

Digital Services Act package: open public consultation

Fields marked with * are mandatory.

Introduction

The Commission recently [announced](#) a Digital Services Act package with two main pillars:

- first, a proposal of new and revised rules to deepen the Single Market for Digital Services, by increasing and harmonising the responsibilities of online platforms and information service providers and reinforce the oversight over platforms' content policies in the EU;
- second, ex ante rules to ensure that markets characterised by large platforms with significant network effects acting as gatekeepers, remain fair and contestable for innovators, businesses, and new market entrants.

T h i s

c o n s u l t a t i o n

The Commission is initiating the present open public consultation as part of its evidence-gathering exercise, in order to identify issues that may require intervention through the Digital Services Act, as well as additional topics related to the environment of digital services and online platforms, which will be further analysed in view of possible upcoming initiatives, should the issues identified require a regulatory intervention.

The consultation contains 6 modules (you can respond to as many as you like):

1. **How to effectively keep users safer online?**
2. **Reviewing the liability regime of digital services acting as intermediaries?**
3. **What issues derive from the gatekeeper power of digital platforms?**
4. **Other emerging issues and opportunities, including online advertising and smart contracts**
5. **How to address challenges around the situation of self-employed individuals offering services through online platforms?**
6. **What governance for reinforcing the Single Market for digital services?**

Digital services and other terms used in the questionnaire

The questionnaire refers to **digital services** (or 'information society services', within the meaning of the E-Commerce Directive), as 'services provided through electronic means, at a distance, at the request of the user'. It also refers more narrowly to a subset of digital services here termed **online intermediary services**. By this we mean services such as internet access providers, cloud services, online platforms, messaging services, etc., i.e. services that generally transport or intermediate content, goods or services made available by third parties. Parts of the questionnaire specifically focus on **online platforms** – such as e-commerce marketplaces, search engines, app stores, online travel and accommodation platforms or mobility platforms and other collaborative economy platforms, etc. Other terms and other technical concepts are explained in [a glossary](#).

H o w t o r e s p o n d

Make sure to **save your draft** regularly as you fill in the questionnaire. You can break off and return to finish it at any time. At the end, you will also be able to upload a document or add other issues not covered in detail in the questionnaire.

D e a d l i n e f o r r e s p o n s e s

8 S e p t e m b e r 2 0 2 0 .

L a n g u a g e s

You can submit your response in any official EU language. The questionnaire is available in 23 of the EU's official languages. You can switch languages from the menu at the top of the page.

About you

*** 1 Language of my contribution**

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish

- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* 2 I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* 3 First name

Daniel

* 4 Surname

Martin Brennan

* 5 Email (this won't be published)

daniel.martinbrennan@europeanbooksellers.eu

* 7 Organisation name

255 character(s) maximum

European and International Booksellers Federation (EIBF)

* 8 Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

9 What is the annual turnover of your company?

- <=€2m
- <=€10m
- <= €50m
- Over €50m

10 Are you self-employed and offering services through an online platform?

- Yes
- No

11 Would you describe your company as :

- a startup?
- a scaleup?
- a conglomerate offering a wide range of services online?

12 Is your organisation:

- an online intermediary
- an association representing the interests of online intermediaries
- a digital service provider, other than an online intermediary
- an association representing the interests of such digital services
- a different type of business than the options above
- an association representing the interest of such businesses

- other

16 Does your organisation play a role in:

- Flagging illegal activities or information to online intermediaries for removal
- Fact checking and/or cooperating with online platforms for tackling harmful (but not illegal) behaviours
- Representing fundamental rights in the digital environment
- Representing consumer rights in the digital environment
- Representing rights of victims of illegal activities online
- Representing interests of providers of services intermediated by online platforms
- Other

17 Is your organisation a

- Law enforcement authority, in a Member State of the EU
- Government, administrative or other public authority, other than law enforcement, in a Member State of the EU
- Other, independent authority, in a Member State of the EU
- EU-level authority
- International level authority, other than at EU level
- Other

18 Is your business established in the EU?

- Yes
- No

19 Please select the EU Member States where your organisation is established or currently has a legal representative in:

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia
- Denmark
- Estonia

- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden

20 Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

9031106115-62

* 21 Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|--------------------------------------|--|-------------------------------------|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |

- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria

- Burkina Faso
- Burundi

- Cambodia

- Cameroon

- Canada
- Cape Verde
- Cayman Islands

- Central African Republic
- Chad
- Chile
- China

- Christmas Island
- Clipperton

- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica

- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue

- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru

- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand

- The Gambia
- Timor-Leste
- Togo

- Tokelau
- Tonga

- Trinidad and Tobago
- Tunisia

- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu

- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States

- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

*22 Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the [personal data protection provisions](#)

I. How to effectively keep users safer online?

This module of the questionnaire is structured into several subsections:

First, it seeks evidence, experience, and data from the perspective of different stakeholders regarding illegal activities online, as defined by national and EU law. This includes the availability online of illegal goods (e.g. dangerous products, counterfeit goods, prohibited and restricted goods, protected wildlife, pet trafficking, illegal medicines, misleading offerings of food supplements), content (e.g. illegal hate speech, child sexual abuse material, content that infringes intellectual property rights), and services, or practices that infringe consumer law (such as scams, misleading advertising, exhortation to purchase made to children) online. It covers all types of illegal activities, both as regards criminal law and civil law.

It then asks you about other activities online that are not necessarily illegal but could cause harm to users, such as the spread of online disinformation or harmful content to minors.

It also seeks facts and informed views on the potential risks of erroneous removal of legitimate content. It also asks you about the transparency and accountability of measures taken by digital services and online platforms in particular in intermediating users' access to their content and enabling oversight by third parties. Respondents might also be interested in related questions in the module of the consultation focusing on online advertising.

Second, it explores proportionate and appropriate responsibilities and obligations that could be required from online intermediaries, in particular online platforms, in addressing the set of issues discussed in the first sub-section.

This module does not address the liability regime for online intermediaries, which is further explored in the next module of the consultation.

1. Main issues and experiences

A. Experiences and data on illegal activities online

Illegal goods

1 Have you ever come across illegal goods on online platforms (e.g. a counterfeit product, prohibited and restricted goods, protected wildlife, pet trafficking, illegal medicines, misleading offerings of food supplements)?

- No, never
- Yes, once
- Yes, several times
- I don't know

2 What measure did you take?

- I sent the product back to the seller

- I reported it to the platform via its existing reporting procedure
- I contacted the platform through other means
- I notified a public authority
- I notified a consumer organisation
- I did not take any action
- Other. Please specify in the text box below

3 Please specify.

3000 character(s) maximum

Customers have come across many counterfeit products and unauthorised material on Amazon's marketplace (as evidenced in sources below). This is because Amazon either does not have the adequate tools to screen legitimate sellers and goods, or simply chooses to minimise this issue and, in doing so, directs customer to deficient sellers of infringing books, counterfeits and other unauthorized material that compete with legitimate sellers and their goods.

In the Institute of Self-Reliance's comprehensive report on Amazon's monopoly, there are many examples to be accounted for, which demonstrate Amazon's refusal to stem a "constant stream of unidentifiable unauthorized sellers" (see: https://cdn.ilsr.org/wp-content/uploads/2020/04/ILSR_AmazonReport_final.pdf). Additionally, the New York Times (<https://www.nytimes.com/2019/06/23/technology/amazon-domination-bookstore-books.html>) reports many cases of counterfeit and illegal books, some of which potentially harmful to customers, being sold on the marketplace, affecting the entire book industry: from authors and publishers, to legitimate booksellers and customers.

In this regard, Amazon's lax approach in tackling the sale of counterfeit products has a simple explanation in our view: it magnifies the company's market power and enhances the company's ability to bend manufacturers to its will. For one, Amazon's marketplace takes away sellers' only real source of leverage in negotiations: even if they decline to sell to Amazon, at least some of their products will likely still be available on the site through unauthorized sellers, preserving Amazon's status as a place one can find anything.

As a federation representing booksellers, we are concerned that illegitimate sellers damage the reputation of legitimate retailers, in that every sale made by an illegitimate seller is a loss for a legitimate bookseller. This must be addressed in this piece of legislation. Online marketplaces must take responsibility for what is being sold on their platform and need to be held accountable for the sale of illegal and counterfeit goods, which is extremely damaging to legitimate retailers.

4 How easy was it for you to find information on where you could report the illegal good?

Please rate from 1 star (very difficult) to 5 stars (very easy)



5 How easy was it for you to report the illegal good?

Please rate from 1 star (very difficult) to 5 stars (very easy)



6 How satisfied were you with the procedure following your report?

Please rate from 1 star (very dissatisfied) to 5 stars (very satisfied)



7 Are you aware of the action taken following your report?

- Yes
- No

8 Please explain

3000 character(s) maximum

9 In your experience, were such goods more easily accessible online since the outbreak of COVID-19?

- No, I do not think so
- Yes, I came across illegal offerings more frequently
- I don't know

10 What good practices can you point to in handling the availability of illegal goods online since the start of the COVID-19 outbreak?

5000 character(s) maximum

Illegal content

11 Did you ever come across illegal content online (for example illegal incitement to violence, hatred or discrimination on any protected grounds such as race, ethnicity, gender or sexual orientation; child sexual abuse material; terrorist propaganda; defamation; content that infringes intellectual property rights, consumer law infringements)?

