EU Consumer Protection 2.0  
*Online platforms, special responsibilities and the universal service regime*

A study for BEUC, The European Consumer Organisation

Terms of Reference

**Background**

As humanity shifts away from traditional means of distance communication and towards online services, online platforms have installed themselves in a position of control over the majority of interactions in the digital society. By evolving alongside the consumers’ expectations and ways of communicating, they have quietly become the default channels of communication.

By controlling the flow and display of information, such platforms affect information and decision-making from a position of necessary intermediaries (‘digital gatekeepers’, ‘unavoidable partners’, ‘bottlenecks’) in all interactions of an individual with the digital world and other individuals who use the same social media ecosystem. As a result, platforms end up in a position of control of a person’s social functioning, and human interactions in general – creating a new social sphere, fueled by social pressure and the ‘fear of missing out’ anxiety, where participation in a platform becomes essential due to its own popularity and where all human aspects of interaction are monitored and monetized.

Despite online platforms now displacing traditional communication facilities which were subjected to a special legislative regime, the ‘necessary omnipresence’ and the ‘unavoidability’ of online platforms services is not countered with appropriate legislation that would strengthen the position of the consumer.

**Focus**

The study should look at the business practices of online platforms and explore the degree of their role (or essentiality) to modern-day social interaction and the economic choices of consumers as citizens of the digital society. The COVID-19 crisis has demonstrated how useful they can be due to their size and outreach, but also how similar in nature to public utilities such services have become – yet without all the scrutiny and responsibilities which are normally associated with such a position, and without regulatory solutions meant to protect the position of consumers in their relations with such traders.

Building upon this basis, the analysis should explore whether and how the concept of universal services could inform the regulatory solutions to respond to this challenge, and what the appropriate legislative response should be so as to level the playing field between such platforms and consumers in the digital society.

**Reference questions**

- How useful could the normative framework of universal services be in addressing the actual position of digital platforms vis-à-vis consumers in the digital society, and to what degree should
it inform upcoming legislation applicable to online platforms in order to secure the position of consumers while appreciating the specificity and varieties of digital platforms?

- In view of the above, what would be the classification of such platforms, and, in particular, what would be the appropriate response in terms of shaping their obligations that could be imposed by a regulator, e.g. in terms of special scrutiny, special responsibility / requirements or enforced interoperability?

- From an institutional point of view, which authority / authorities should be entrusted with the oversight, regulatory intervention and enforcement? Should there be a dedicated EU agency put in place, and how could this idea be reconciled with the Member States’ procedural autonomy beyond competition law?

- In view of the role large online platforms have played in the course of the COVID-19 crisis, what conclusions could be drawn to guide the analysis under this area?

**Project planning and timeline**

The closing date for submitting tender proposals is May 5, 2020. BEUC reserves the right to disregard any proposals received after this date.

The study commissioned under this call is expected to be finalized by September 30th, 2020 which is the deadline for the submission of the final report.

An interim report should be presented one month before due date. A meeting or videoconference should take place to discuss out comments on the draft report.

The final report must be approved by BEUC.

**Contractor requirements**

The successful contractor must have an appropriate track record in this type of research in the specific area of consumer law, data protection and the digital society. The contractor should provide information on the experience of the personnel who will manage and undertake the project.

**Costs**

A full outline of the costs shall be submitted with the proposal giving details of how the costs are to be attributed. The contractor will be asked to break down the overall costs of a maximum of 11,000 € (VAT excluded) based on work-days needed, including the time required for the different personnel who will be involved in the project.

**Publication and dissemination of the report**

The contractor is expected to send the report electronically in pdf and in word version. Unless agreed otherwise between BEUC and the authors, the copyright of the report is granted to BEUC under a non-exclusive license. The authors are free to use the data and information collected in the context of the study for publication in peer reviewed journals provided two conditions:

- Inform BEUC before any publication and seek prior approval.
- Indicate clearly that the article is a study carried out for BEUC but does not reflect the position of BEUC or their members.
Contact information

Finalized proposals to conduct the proposed research should be sent to consumer-rights@beuc.eu.