

The Consumer Voice in Europe

Ref.: BEUC-X-2021-052

Brussels, 18 May 2021

**Subject: Policy Debate on DSA and DMA at Competitiveness Council 27 May 2021 –
Consumer concerns**

Dear Deputy Permanent Representative,

We are writing on behalf of BEUC – The European Consumer Organisation before the 27th May Competitiveness Council when Ministers will discuss key aspects of the Digital Services and Markets Acts (respectively the 'DSA' and 'DMA')¹.

The COVID-19 pandemic has speeded up digitalisation and e-commerce and emphasised serious challenges that regulation needs to address. For example, fraudsters can create [scam Facebook and Google ads](#) within hours and it only takes a few minutes to list previously flagged [unsafe child car seats](#) on Amazon. The pandemic has also reinforced the dependency of consumers on large gatekeeping platforms and underlined the need to ensure that consumers have choices in digital services. BEUC shares the EU leaders' ambition to conclude both files swiftly to create "a safer digital space and a level playing field to foster innovation and competitiveness"².

In the preparatory Presidency note, Ministers were invited to discuss which "specific aspects of the future legislative rules governing digital services and markets should be considered paramount to guarantee an ambitious regulation that ensures a level playing field and that is truly effective"³. We would like to share the following suggestions:

As a priority, the DSA must bring further protection for consumers in online marketplaces. We urge you to pay particular attention to enhance the liability of marketplaces and the obligations of all relevant platforms and ensure swifter and more efficient redress and enforcement if the DSA's rules are not respected. We echo the European leaders' call for "strictly implementing and enforcing Single Market rules."⁴ In addition, we recommend considering stricter rules on how content is promoted by advertising and recommender systems, particularly for consumers below the age of 18.

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¹ <https://data.consilium.europa.eu/doc/document/ST-8470-2021-INIT/en/pdf>

² <https://www.consilium.europa.eu/media/48976/250321-vtc-euco-statement-en.pdf>

³ <https://data.consilium.europa.eu/doc/document/ST-8470-2021-INIT/en/pdf>

⁴ <https://www.consilium.europa.eu/media/48976/250321-vtc-euco-statement-en.pdf>

The DMA is an **essential ex ante instrument to prevent harm to consumers in digital markets** which competition law can only correct after the event, and often only after several years of case-by-case investigation. We urge you to ensure that the self-executing nature of the obligations in the DMA is not weakened in any way. In addition, we recommend the DMA ensures that (1) third parties, including consumers, have the right to be heard in enforcement decision-making to reach the right outcomes, that (2) the gatekeeper obligations cannot be circumvented by gatekeepers' use of non-neutral choice architecture and that (3) an interoperability obligation is included to enable consumers to have a genuine choice in social network and instant messaging services. These obligations and timely, effective enforcement will ensure that the DMA creates a "level playing field to foster innovation and competitiveness"⁵ that works in the benefit of European consumers.

Both instruments are set to inspire other jurisdictions at a time when several countries around the world are considering how to make their digital economy more competitive and better protect consumers online.

The DSA and the DMA represent a unique opportunity to secure ambitious texts that will bring about positive change for consumers and businesses. We urge you to build on the good work of the Commission and to be ambitious in your contributions. We attach our proposals.

We look forward to hearing your government's input during the forthcoming Competitiveness Council on 27 May 2021. We remain at your disposal to discuss the DSA and DMA proposals at your earliest convenience.

Yours faithfully,

Monique Goyens
Director General

Ursula Pachtl
Deputy Director General

⁵ *Ibid.*