- No, never
- Yes, once
- Yes, several times
- I don't know

12 What measure did you take?

- I reported it to the platform via its existing reporting procedure
- I contacted the online platform by other means to report the illegal content

- I contacted a national authority
- I contacted a consumer organisation
- I did not take any action
- I took a different action. Please specify in the text box below

13 Please specify

3000 character(s) maximum

The sale of counterfeit and illegal books on Amazon's marketplace is on the rise and is extremely worrying, given that it affects the entire book industry.

According to the New York Times, (<https://www.nytimes.com/2019/06/23/technology/amazon-domination-bookstore-books.html>), Amazon sells substantially more than half of the books in the United States, including new and used physical volumes as well as digital and audio formats. However, it takes a hands-off approach to what goes on in its bookstore, not actively checking the authenticity, much less the quality, of what it sells.

There are many examples of counterfeit books being sold by illegitimate sellers on the marketplace (see article). In this regard, the company has been reactive rather than proactive in dealing with the issue, often taking action only when a customer complains. Many times, there is nowhere to appeal and the only alternative is to integrate even more closely with Amazon.

In sum, platforms such as Amazon allow users to make content available without authorisation and this has the same effect as piracy, which seriously undermines sales by booksellers of books, ebooks and audiobooks. As representatives of booksellers, we are very concerned that said platforms' inability to identify and take down counterfeit or illegal books can have serious effects on legitimate booksellers who sell their books on platforms' marketplace. Essentially, every sale made by an illegitimate seller is a loss for a legitimate bookseller.

14 How easy was it for you to find information on where you could report the illegal content/activity?

Please rate from 1 star (very difficult) to 5 stars (very easy)



15 How easy was it for you to report the illegal content/activity?

Please rate from 1 star (very difficult) to 5 stars (very easy)



16 How satisfied were you with the procedure following your report?

Please rate from 1 star (very dissatisfied) to 5 stars (very satisfied)



17 Are you aware of the action taken following your report?

- Yes
- No

18 How has the dissemination of illegal content changed since the outbreak of COVID-19? Please explain.

3000 character(s) maximum

19 What good practices can you point to in handling the dissemination of illegal content online since the outbreak of COVID-19?

3000 character(s) maximum

20 What actions do online platforms take to minimise risks for consumers to be exposed to scams and other unfair practices (e.g. misleading advertising, exhortation to purchase made to children)?

3000 character(s) maximum

21 Do you consider these measures appropriate?

- Yes
- No
- I don't know

22 Please explain.

3000 character(s) maximum

B. Transparency

1 If your content or offering of goods and services was ever removed or blocked from an online platform, were you informed by the platform?

- Yes, I was informed before the action was taken
- Yes, I was informed afterwards
- Yes, but not on every occasion / not by all the platforms
- No, I was never informed
- I don't know

2 Were you able to follow-up on the information?

- Yes, I complained to the platform

- Yes, I escalated to an out-of-court dispute mechanism
- No, but it was useful to learn about the platform's policy
- No
- Other. Please specify in the text box below

3 Please explain.

3000 character(s) maximum

EIBF is aware that some legitimate booksellers have been temporarily blocked and / or have had their entire marketplace account arbitrarily suspended for suspicions of counterfeiting and / or intellectual property infringement.

For instance, there are cases of sellers that have had their entire marketplace account arbitrarily suspended because of their listing of Amazon's own individual self-published print on demand titles which Amazon itself also lists. Amazon suspected counterfeiting and / or intellectual property infringements in relation to a tiny fraction of its own self-published titles and cited this as the reason for suspension of the sellers' entire marketplace account, preventing any sales by that member on marketplace for the period of the suspension. Amazon, however, continued to list the print on demand titles itself despite the suspicions of counterfeiting and / or intellectual property infringement.

As we will also highlight further in this consultation, Amazon's terms and conditions in the past have reserved an unlimited right to immediately terminate contractual relations with sellers, and they used this at an alarming rate. In 2018, the German Bundeskartellamt (Federal Cartel Office, FCO) noted that 250,000 accounts were permanently blocked on the German marketplace that year and 30,000 accounts were temporarily blocked.

Following the FCO's decision, ordinary termination of an account will require 30 days notice. However, Amazon still retain the right to terminate immediately if they suspect counterfeiting or intellectual property breaches and use these concerns as a guise to terminate marketplace accounts disproportionately and abusively at great detriment to the sellers affected.

4 If you provided a notice to a digital service asking for the removal or disabling of access to such content or offering of goods or services, were you informed about the follow-up to the request?

- Yes, I was informed
- Yes, but not on every occasion / not by all platforms
- No, I was never informed
- I don't know

5 When content is recommended to you - such as products to purchase on a platform, or videos to watch, articles to read, users to follow - are you able to obtain enough information on why such content has been recommended to you? Please explain.

3000 character(s) maximum

C. Activities that could cause harm but are not, in themselves, illegal

1 In your experience, are children adequately protected online from harmful behaviour, such as grooming and bullying, or inappropriate content?

3000 character(s) maximum

2 To what extent do you agree with the following statements related to online disinformation?

	Fully agree	Somewhat agree	Neither agree not disagree	Somewhat disagree	Fully disagree	I don't know/ No reply
Online platforms can easily be manipulated by foreign governments or other coordinated groups to spread divisive messages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To protect freedom of expression online, diverse voices should be heard	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disinformation is spread by manipulating algorithmic processes on online platforms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Online platforms can be trusted that their internal practices sufficiently guarantee democratic integrity, pluralism, non-discrimination, tolerance, justice, solidarity and gender equality.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3 Please explain.

3000 character(s) maximum

4 In your personal experience, how has the spread of harmful (but not illegal) activities online changed since the outbreak of COVID-19? Please explain.

3000 character(s) maximum

5 What good practices can you point to in tackling such harmful activities since the outbreak of COVID-19?

3000 character(s) maximum

D. Experiences and data on erroneous removals

This section covers situation where content, goods or services offered online may be removed erroneously contrary to situations where such a removal may be justified due to for example illegal nature of such content, good or service (see sections of this questionnaire above).

1 Are you aware of evidence on the scale and impact of erroneous removals of content, goods, services, or banning of accounts online? Are there particular experiences you could share?

5000 character(s) maximum

The following questions are targeted at organisations.

Individuals responding to the consultation are invited to go to section 2 here below on responsibilities for online platforms and other digital services

3 What is your experience in flagging content, or offerings of goods or services you deemed illegal to online platforms and/or other types of online intermediary services? Please explain in what capacity and through what means you flag content.

3000 character(s) maximum

4 If applicable, what costs does your organisation incur in such activities?

3000 character(s) maximum

5 Have you encountered any issues, in particular, as regards illegal content or goods accessible from the EU but intermediated by services established in third countries? If yes, how have you dealt with these?

3000 character(s) maximum

6 If part of your activity is to send notifications or orders for removing illegal content or goods or services made available through online intermediary services, or taking other actions in relation to content, goods or services, please explain whether you report on your activities and their outcomes:

- Yes, through regular transparency reports
- Yes, through reports to a supervising authority
- Yes, upon requests to public information
- Yes, through other means. Please explain
- No , no such reporting is done

8 Does your organisation access any data or information from online platforms?

- Yes, data regularly reported by the platform, as requested by law
- Yes, specific data, requested as a competent authority
- Yes, through bilateral or special partnerships
- On the basis of a contractual agreement with the platform
- Yes, generally available transparency reports
- Yes, through generally available APIs (application programme interfaces)
- Yes, through web scraping or other independent web data extraction approaches
- Yes, because users made use of their right to port personal data
- Yes, other. Please specify in the text box below
- No


10 What sources do you use to obtain information about users of online platforms and other digital services – such as sellers of products online, service providers, website holders or providers of content online? For what purpose do you seek this information?

3000 character(s) maximum

11 Do you use WHOIS information about the registration of domain names and related information?

- Yes
- No
- I don't know

13 How valuable is this information for you?

Please rate from 1 star (not particularly important) to 5 (extremely important)	
---	---

14 Do you use or are you aware of alternative sources of such data? Please explain.

3000 character(s) maximum

The following questions are targeted at online intermediaries.

A. Measures taken against illegal goods, services and content online shared by users

1 What systems, if any, do you have in place for addressing illegal activities conducted by the users of your service (sale of illegal goods -e.g. a counterfeit product, an unsafe product, prohibited and restricted goods, wildlife and pet trafficking - dissemination of illegal content or illegal provision of services)?

- A notice-and-action system for users to report illegal activities
- A dedicated channel through which authorities report illegal activities
- Cooperation with trusted organisations who report illegal activities, following a fast-track assessment of the notification
- A system for the identification of professional users ('know your customer')
- A system for penalising users who are repeat offenders
- A system for informing consumers that they have purchased an illegal good, once you become aware of this
- Multi-lingual moderation teams
- Automated systems for detecting illegal activities. Please specify the detection system and the type of illegal content it is used for
- Other systems. Please specify in the text box below
- No system in place

2 Please explain.

5000 character(s) maximum

3 What issues have you encountered in operating these systems?

5000 character(s) maximum

4 On your marketplace (if applicable), do you have specific policies or measures for the identification of sellers established outside the European Union ?

- Yes
- No

5 Please quantify, to the extent possible, the costs of the measures related to 'notice-and-action' or other measures for the reporting and removal of different types of illegal goods, services and content, as relevant.

5000 character(s) maximum

6 Please provide information and figures on the amount of different types of illegal content, services and goods notified, detected, removed, reinstated and on the number or complaints received from users. Please explain and/or link to publicly reported information if you publish this in regular transparency reports.

