started to take action. I welcome this effort. We will continue our dialogue with them, including by assisting them "stress test" for their systems. This way, in a year's time, when all the rules of the DMA and DSA are in force, our online space will be safer, more open and fairer.

But, even as we fly this plane in a clear direction, we keep on building it. We are currently hiring experts in several fields and setting up the infrastructure for all the Commission's enforcement actions, building synergies between Olivier and Roberto's teams.

We have set up the European Centre for Algorithmic Transparency, which will assist us with scientific and technical expertise as we open up the "black box" of algorithms at the heart of very large online platforms.

And we have recently adopted a delegated act to set the methodology to calculate the fees that we will collect from systemic online platforms to fund the DSA enforcement machine.

We are and will be doing all this work with the essential support of Daniel's team, the colleagues of the Commission Legal Service, who are hosting us today and whom I thank for their commitment.

This is not to say that we are planning to do this all by ourselves; of course, both under the DSA and the DMA, there is an important role for national authorities and we will cooperate and coordinate with them.

[Conclusions]

Allow me now to conclude with just a very short remark; the Digital Services Act and Digital Markets Act are part of a wider EU vision for the online environment in the decade. They are an expression of European digital sovereignty.

We are committed to making sure that our internal market and our democratic way of life benefit from the digital age and that the European online ecosystem flourishes and grows.

The world is watching us – we have a huge responsibility to prove that our European rules work not only in theory but also in practice, bringing tangible results to our citizens. I am confident we will deliver and the rest of the world will follow on the new paths we are trailblazing.

Thank you very much.