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Mixed bag for consumers in Member States' position on major digital services legislation

Member States have formalised their position on the Digital Services Act (DSA) and the Digital Markets Act (DMA), two landmark pieces of legislation to create a safer and more competitive digital space and to tackle the platform economy. The position by Member States carries both beneficial and negative points for consumers.

On the **Digital Markets Act**, Monique Goyens, Director General of the European Consumer Organisation (BEUC), said:

"Member States could and should have gone further to open up digital markets and to give consumers more power to make their voices heard. For example, for social media and instant messaging services, gatekeepers should be forced to interconnect with rival services to give consumers a genuine choice of provider. Currently, consumers who dislike, for example, WhatsApp's data practices have little choice but to use their services because most of their contacts are there. Consumers should not be confined to the services of the gatekeeper. It is also disheartening to see that consumers would not be able to go to court as a group if tech giants breach this legislation.

"It is high time EU lawmakers stood up for consumers and injected a healthy dose of fairness and openness in digital markets. Digital markets need to work better for consumers, and not just serve the narrow, vested interests of Big Tech companies."

More information on the Digital Markets Act

Consumer groups welcome that Member States have supported the fundamentals of the Commission's proposal for a Digital Markets Act, given the importance of creating fairer and more open digital markets for consumers. The DMA sets obligations and prohibitions for tech giants ("gatekeepers") so that they cannot engage in unfair behaviour and digital markets deliver better outcomes for consumers.

Member States – unlike the European Parliament – have done very little to open up the social media and instant messaging service markets to competition from alternative players.

Regrettably, Member States have also fallen short on the way the DMA's rules would be enforced. First, consumer groups would be unable to provide their views to the Commission when the latter investigates whether gatekeepers are in breach of their obligations. Second, consumers would be unable to go to court as a group if a company fails to comply with the DMA.

On the **Digital Services Act**, Monique Goyens said:

“At a time when consumers find online marketplaces are awash with unsafe products, scam ads, fake reviews and traders who carry out illegal activities, we are disappointed that Member States have preferred not to go the extra mile and force online marketplaces to change more meaningfully. We count on the Parliament to beef up this legislation by holding marketplaces responsible and setting strong effective obligations.

“We are concerned that, despite all the harm that surveillance ads can cause, Member States have sidestepped the possibility of banning them.

“The Digital Services Act must avoid the enforcement bottlenecks we are experiencing under other EU digital laws, such as the EU’s data protection and audiovisual media rules. We welcome that Member States have focused on improving enforcement of the Digital Services Act by granting the Commission greater powers against big players.”

More information on the Digital Services Act (DSA)

Member States want online marketplaces to devote their best efforts to assess information provided by traders. However, ministers have overlooked key elements that would have made a real difference to consumers’ online shopping experience.

For example, Member States have missed the opportunity to establish a clear liability regime to tackle widespread illegal activities in online marketplaces and to ensure consumers are adequately protected and compensated if they suffer damages.

It is also unclear whether e-commerce advertising services provided by social media platforms such as Instagram would be covered by the new obligations facing marketplaces.

Member States have also failed to ban surveillance advertising, despite mounting evidence of the enormous risks it [carries](#) for consumers and society, including disinformation, discrimination and fraud.

ENDS