5000 character(s) maximum

7 Do you have in place measures for detecting and reporting the incidence of suspicious behaviour (i.e. behaviour that could lead to criminal acts such as acquiring materials for such acts)?

3000 character(s) maximum

B. Measures against other types of activities that might be harmful but are not, in themselves, illegal

1 Do your terms and conditions and/or terms of service ban activities such as:

- Spread of political disinformation in election periods?
-

Other types of coordinated disinformation e.g. in health crisis?

- Harmful content for children?
- Online grooming, bullying?
- Harmful content for other vulnerable persons?
- Content which is harmful to women?
- Hatred, violence and insults (other than illegal hate speech)?
- Other activities which are not illegal per se but could be considered harmful?

2 Please explain your policy.

5000 character(s) maximum

3 Do you have a system in place for reporting such activities? What actions do they trigger?

3000 character(s) maximum

4 What other actions do you take? Please explain for each type of behaviour considered.

5000 character(s) maximum

5 Please quantify, to the extent possible, the costs related to such measures.

5000 character(s) maximum

6 Do you have specific policies in place to protect minors from harmful behaviours such as online grooming or bullying?

- Yes
- No

7 Please explain.

3000 character(s) maximum

C. Measures for protecting legal content goods and services

1 Does your organisation maintain an internal complaint and redress mechanism to your users for instances where their content might be erroneously removed, or their accounts blocked?

- Yes
- No

2 What action do you take when a user disputes the removal of their goods or content or services, or restrictions on their account? Is the content/good reinstated?

5000 character(s) maximum

3 What are the quality standards and control mechanism you have in place for the automated detection or removal tools you are using for e.g. content, goods, services, user accounts or bots?

3000 character(s) maximum

4 Do you have an independent oversight mechanism in place for the enforcement of your content policies?

- Yes
- No

5 Please explain.

5000 character(s) maximum

D. Transparency and cooperation

1 Do you actively provide the following information:

- Information to users when their good or content is removed, blocked or demoted
- Information to notice providers about the follow-up on their report
- Information to buyers of a product which has then been removed as being illegal

2 Do you publish transparency reports on your content moderation policy?

- Yes
-

No

3 Do the reports include information on:

- Number of takedowns and account suspensions following enforcement of your terms of service?
- Number of takedowns following a legality assessment?
- Notices received from third parties?
- Referrals from authorities for violations of your terms of service?
- Removal requests from authorities for illegal activities?
- Number of complaints against removal decisions?
- Number of reinstated content?
- Other, please specify in the text box below

4 Please explain.

5000 character(s) maximum

5 What information is available on the automated tools you use for identification of illegal content, goods or services and their performance, if applicable? Who has access to this information? In what formats?

5000 character(s) maximum

6 How can third parties access data related to your digital service and under what conditions?

- Contractual conditions
- Special partnerships
- Available APIs (application programming interfaces) for data access
- Reported, aggregated information through reports
- Portability at the request of users towards a different service
- At the direct request of a competent authority
- Regular reporting to a competent authority
- Other means. Please specify

7 Please explain or give references for the different cases of data sharing and explain your policy on the different purposes for which data is shared.

5000 character(s) maximum

The following questions are open for all respondents.

2. Clarifying responsibilities for online platforms and other digital services

1 What responsibilities (i.e. legal obligations) should be imposed on online platforms and under what conditions?

Should such measures be taken, in your view, by all online platforms, or only by specific ones (e.g. depending on their size, capability, extent of risks of exposure to illegal activities conducted by their users)? If you consider that some measures should only be taken by large online platforms, please identify which would these measures be.

	Yes, by all online platforms, based on the activities they intermediate (e.g. content hosting, selling goods or services)	Yes, only by larger online platforms	Yes, only platforms at particular risk of exposure to illegal activities by their users	Such measures should not be required by law
Maintain an effective 'notice and action' system for reporting illegal goods or content	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Maintain a system for assessing the risk of exposure to illegal goods or content	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Have content moderation teams, appropriately trained and resourced	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Systematically respond to requests from law enforcement authorities	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cooperate with national authorities and law enforcement, in accordance with clear procedures	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cooperate with trusted organisations with proven expertise that can report illegal activities for fast analysis ('trusted flaggers')	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Detect illegal content, goods or services	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In particular where they intermediate sales of goods or services, inform their professional users about their obligations under EU law	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Request professional users to identify themselves clearly ('know your customer' policy)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provide technical means allowing professional users to comply with their obligations (e.g. enable them to publish on the platform the pre-contractual information consumers need to receive in accordance with applicable consumer law)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Inform consumers when they become aware of product recalls or sales of illegal goods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cooperate with other online platforms for exchanging best practices, sharing information or tools to tackle illegal activities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Be transparent about their content policies, measures and their effects	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Maintain an effective 'counter-notice' system for users whose goods or content is removed to dispute erroneous decisions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other. Please specify	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2 Please elaborate, if you wish to further explain your choices.

5000 character(s) maximum

All of the responsibilities we have selected and highlighted above should be legal requirements and obligations under the Digital Services Act for all online platforms, although especially for large platforms with gatekeeper role and significant network effects and those at particular risk of exposure to illegal activities by their users.

- 'Know Your Customer' policy:

When it comes to e-commerce platforms and online marketplaces, for starters, they should have a highly effective KYC policy in place, in order to distinguish the legitimate sellers from the illegitimate ones. This will prevent situations of removing sellers or goods accidentally or without justification.

- Detecting illegal content, goods or services:

It is also absolutely imperative for the platforms to have adequate and functional systems to detect illegal content, goods or services. We have highlighted the example of Amazon, which has been far from proactive in dealing with the sale of counterfeit or illegal goods on its marketplace, often taking action only when a buyer complains or identifies a counterfeit good following a purchase.

This responsibility has to come from these platforms. Given that some do not voluntarily do so, it should be legally enforced upon them to detect illegal content, goods or services prior to their sale, for the sake of customer safety and trust between consumers and legitimate sellers.

- 'Notice and action' and 'counter-notice' systems:

We argue that the DSA should also oblige online platforms to set up an effective 'notice and action' system for reporting illegal/counterfeit goods or content, as well as an adequate 'counter-notice' system for users whose goods or content is removed to dispute erroneous decisions, so as to ensure clarity, transparency and legal certainty, as well as to protect legitimate sellers and consumers. This is for all online platforms, but particularly relevant for larger online platforms and those at particular risk of exposure to illegal activities by their users.

- Cooperation and response to requests from law enforcement authorities should also be a legal obligation enforced through the Digital Services Act.

3 What information would be, in your view, necessary and sufficient for users and third parties to send to an online platform in order to notify an illegal activity (sales of illegal goods, offering of services or sharing illegal content) conducted by a user of the service?

- Precise location: e.g. URL
- Precise reason why the activity is considered illegal
- Description of the activity
- Identity of the person or organisation sending the notification. Please explain under what conditions such information is necessary:
- Other, please specify

4 Please explain

3000 character(s) maximum

5 How should the reappearance of illegal content, goods or services be addressed, in your view? What approaches are effective and proportionate?

5000 character(s) maximum

6 Where automated tools are used to detect illegal content, goods or services, what opportunities and risks does their use present as regards different types of illegal activities and the particularities of the different types of tools?

3000 character(s) maximum

7 How should the spread of illegal goods, services or content across multiple platforms and services be addressed? Are there specific provisions necessary for addressing risks brought by:

- a. Digital services established outside of the Union?
- b. Sellers established outside of the Union, who reach EU consumers through online platforms?

3000 character(s) maximum

8 What would be appropriate and proportionate measures for digital services acting as online intermediaries, other than online platforms, to take – e.g. other types of hosting services, such as web hosts, or services deeper in the internet stack, like cloud infrastructure services, content distribution services, DNS services, etc.?

5000 character(s) maximum

9 What should be the rights and responsibilities of other entities, such as authorities, or interested third-parties such as civil society organisations or equality bodies in contributing to tackle illegal activities online?

5000 character(s) maximum

10 What would be, in your view, appropriate and proportionate measures for online platforms to take in relation to activities or content which might cause harm but are not necessarily illegal?

5000 character(s) maximum

11 In particular, are there specific measures you would find appropriate and proportionate for online platforms to take in relation to potentially harmful activities or content concerning minors? Please explain.

5000 character(s) maximum

12 Please rate the necessity of the following measures for addressing the spread of disinformation online. Please rate from 1 (not at all necessary) to 5 (essential) each option below.

	1 (not at all necessary)	2	3 (neutral)	4	5 (essential)	I don't know / No answer
Transparently inform consumers about political advertising and sponsored content, in particular during election periods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provide users with tools to flag disinformation online and establishing transparent procedures for dealing with user complaints	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tackle the use of fake-accounts, fake engagements, bots and inauthentic users behaviour aimed at amplifying false or misleading narratives	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transparency tools and secure access to platform data for trusted researchers in order to monitor inappropriate behaviour and better understand the impact of disinformation and the policies designed to counter it	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transparency tools and secure access to platform data for authorities in order to monitor inappropriate behaviour and better understand the impact of disinformation and the policies designed to counter it	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Adapted risk assessments and mitigation strategies undertaken by online platforms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Ensure effective access and visibility of a variety of authentic and professional journalistic sources	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Auditing systems for platform actions and risk assessments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Regulatory oversight and auditing competence over platforms' actions and risk assessments, including on sufficient resources and staff, and responsible examination of metrics and capacities related to fake accounts and their impact on the manipulation and amplification of disinformation.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

13 Please specify

3000 character(s) maximum

14 In special cases, where crises emerge and involve systemic threats to society, such as a health pandemic, and fast-spread of illegal and harmful activities online, what are, in your view, the appropriate cooperation mechanisms between digital services and authorities?

