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Glass half full for consumers following Parliament vote on key digital services rules

A crucial vote in the EU Parliament's Internal Market and Consumer Protection (IMCO) Committee on landmark legislation to regulate digital services – the Digital Services Act – has produced some noteworthy results for consumers, but should have gone much further.

Ursula Pachi, Deputy Director General of the European Organisation (BEUC), said:

"Given that online marketplaces are awash with dangerous goods, fake ads and scams, today's vote is a step in the right direction but not the giant leap Europeans need. It is somewhat disappointing that the consumer protection committee didn't do more to protect consumers.

"The Parliament is due to adopt its final position in plenary in January before negotiations start with Member States. We urge MEPs to aim for a stronger liability regime for marketplaces when consumers are harmed, a ban on surveillance advertising altogether, and for all platforms to have to verify the legality of sellers and their products, not just the large ones. Consumers are just as exposed when they shop on small platforms as on larger ones, so it is worrying to see a hugely complicated exception system created for medium-size platforms."

Background

It is positive that the IMCO Committee has improved obligations for marketplaces to verify the legality of traders on their platforms and the products or services they offer. However, it is highly problematic that small and medium-size companies are or can be exempted from these rules, which means consumers could still end up buying unsafe or illegal products if they head to smaller platforms.

Consumers would also benefit from the committee's proposed ban on the use of dark patterns, which platforms sometimes use to subvert consumers' choices and circumvent their obligations. It will also be possible for consumers, and consumer groups representing them, to claim compensation for damages they suffer if a platform fails to respect its obligations as set out in the Digital Services Act..

But MEPs have missed the opportunity to create a clear liability regime for online marketplaces to better protect consumers against the ever-increasing illegal activities that take place on these platforms. Consumers are exposed to a tsunami of dangerous goods for which online marketplaces are not sufficiently held accountable.

The committee also did too little to stop businesses from using surveillance ads, which cause or exacerbate an epidemic of problems online, such as disinformation and manipulation of consumers' choices. Although the committee seeks to improve ad

transparency and wants a ban on the use of personal data for direct marketing, profiling and behavioural ads to minors, it stopped short of a ban on behavioural ads altogether. The enforcement model proposed is also a cause for concern as it could lead to bottlenecks and problems similar to those that the GDPR suffers from [1], and the Committee doesn't propose improvements to avoid repeating mistakes of the past.

Overall, despite some advances, the outcome of today's vote is disappointing from a consumer protection perspective when compared to the ambitious position initially put forward for the committee's consideration by the MEP in charge of the file.

ENDS

[1] The unsatisfactory experience of tackling cross-border infringements of the EU's data protection law (GDPR) has demonstrated that giving competence for enforcement to authorities in the platforms country of origin, as in the current DSA proposal, risks undermining effective public enforcement.

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