3000 character(s) maximum

15 What would be effective measures service providers should take, in your view, for protecting the freedom of expression of their users? Please rate from 1 (not at all necessary) to 5 (essential).

	1 (not at all necessary)	2	3 (neutral)	4	5 (essential)	I don't know / No answer
High standards of transparency on their terms of service and removal decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Diligence in assessing the content notified to them for removal or blocking	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Maintaining an effective complaint and redress mechanism	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Diligence in informing users whose content/goods/services was removed or blocked or whose accounts are threatened to be suspended	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
High accuracy and diligent control mechanisms, including human oversight, when automated tools are deployed for detecting, removing or demoting content or suspending users' accounts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Enabling third party insight – e.g. by academics – of main content moderation systems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other. Please specify	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

16 Please explain.

3000 character(s) maximum

17 Are there other concerns and mechanisms to address risks to other fundamental rights such as freedom of assembly, non-discrimination, gender equality, freedom to conduct a business, or rights of the child? How could these be addressed?

5000 character(s) maximum

18 In your view, what information should online platforms make available in relation to their policy and measures taken with regard to content and goods offered by their users? Please elaborate, with regard to the identification of illegal content and goods, removal, blocking or demotion of content or goods offered, complaints mechanisms and reinstatement, the format and frequency of such information, and who can access the information.

5000 character(s) maximum

19 What type of information should be shared with users and/or competent authorities and other third parties such as trusted researchers with regard to the use of automated systems used by online platforms to detect, remove and/or block illegal content, goods, or user accounts?

5000 character(s) maximum

20 In your view, what measures are necessary with regard to algorithmic recommender systems used by online platforms?

5000 character(s) maximum

21 In your view, is there a need for enhanced data sharing between online platforms and authorities, within the boundaries set by the General Data Protection Regulation? Please select the appropriate situations, in your view:

- For supervisory purposes concerning professional users of the platform - e.g. in the context of platform intermediated services such as accommodation or ride-hailing services, for the purpose of labour inspection, for the purpose of collecting tax or social security contributions
- For supervisory purposes of the platforms' own obligations – e.g. with regard to content moderation obligations, transparency requirements, actions taken in electoral contexts and against inauthentic behaviour and foreign interference
- Specific request of law enforcement authority or the judiciary
- On a voluntary and/or contractual basis in the public interest or for other purposes

22 Please explain. What would be the benefits? What would be concerns for companies, consumers or other third parties?

5000 character(s) maximum

23 What types of sanctions would be effective, dissuasive and proportionate for online platforms which systematically fail to comply with their obligations (See also the last module of the consultation)?

5000 character(s) maximum

24 Are there other points you would like to raise?

3000 character(s) maximum

II. Reviewing the liability regime of digital services acting as intermediaries?

The liability of online intermediaries is a particularly important area of internet law in Europe and worldwide. The E-Commerce Directive harmonises the liability exemptions applicable to online intermediaries in the single market, with specific provisions for different services according to their role: from Internet access providers and messaging services to hosting service providers.

The previous section of the consultation explored obligations and responsibilities which online platforms and other services can be expected to take – i.e. processes they should put in place to address illegal activities which might be conducted by users abusing their service. In this section, the focus is on the legal architecture for the liability regime for service providers when it comes to illegal activities conducted by their users. The Commission seeks informed views on how the current liability exemption regime is working and the areas where an update might be necessary.

2 The liability regime for online intermediaries is primarily established in the E-Commerce Directive, which distinguishes between different types of services: so called ‘mere conduits’, ‘caching services’, and ‘hosting services’.

In your understanding, are these categories sufficiently clear and complete for characterising and regulating today’s digital intermediary services? Please explain.

5000 character(s) maximum

Although these three categories are clear, they no longer characterise the full range of services offered by digital intermediary services.

For instance, when it comes to price setting on e-commerce marketplaces, some US tech giants interfere in the process and do not act as a ‘mere conduit’ of information service between the seller and the customer. They influence the price of the market according to their own rules, thus transforming their role of ‘mere conduits’ into an active involvement in the definition of the information.

A dominant platform like Amazon does more than just ‘hosting a service’. Indeed, on its market place it hosts third-party sellers’ information while providing them a platform to directly exchange with consumers. However, the simple “hosting” of the third-party sellers’ information enables Amazon to strengthen its dominant position by using this information at its own advantage, for instance to analyse which products sell well, and which one to stock or not. Through this strategy, third-party sellers help Amazon to identify new niches and categories to enter which can be profitable.

For hosting services, the liability exemption for third parties’ content or activities is conditioned by a knowledge standard (i.e. when they get ‘actual knowledge’ of the illegal activities, they must ‘act expeditiously’ to remove it, otherwise they could be found liable).

3 Are there aspects that require further legal clarification?

5000 character(s) maximum

4 Does the current legal framework dis-incentivize service providers to take proactive measures against illegal activities? If yes, please provide your view on how disincentives could be corrected.

5000 character(s) maximum

5 Do you think that the concept characterising intermediary service providers as playing a role of a 'mere technical, automatic and passive nature' in the transmission of information ([recital 42 of the E-Commerce Directive](#)) is sufficiently clear and still valid? Please explain.

5000 character(s) maximum

Stating that intermediary service providers play a role of a 'mere technical, automatic and passive nature' in the transmission of information is no longer valid. Online giants with a gatekeeper role, such as Amazon, go further than this simple definition. Their behaviour is no longer "passive" at all. In the case of the Amazon marketplace, the e-retailer interferes in the game by setting up its own rules and competing with its own users. By gathering its sellers' and customers' data, the online giant adapts its own offer and imposes its own conditions to the market. In the case of Amazon and its marketplace, extra services are offered to sellers, such as the possibility to benefit from Amazon fulfilment centres. Sellers going for that option will get a preferential treatment compared to those who don't. This results in stifled competition between third-party sellers.

Amazon has become a key means to reach a bigger market, making its third-party sellers completely dependent. This dependency can no longer be assimilated to the need of a simple technical and automatic service in the transmission of information. The offered technical and automatic services have become vital to the survival of many SMEs who abide by Amazon's contract rules to benefit from its services at an ever increasing price. Hence the sustainability of these businesses depends on Amazon's will, which no longer plays a passive role in the market.

6 The E-commerce Directive also prohibits Member States from imposing on intermediary service providers general monitoring obligations or obligations to seek facts or circumstances of illegal activities conducted on their service by their users. In your view, is this approach, balancing risks to different rights and policy objectives, still appropriate today? Is there further clarity needed as to the parameters for 'general monitoring obligations'? Please explain.

5000 character(s) maximum

7 Do you see any other points where an upgrade may be needed for the liability regime of digital services acting as intermediaries?

5000 character(s) maximum

III. What issues derive from the gatekeeper power of digital platforms?

There is wide consensus concerning the benefits for consumers and innovation, and a wide-range of efficiencies, brought about by online platforms in the European Union’s Single Market. Online platforms facilitate cross-border trading within and outside the EU and open entirely new business opportunities to a variety of European businesses and traders by facilitating their expansion and access to new markets. At the same time, regulators and experts around the world consider that large online platforms are able to control increasingly important online platform ecosystems in the digital economy. Such large online platforms connect many businesses and consumers. In turn, this enables them to leverage their advantages – economies of scale, network effects and important data assets- in one area of their activity to improve or develop new services in adjacent areas. The concentration of economic power in then platform economy creates a small number of ‘winner-takes it all/most’ online platforms. The winner online platforms can also readily take over (potential) competitors and it is very difficult for an existing competitor or potential new entrant to overcome the winner’s competitive edge.

The Commission [announced](#) that it ‘will further explore, in the context of the Digital Services Act package, ex ante rules to ensure that markets characterised by large platforms with significant network effects acting as gatekeepers, remain fair and contestable for innovators, businesses, and new market entrants’.

This module of the consultation seeks informed views from all stakeholders on this framing, on the scope, the specific perceived problems, and the implications, definition and parameters for addressing possible issues deriving from the economic power of large, gatekeeper platforms.

[The Communication ‘Shaping Europe’s Digital Future’](#) also flagged that ‘competition policy alone cannot address all the systemic problems that may arise in the platform economy’. Stakeholders are invited to provide their views on potential new competition instruments through a separate, dedicated open public consultation that will be launched soon.

In parallel, the Commission is also engaged in a process of reviewing EU competition rules and ensuring they are fit for the modern economy and the digital age. As part of that process, the Commission has launched a consultation on the proposal for a New Competition Tool aimed at addressing the gaps identified in enforcing competition rules. The initiative intends to address as specific objectives the structural competition problems that prevent markets from functioning properly and that can tilt the level playing field in favour of only a few market players. This could cover certain digital or digitally-enabled markets, as identified in the report by the Special Advisers and other recent reports on the role of competition policy, and/or other sectors. As such, the work on a proposed new competition tool and the initiative at stake complement each other. The work on the two impact assessments will be conducted in parallel in order to ensure a coherent outcome. In this context, the Commission will take into consideration the feedback received from both consultations. We would therefore invite you, in preparing your responses to the questions below, to also consider your response to [the parallel consultation on a new competition tool](#).

1 To what extent do you agree with the following statements?

	Fully agree	Somewhat agree	Neither agree not disagree	Somewhat disagree	Fully disagree	I don't know/ No reply
Consumers have sufficient choices and alternatives to						







the offerings from online platforms.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is easy for consumers to switch between services provided by online platform companies and use same or similar services provider by other online platform companies (“multi-home”).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
It is easy for individuals to port their data in a useful manner to alternative service providers outside of an online platform.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
There is sufficient level of interoperability between services of different online platform companies.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
There is an asymmetry of information between the knowledge of online platforms about consumers, which enables them to target them with commercial offers, and the knowledge of consumers about market conditions.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is easy for innovative SME online platforms to expand or enter the market.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Traditional businesses are increasingly dependent on a limited number of very large online platforms.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are imbalances in the bargaining power between these online platforms and their business users.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Businesses and consumers interacting with these online platforms are often asked to accept unfavourable conditions and clauses in the terms of use/contract with the online platforms.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Certain large online platform companies create barriers to entry and expansion in the Single Market (gatekeepers).	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Large online platforms often leverage their assets from their primary activities (customer base, data, technological solutions, skills, financial capital) to expand into other activities.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When large online platform companies expand into such new activities, this often poses a risk of reducing innovation and deterring competition from smaller innovative market operators.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Main features of gatekeeper online platform companies and the main criteria for assessing their economic power

1 Which characteristics are relevant in determining the gatekeeper role of large online platform companies? Please rate each criterion identified below from 1 (not relevant) to 5 (very relevant):

Large user base	<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/>
Wide geographic coverage in the EU	<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/>
They capture a large share of total revenue of the market you are active/of a sector	<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/>
Impact on a certain sector	<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/>
They build on and exploit strong network effects	<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/>
	<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/>

They leverage their assets for entering new areas of activity	
They raise barriers to entry for competitors	
They accumulate valuable and diverse data and information	
There are very few, if any, alternative services available on the market	
Lock-in of users/consumers	
Other	

2 If you replied "other", please list

3000 character(s) maximum

3 Please explain your answer. How could different criteria be combined to accurately identify large online platform companies with gatekeeper role?

3000 character(s) maximum

Given the nature and the effects suffered in our sector (bookselling), we will use the example of Amazon to explain how the combination of some of the aforementioned criteria can help identify and pinpoint large online platform companies with gatekeeper role.

If one looks at a large online platform like Amazon, which has a large user base in the EU, is present in many countries in the continent (and outside), has a huge capacity of storing valuable and sensitive data from sellers and users (which it then exploits and uses to the company's advantage), has a huge impact in the bookselling sector (it started as online marketplace for books) and has the ability to lock-in both consumers and retailers, you essentially have a dominant online platform with a gatekeeper role and significant network effects, which can lead to a potential threat to healthy market competition.

Amazon's dominance of online retail means that hundreds of thousands of small businesses, including booksellers, must rely on its marketplace to reach customers. In doing so, Amazon benefits from its gatekeeper power to extract a growing cut of the revenue earned by booksellers on their site (Institute for Local Self-Reliance report: Amazon's Monopoly: <https://ilsr.org/amazons-monopoly/>). At the same time, Amazon 'locks in' sellers and uses their data, which helps them identify new categories of goods that can be profitable for the company. They then use this data to their advantage (and the disadvantage of independent sellers), source: Wall Street Journal: (<https://www.wsj.com/articles/amazon-scooped-up-data-from-its-own-sellers-to-launch-competing-products-11587650015>). Essentially, the practice of Amazon to use sensitive data from independent retailers on their marketplace helps the company develop competing private-label

products, which in turn, weakens their rivals and increases their dominance. More on this issue in response to questions below.

4 Do you believe that the integration of any or all of the following activities within a single company can strengthen the gatekeeper role of large online platform companies ('conglomerate effect')? Please select the activities you consider to strengthen the gatekeeper role:

- online intermediation services (i.e. consumer-facing online platforms such as e-commerce marketplaces, social media, mobile app stores, etc., as per [Regulation \(EU\) 2019/1150](#) - see glossary)
- search engines
- operating systems for smart devices
- consumer reviews on large online platforms
- network and/or data infrastructure/cloud services
- digital identity services
- payment services (or other financial services)
- physical logistics such as product fulfilment services
- data management platforms
- online advertising intermediation services
- other. Please specify in the text box below.

5 Other - please list

1000 character(s) maximum

Emerging issues

The following questions are targeted particularly at businesses and business users of large online platform companies.

2 As a business user of large online platforms, do you encounter issues concerning trading conditions on large online platform companies?

- Yes
- No

3 Please specify which issues you encounter and please explain to what types of platform these are related to (e.g. e-commerce marketplaces, app stores, search engines, operating systems, social networks).

5000 character(s) maximum

We will focus on the book trade, specifically on the many issues booksellers face when trading on large e-commerce marketplaces, particularly Amazon.

- 1st issue: dual role of online marketplace and e-retailer

The main issue for EIBF is that Amazon not only acts as an e-commerce marketplace but also as an e-retailer. Given that Amazon is an active player on its own marketplace, it will always give itself an advantage and prioritise its products over other third-party sellers on the marketplace. This already shows a clear conflict of interest and a threat to fair competition. With its dual role of online marketplace and e-retailer, Amazon is free to set the rules of the game and there is no competition between the company and the third-party sellers on its own marketplace. To put it metaphorically, it is like playing a football game where the opposite team also acts as the referee. Therefore, no matter how third-party sellers manage their business on the platform and no matter how many Amazon services they subscribe to in order to have a higher visibility or perform better (more on this below), they will always lose the fight when competing with the company on its own ground.

- 2nd issue: blocking competitors and 'locking-in' sellers.

Over the years, an increasing number of booksellers have felt compelled to sell books on Amazon, given that many consumers now look for books nowhere else online. Figures show that more than half of Americans who want to buy something online start their product search on Amazon, rather than a search engine (<https://www.bloomberg.com/news/articles/2016-09-27/more-than-50-of-shoppers-turn-first-to-amazon-in-product-search>). This means that Amazon has become essential for retailers to reach a bigger market, making its third-party sellers completely dependent on its marketplace. This allows them to impose unfair and restrictive terms and conditions in their contract agreements (more on this in question 4), gather data from independent sellers on their marketplace to help the company develop competing private-label products (more on this issue later), to set high fees on sellers using the marketplace, and ties sellers' ability to generate sales on its site to their willingness to buy additional Amazon services, including its fulfilment and advertising services .

- 3rd issue: exorbitant third-party seller fees

On the matter of fees that third-party sellers have to pay to sell their products on the site, Amazon exploits its gatekeeper power to extract a growing cut of the revenue earned by its marketplace sellers. According to a report from the Institute for Local Self-Reliance ("Amazon's Monopoly Tollbooth": https://ilsr.org/wp-content/uploads/2020/07/ILSR_Report_AmazonTollbooth_Final.pdf), Amazon is levying a hefty tax on their trade, enabling it to profit from their businesses at the same time that it saddles them with more costs and thus weakens them as rivals. More specifically, since 2014, Amazon's revenue from seller fees has grown almost twice as fast as its overall sales. Seller fees now account for 21% of Amazon's total revenue. Additionally, Amazon keeps an average of 30 % of each sale made by independent sellers on its site, up from 19 % just five years ago. As an analogy made in the report puts it: "Selling on Amazon is like going to a casino: you might win a hand or two, but, in the end, only the house actually makes money".

In sum, Amazon's fees make it nearly impossible for sellers to sustain a profitable business, given that competitors must pay Amazon in order to compete against the company, while Amazon profits off of sellers that are often their direct competitors. In spite of this situation, Amazon has no risk of running out of sellers; its monopoly ensures there's an endless stream of people around the world willing to try. As for other online marketplace competitors, they aren't able to offer more competitive prices and have to align to market standards.

- 4th issue: books as a loss leader product / predatory pricing

For over two decades, Amazon has used books as loss leaders in the book industry. This means that Amazon significantly lowers the price of books in order to attract customers to its website, gather their data, make profit on other more profitable items and eventually capture an increasing market share. It has become so normal for Amazon to lower the prices of books that readers expect it from the online retailer. Amazon's use of pricing tactics in the book industry reveals a tactic and strategy sought to achieve market dominance: underselling the competition to monopolize markets.

EIBF calls for the ability for sellers to manage a sustainable and competitive business without being weakened as rivals by the platform they sell on, as well as the ability for other online players to enter the market while remaining competitive.

4 Have you been affected by unfair contractual terms or unfair practices of very large online platform companies? Please explain your answer in detail, pointing to the effects on your business, your consumers and possibly other stakeholders in the short, medium and long-term?

5000 character(s) maximum

As discussed above, a large number of booksellers feel compelled to sell books on Amazon's marketplace. This allows Amazon to set unfair contractual terms, high entry fees for third-party sellers and even suspension or termination of contracts without notice at Amazon's sole discretion.

Many booksellers have experienced and are subject to unfair, discriminatory, exploitative and exclusionary contractual terms and conditions with Amazon when seeking to sell their products on their online marketplace, often making it nearly impossible for sellers to sustain a profitable business and, consequently, failing.

- Discrimination and abusive self-preferencing:

Amazon's Buy Box system illustrates Amazon's discriminative behaviour amongst its third-party sellers. Giving customers the immediate possibility to add items in their shopping basket, the Buy Box matters when several traders are selling the same products and are, thus, in competition with each other. Following a given set of criteria, traders "win" the right to be featured in the Buy Box. However, the eligibility to win the Buy Box is at the absolute discretion of Amazon. Even though a few sorting criteria are easily understood by the seller, such as volume of sales and competitive price, what really determines a seller's eligibility remains unknown. Third-party sellers are, therefore, competing against each other, without knowing on what basis.

On this matter, in 2019, the Italian Competition Authority (AGCM) began an antitrust investigation into five Amazon companies alleging that Amazon have employed practices of discrimination and abusive self-preferencing vis-à-vis third-party sellers, by giving higher visibility, higher search rankings and better access to consumers to thirdparty sellers that subscribe to its additional logistics services, most notably Amazon FBA (Fulfillment by Amazon), thereby putting other sellers at a significant disadvantage.

- Evidence of exploitative and exclusionary practices:

Blocking and terminating sellers arbitrarily from the marketplace, abusive liability provisions to the disadvantage of sellers, withholding or delaying payment, choice of law and jurisdiction clauses, rules on product reviews... These are just some examples of such practices. In November 2018, the German Bundeskartellamt (FCO) initiated proceedings following complaints from sellers about Amazon's business practices and eventually cited evidence of exploitative terms and conditions and exclusionary self-preferencing by Amazon. They found that in 2018, in Germany alone, Amazon blocked more than 250,000 seller accounts permanently and over 30,000 accounts temporarily. The FCO terminated its probe following an agreement with Amazon to change its terms and conditions for all marketplaces in Europe, North America and Asia and notify the FCO of any future changes.

As a reminder, a widely known unfair contractual practice of Amazon was its imposition of "most-favoured-nation clauses" (MFNs) and other parity provisions to eliminate the ability of rivals or new entrants to gain any meaningful competitive advantage. These MFNs often required sellers to a) offer Amazon similar or better economic terms and conditions as those offered to any competing distributors; b) inform Amazon about more favourable or alternative terms given to competitors; and c) restrict pricing discounts to consumers.

As a final example, in 2017, the French General Directorate for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) announced the results of a two-year investigation into several online marketplaces, including Amazon. The DGCCRF highlighted that the most serious instances of abusive practices concerned Amazon, particularly the following practices: unilateral modification, suspension or termination of contracts without notice at Amazon's sole discretion and requirement of alignment with the conditions applied by sellers on other sales channels (MFNs). Following the publication of the findings, proceedings against Amazon and two other companies were initiated before the Paris Commercial Court. In its ruling on September 2019, the Paris Commercial Court found a dozen clauses included in the terms and conditions of Amazon for third-party sellers to violate French law.

In sum, we seek more protection, transparency and legal certainty in the terms and conditions between Amazon and its third-party sellers. The P2B regulation, applicable as of 12th July 2020, was a first good step in this direction. However, more is needed. We hope that with the DSA and its proposed ex-ante regulatory remedies, Amazon's abusive and discriminatory terms and conditions in contracts with third-party sellers, such as booksellers, will be prevented and thoroughly supervised by an adequate and effective enforcement mechanism.

The following questions are targeted particularly at consumers who are users of large online platform companies.

6 Do you encounter issues concerning commercial terms and conditions when accessing services provided by large online platform companies?

Please specify which issues you encounter and please explain to what types of platform these are related to (e.g. e-commerce marketplaces, app stores, search engines, operating systems, social networks).

5000 character(s) maximum

The issue of "lock-ins" does not only affect third-party sellers on e-commerce marketplaces such as Amazon, but also consumers. Through unclear and often unintelligible data protection terms and conditions, consumers are tricked into consenting said platforms to store their data and use it to track and predict goods that they can be targeted with to purchase, as well as being advertised similar products.

Additionally, discriminatory and unfair terms and conditions for third-party sellers on Amazon and other online marketplaces also have a negative impact on consumer choice. Although Amazon is unlikely to run out of sellers, the more sellers there are, the better the diversity of choice for consumers. Additionally, once Amazon regains control over the sales of a certain product, it raises its price again, making it more expensive for customers in comparison to third-party seller's options.

7 Have you considered any of the practices by large online platform companies as unfair? Please explain.

3000 character(s) maximum

We believe customers should have the choice to read e-books and listen to audiobooks in different platforms, formats and devices, and not be restricted and locked in one ecosystem, as some online platforms only offer. This is referred to as interoperability of ebook formats and is one of the main areas of focus in our policy work at the European and International Booksellers Federation (EIBF).

While e-books and audiobooks are still a fairly niche market, they are a convenient alternative to physical books for some readers. But what happens after a customer buys them? In some cases, they can't read that book on a different device, e-reader or tablet. And that's down to the systems they're sold on. The clear example of this practice is Amazon and its Kindle ecosystem, one of Amazon's flagship products. We firmly believe that keeping customers locked in in the Kindle ecosystem is an example of unfair practice.

The lack of interoperability between formats and platforms is a major obstacle hindering the further development of the Digital Single Market. Thus, the only way for booksellers to invest responsibly in the digital book market – in a way that meets the demands of today's customers – is for access to such books to be opened up across devices. This will not only improve availability for readers; it will also contribute to the healthy development of the e-book and audiobook market.

For more information, see the study commissioned by the European and International Booksellers Federation (EIBF) to the Johannes Gutenberg-Universität Mainz on interoperability in 2013: https://europeanbooksellers.eu/system/files/2020-02/On%20the%20interoperability%20of%20e-books%20formats_2020-02-19.pdf.

More on the findings of the study in the answer to the question below.

The following questions are open to all respondents.

9 Are there specific issues and unfair practices you perceive on large online platform companies?

5000 character(s) maximum

Once again, and as explained in other answers, there are several practices carried out by large online platform companies (namely Amazon) that we consider alarming and a threat to fair competition, not only for our sector but for many others.

These main issues are:

- Amazon's dual role of online marketplace and e-retailer: Amazon will always give itself the advantage over third-party sellers on its own marketplace. This already shows a clear conflict of interest and a threat to fair competition;
- 'Locking-in' third-party sellers and consumers and blocking competitors, often through discriminatory and untransparent methods, and preventing their growth on their own platform;
- In connection to 'lock-ins', and as introduced in the question above, we also argue that keeping customers locked in in the Kindle ecosystem, is an example of unfair practice. The Kindle e-reader, has the particularity to lock customers in a closed ecosystem. Kindle e-books use a specific file format (AZW), unique to this particular e-reader and not transferable or accessible on other devices (Kobo, Tolino, etc.). If customers are not able to open an AZW file on their e-reader other than Kindle, a Kindle also doesn't allow them to open another file format than AZW. The Kindle e-reader does not support the EPUB format, a file format used by most other e-book providers. The same goes for audiobook format, bought on the Amazon audio platform Audible. This impossibility for the customer to change platform and provider at will, locks consumers in a closed ecosystem and reduces their freedom of choice. In 2013 EIBF commissioned a study on interoperability to the Johannes Gutenberg-Universität Mainz to assess the different file formats available on the market, as well as the possibility of establishing interoperability across all devices (link to study: https://europeanbooksellers.eu/system/files/2020-02/On%20the%20interoperability%20of%20e-books%20formats_2020-02-19.pdf). The preface for this study was written by Former Vice President of European Commission for Digital Agenda, Neelie Kroes. The study demonstrated that, with EPUB as a standard format, interoperability across devices is completely possible. This is even truer now that the EPUB file format has evolved and has become a standard within the book industry. We call for further interoperability on various devices and formats;
- exorbitant fees to make use of their online platform to sell their items;
- abusive self-preferencing, along with discriminatory, exploitative and exclusionary terms and conditions in Amazon's contracts with third-party sellers (including suspension or termination of contracts without notice and MFNs, among others);
- mass storage and use of customer and third-party seller data for their own financial gain and to weaken third-party sellers as rivals (more on this in response to the question below);

10 In your view, what practices related to the use and sharing of data in the platforms' environment are raising particular challenges?

5000 character(s) maximum

Some online platforms' mass storage and use of customer and third-party seller data is very concerning and poses a threat to fair competition.

In the case of Amazon, a report from the Wall Street Journal from April 2020 (https://www.wsj.com/articles/amazon-scooped-up-data-from-its-own-sellers-to-launch-competing-products-11587650015?mod=hp_lead_pos2) concluded that, contrary to Amazon's testimony in the US Congress, their employees did access sales data from independent sellers on their marketplace to help the company develop competing private-label products.

Through this strategy, Amazon uses third-party merchants to provide low volume specialty items it does not want to hold in stock so that it can deliver maximum selection. However, if that product line starts selling well, then Amazon realises which product it should produce and stock next. In this way, third-party sellers help Amazon to identify new niches and categories to enter which can be profitable for the company.

This use of sensitive data from independent retailers for purposes designed to expand its market dominance results in a serious conflict of interest with its dual role of marketplace platform and online retailer. It also seriously hinders any chance for third-party sellers to sustain a profitable business on the platform.

11 What impact would the identified unfair practices can have on innovation, competition and consumer choice in the single market?

3000 character(s) maximum

Unfair practices deter innovative companies and retailers from entering the market and put already small hard-working businesses out of work. Despite their craft, innovative ideas and creativity, many booksellers don't have the resources or administrative capacity to compete with Amazon and other digital giants in the digital sphere. This is why, as explained in other answers in this contribution, retailers such as booksellers are compelled to sell their goods on Amazon's marketplace. However, they get caught in unfair contractual agreements, are forced to pay high fees, their data is used for Amazon's financial gain, their products aren't given sufficient visibility on the marketplace...The list goes on. Eventually, this weakens them as rivals and can put them out of business. However, Amazon's monopoly ensures that there's an endless stream of people and retailers around the world willing to try. Thus, the vicious cycle is never ending. In sum, Amazon's monopoly makes it impossible for innovative retailers to enter and thrive, severely compromising fair competition in many sectors such as bookselling.

The impact this has on consumer choice is also substantial. Evidently, the more sellers there are in the market, the better is the diversity of choice for consumers. If sellers' activities are restricted, the market will be stifled and consumers won't be able to compare prices and find the best offer. It also prevents consumers to search for a better offer on other websites.

On the topic of consumer choice, we also wish to highlight that it is crucial in all its dimensions. While we see an increase in sales of goods online, we mustn't forget the importance of retailers on the high street and their contribution to local communities. It cannot be in the consumer interest if communities do not have access to a local source of goods adapted to that community's needs. The Institute for Local Self-Reliance examine in their comprehensive 2016 report on Amazon's monopoly, specifically in the chapter titled "Weakening Communities" how Amazon, as it disconnects the link between commerce and place, is directly threatening cities with vacancies, job

losses, and revenue shortfalls. It also examines how at the same time, Amazon is deteriorating values that are more abstract, but equally important, such as street life, civic engagement and social capital. To quote them: "with its vision of shopping as a solitary act, Amazon makes it easy to forget that in our economic interactions, we're not just consumers. We're also neighbours, workers, entrepreneurs, producers, taxpayers, residents, citizens, and so on, with needs and wants from a shopping experience and an

economy that go beyond the one-click checkout”.

This is why we need further regulation on the influence and reach of large online platforms and their impact on innovation and consumers.

12 Do startups or scaleups depend on large online platform companies to access or expand? Do you observe any trend as regards the level of dependency in the last five years (i.e. increases; remains the same; decreases)? Which difficulties in your view do start-ups or scale-ups face when they depend on large online platform companies to access or expand on the markets?

3000 character(s) maximum

Regardless of the sector, startups and scaleups increasingly rely on large online platform companies to access or expand.

For instance, Amazon's dominance of online retail means that hundreds of thousands of small businesses, including individual booksellers, must rely on its marketplace to reach customers and sell books. Many booksellers feel compelled to sell books on Amazon because many consumers now look for books nowhere else online. Indeed, figures show that half of Americans who want to buy something online start their product search on Amazon, rather than a search engine (<https://www.emarketer.com/content/more-product-searches-start-on-amazon>).

While these figures don't reflect the European market (it is hard to gather such data in Europe, given that Amazon operates in several different countries), they are a source of concern for the European Union single market.

13 Which are possible positive and negative societal (e.g. on freedom of expression, consumer protection, media plurality) and economic (e.g. on market contestability, innovation) effects, if any, of the gatekeeper role that large online platform companies exercise over whole platform ecosystem?

3000 character(s) maximum

What we see today, and one of the main reasons as to why the Digital Services Act is being implemented, is that there are increasingly more negative than positive effects resulting from large online platform companies with gatekeeping roles, as they become more powerful, influential and dominant while remaining unchallenged and unregulated.

Theoretically, online platforms with gatekeeper roles should be seen as something positive. For example a society is a better place with websites prohibiting child pornography and social-media platforms banning people who threaten with violence or racial discrimination.

In the context of online marketplaces, if functioning properly, a large online marketplace acting as a gatekeeper would be able to gather a wide range of products from different retailers in one place, giving all retailers fair and equal conditions, visibility and opportunities, while also providing consumers with ample choice. Additionally, malicious, illegal or counterfeit products would not be allowed to be sold.

However, as we see with Amazon, all of these conditions and criteria aren't met. Instead, there is arbitrariness,

abusive self-preferencing, storage and use of private data and sale of illegal and counterfeit goods, to name some issues.

Amazon exploits its role as gatekeeper in the online marketplace ecosystem. Given the dominance and influence of online platforms acting as gatekeepers, these must be regulated more strictly.

14 Which issues specific to the media sector (if any) would, in your view, need to be addressed in light of the gatekeeper role of large online platforms? If available, please provide additional references, data and facts.

3000 character(s) maximum

Regulation of large online platform companies acting as gatekeepers

1 Do you believe that in order to address any negative societal and economic effects of the gatekeeper role that large online platform companies exercise over whole platform ecosystems, there is a need to consider dedicated regulatory rules?

- I fully agree
- I agree to a certain extent
- I disagree to a certain extent
- I disagree
- I don't know

2 Please explain

3000 character(s) maximum

If the problem of gatekeepers is to be addressed properly, there must be sufficient resources and an active will to swiftly identify the actors and apply the new ex-ante rules.

The establishment of gatekeeper status and the limitation of discretion of the investigating authorities, as well as constant re-assessment of the situation, must be prioritised.

With the introduction of ex-ante rules, we will finally have a tool that will, hopefully, adequately prevent anti-competitive practices derived from large online platforms abusing their gatekeeper role to increase their market dominance, rather than addressing or trying to remedy the consequences of anti-competitive behaviour through later anti-trust charges and heavy fines, which these digital giants can easily afford to pay.

Warnings, fines, proceedings and current regulation have all shown to be insufficient and inadequate. We need more strict "ex-ante" rules, and not only "ex-post" remedies.

3 Do you believe that such dedicated rules should prohibit certain practices by large online platform companies with gatekeeper role that are considered particularly harmful for users and consumers of these large online platforms?

- Yes
- No
- I don't know

4 Please explain your reply and, if possible, detail the types of prohibitions that should in your view be part of the regulatory toolbox.

3000 character(s) maximum

EIBF supports the proposal suggested by Commissioner Vestager to establish a list of “do’s and don’ts”, which dominant gatekeepers would have to abide by. This list of obligations and prohibited practices would serve as a simple and concise roadmap to allow timely enforcement and avoid delays in achieving the goals of the DSA.

Additionally, in reference to some of our members' contributions, we suggest that the regulatory toolbox should prohibit the following:

- Amazon and other online marketplaces from collecting and storing data from the operation of its online platform to compete with and disadvantage the suppliers and retailers doing business there.
- Amazon and other online markeplaces from imposing abusive, self-preferential and discriminatory terms and conditions and other parity provisions in contracts with third-party sellers.

5 Do you believe that such dedicated rules should include obligations on large online platform companies with gatekeeper role?

- Yes
- No
- I don't know

6 Please explain your reply and, if possible, detail the types of obligations that should in your view be part of the regulatory toolbox.

3000 character(s) maximum

Once, again, EIBF reiterates the proposal suggested by Commissioner Vestager to establish a list of “do’s and don’ts”, which dominant gatekeepers would have to abide by. This list of obligations and prohibited practices would serve as simple and concise roadmap to allow timely enforcement and avoid delays in achieving the goals of the DSA.

Amazon and other digital giants should be obliged to pay their taxes where they generate profit, and thus, contribute to the country’s economy, instead of funnelling their profit through tax havens.

Amazon and other online marketplaces should also be obliged to provide retailers with protection, transparency and legal certainty in their contracts, especially in the case of disputes. On this note, we wish

to to highlight the problematic behind the existence of a jurisdiction clause, which provides that Amazon's dispute settlements with third party sellers are subject to Luxembourgish law. This situation creates an administrative burden for sellers dealing with Amazon when using their marketplace in different countries in the EU, by compelling them to familiarise themselves and often comply with Luxembourgish law.

Following the German Bundeskartellamt (Federal Cartel Office, FCO) proceedings against Amazon in 2018, which forced Amazon to change its terms and conditions for all marketplaces in Europe, North America and Asia and notify the FCO of any future changes, the exclusivity of Luxemburg as the only court of jurisdiction was removed from the terms of business for all European marketplaces.

7 If you consider that there is a need for such dedicated rules setting prohibitions and obligations, as those referred to in your replies to questions 3 and 5 above, do you think there is a need for a specific regulatory authority to enforce these rules?

- Yes
- No
- I don't know

8 Please explain your reply.

3000 character(s) maximum

As the IMCO Committee in the European Parliament argues, the Digital Services Act (DSA) should empower (national) regulatory authorities to issue orders prohibiting undertakings from practices such as making use of data for making market entry by third parties more difficult and engaging in practices aimed at locking-in consumers and sellers.

At the same time, we believe the supervision and enforcement of the Digital Services Act and ex-ante rules should be carried out with the help of a central regulatory authority that would be responsible for overseeing compliance with the DSA and improve external monitoring, verification of platform activities, and better enforcement. We suggest to build upon the extensive expertise, powers and resources of DG COMP, as well as national competition authorities.

Due to the constant evolving nature of the digital world, it should be possible to regularly review and revise 'ex-ante' rules.

9 Do you believe that such dedicated rules should enable regulatory intervention against specific large online platform companies, when necessary, with a case by case adapted remedies?

- Yes
- No
- I don't know

10 If yes, please explain your reply and, if possible, detail the types of case by case remedies.

3000 character(s) maximum

'Ex-ante' dedicated rules should be designed to impose fair conditions on all platforms, while simultaneously allowing for the application of case-by-case remedies to online platforms abusing their gatekeeper power. As such, they should be flexible, adaptable and reviewable.

For instance, the GAFAs' circumstances are so specific that there is a need to apply case-by-case remedies to their situation. Smaller online platforms and marketplaces shouldn't have to suffer similar consequences or abide by the same rules as GAFAs, given that their revenue, customer base and impact are all very different. Hegemonic and dominant large online platforms holding a monopoly in digital markets should have to be subject to special scrutiny and supervision.

11 If you consider that there is a need for such dedicated rules, as referred to in question 9 above, do you think there is a need for a specific regulatory authority to enforce these rules?

- Yes
- No

12 Please explain your reply

3000 character(s) maximum

See our response to question 8.

13 If you consider that there is a need for a specific regulatory authority to enforce dedicated rules referred to questions 3, 5 and 9 respectively, would in your view these rules need to be enforced by the same regulatory authority or could they be enforced by different regulatory authorities? Please explain your reply.

3000 character(s) maximum

As answered in previous questions, dedicated rules should be enforced by (national) pre-existing regulatory authorities and supervised by a central regulatory authority, such as DG COMP. The collaboration and coordination between them should be swift, constant, effective, fully comprehensive and far-reaching.

14 At what level should the regulatory oversight of platforms be organised?

- At national level
- At EU level
- Both at EU and national level.
- I don't know

15 If you consider such dedicated rules necessary, what should in your view be the relationship of such rules with the existing sector specific rules and/or any future sector specific rules?

3000 character(s) maximum

16 Should such rules have an objective to tackle both negative societal and negative economic effects deriving from the gatekeeper role of these very large online platforms? Please explain your reply.

3000 character(s) maximum

Yes, these rules should address:

- Open and fair competition.
- Access to the digital single market for innovative businesses.
- Optimal consumer choice.

The combination of the above will help boost and complete the Digital Single Market .

17 Specifically, what could be effective measures related to data held by very large online platform companies with a gatekeeper role beyond those laid down in the General Data Protection Regulation in order to promote competition and innovation as well as a high standard of personal data protection and consumer welfare?

3000 character(s) maximum

Although the platform-to-business (P2B) Regulation imposes more transparency rules to online platforms, there is a need to go further. When trading on online market places, third-party sellers have to know what they are getting into: which kind of data will be stored, for how long, how is it going to be used, do they have an opt out right, etc.

Third-party sellers on online marketplaces need more transparency measures, as well as legal and contractual certainty and protection. Only then, will they feel more secure and more confident to sell online. With more sellers clearly aware and informed of their rights, competition and innovation in the digital world will be boosted, while the offer to consumers will be larger. It is of utmost importance that transparency rules be written in clear and unambiguous language, and in a way that is easily understandable.

18 What could be effective measures concerning large online platform companies with a gatekeeper role in order to promote media pluralism, while respecting the subsidiarity principle?

3000 character(s) maximum

19 Which, if any, of the following characteristics are relevant when considering the requirements for a potential regulatory authority overseeing the large online platform companies with the gatekeeper role:

- Institutional cooperation with other authorities addressing related sectors – e. g. competition authorities, data protection authorities, financial services authorities, consumer protection authorities, cyber security, etc.

- Pan-EU scope
- Swift and effective cross-border cooperation and assistance across Member States
- Capacity building within Member States
- High level of technical capabilities including data processing, auditing capacities
- Cooperation with extra-EU jurisdictions
- Other

21 Please explain if these characteristics would need to be different depending on the type of ex ante rules (see questions 3, 5, 9 above) that the regulatory authority would be enforcing?

3000 character(s) maximum

22 Which, if any, of the following requirements and tools could facilitate regulatory oversight over very large online platform companies (multiple answers possible):

- Reporting obligation on gatekeeping platforms to send a notification to a public authority announcing its intention to expand activities
- Monitoring powers for the public authority (such as regular reporting)
- Investigative powers for the public authority
- Other

24 Please explain if these requirements would need to be different depending on the type of ex ante rules (see questions 3, 5, 9 above) that the regulatory authority would be enforcing?

3000 character(s) maximum

Due to the constant evolving nature of the digital world, ex-ante rules should be flexible, adaptable and reviewable.

25 Taking into consideration [the parallel consultation on a proposal for a New Competition Tool](#) focusing on addressing structural competition problems that prevent markets from functioning properly and tilt the level playing field in favour of only a few market players. Please rate the suitability of each option below to address market issues arising in online platforms ecosystems. Please rate the policy options below from 1 (not effective) to 5 (most effective).

	1 (not effective)	2 (somewhat effective)	3 (sufficiently effective)	4 (very effective)	5 (most effective)	Not applicable /No relevant experience or knowledge
1. Current competition rules are enough to address issues raised in digital markets	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. There is a need for an additional regulatory framework imposing obligations and prohibitions that are generally applicable to all large online platforms with gatekeeper power	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
3. There is a need for an additional regulatory framework allowing for the possibility to impose tailored remedies on individual large online platforms with gatekeeper power, on a case-by-case basis	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
4. There is a need for a New Competition Tool allowing to address structural risks and lack of competition in (digital) markets on a case-by-case basis.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
5. There is a need for combination of two or more of the options 2 to 4.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

26 Please explain which of the options, or combination of these, would be, in your view, suitable and sufficient to address the market issues arising in the online platforms ecosystems.

3000 character(s) maximum

All further efforts and additional regulatory frameworks that seek to enforce and ensure fairer competition online are welcome in our eyes.

A combination of options 2, 3 and 4 would provide the EU with an adequate regulatory framework and enforcement to prevent and adequately address the negative socio-economic effects of online platforms with gatekeeper role and significant network effects.

More specifically, all platforms should abide by the same rules (option 2). At the same time, tailored remedies should also be applied in specific circumstances on a case-by-case basis to individual large online platforms with gatekeeper power (option 3). Additionally, there is a need for a New Competition Tool allowing to address structural risks and lack of competition in markets on a case-by-case basis (option 4), given increasing structural competition issues and risks, such as monopolisation of markets and market tipping.

In regards to the need for a New Competition Tool, we recognise in Amazon's activities both structural risks for competition, such as lock-in effects characteristics, as well as a structural lack of competition (high concentration and entry barriers, consumer lock-in, lack of access to data or data accumulation). Both are extremely concerning and this is why we would welcome a new cross-sector dominance-based competition tool to address these issues on a case-by-case basis.

27 Are there other points you would like to raise?

3000 character(s) maximum

As indicated already, EIBF argues that if the problem of gatekeepers is to be addressed properly, there must be sufficient resources and an active will to swiftly identify the actors and apply the new ex-ante rules effectively.

IV. Other emerging issues and opportunities, including online advertising and smart contracts

Online advertising has substantially evolved over the recent years and represents a major revenue source for many digital services, as well as other businesses present online, and opens unprecedented opportunities for content creators, publishers, etc. To a large extent, maximising revenue streams and optimising online advertising are major business incentives for the business users of the online platforms and for shaping the data policy of the platforms. At the same time, revenues from online advertising as well as increased visibility and audience reach are also a major incentive for potentially harmful intentions, e.g. in online disinformation campaigns.

Another emerging issue is linked to the conclusion of 'smart contracts' which represent an important innovation for digital and other services, but face some legal uncertainties.

This section of the open public consultation seeks to collect data, information on current practices, and informed views on potential issues emerging in the area of online advertising and smart contracts.

Respondents are invited to reflect on other areas where further measures may be needed to facilitate

innovation in the single market. This module does not address privacy and data protection concerns; all aspects related to data sharing and data collection are to be afforded the highest standard of personal data protection.

Online advertising

1 When you see an online ad, is it clear to you who has placed it online?

- Yes, always
- Sometimes: but I can find the information when this is not immediately clear
- Sometimes: but I cannot always find this information
- I don't know
- No

2 As a publisher online (e.g. owner of a website where ads are displayed), what types of advertising systems do you use for covering your advertising space? What is their relative importance?

	% of ad space	% of ad revenue
Intermediated programmatic advertising through real-time bidding		
Private marketplace auctions		
Programmatic advertising with guaranteed impressions (non-auction based)		
Behavioural advertising (micro-targeting)		
Contextual advertising		
Other		


3 What information is publicly available about ads displayed on an online platform that you use?

3000 character(s) maximum

4 As a publisher, what type of information do you have about the advertisement placed next to your content/on your website?

3000 character(s) maximum

5 To what extent do you find the quality and reliability of this information satisfactory for your purposes?

Please rate your level of satisfaction	
--	--

6 As an advertiser or an agency acting on behalf of the advertiser (if applicable), what types of programmatic advertising do you use to place your ads? What is their relative importance in your ad inventory?

	% of ad inventory	% of ad expenditure
Intermediated programmatic advertising through real-time bidding		
Private marketplace auctions		
Programmatic advertising with guaranteed impressions (non-auction based)		
Behavioural advertising (micro-targeting)		
Contextual advertising		
Other		

7 As an advertiser or an agency acting on behalf of the advertiser (if applicable), what type of information do you have about the ads placed online on your behalf?

3000 character(s) maximum

8 To what extent do you find the quality and reliability of this information satisfactory for your purposes?

Please rate your level of satisfaction



The following questions are targeted specifically at online platforms.

10 As an online platform, what options do your users have with regards to the advertisements they are served and the grounds on which the ads are being served to them? Can users access your service through other conditions than viewing advertisements? Please explain.

3000 character(s) maximum

11 Do you publish or share with researchers, authorities or other third parties detailed data on ads published, their sponsors and viewership rates? Please explain.

3000 character(s) maximum

12 What systems do you have in place for detecting illicit offerings in the ads you intermediate?

3000 character(s) maximum

The following questions are open to all respondents.

14 Based on your experience, what actions and good practices can tackle the placement of ads next to illegal content or goods, and/or on websites that disseminate such illegal content or goods, and to remove such illegal content or goods when detected?

3000 character(s) maximum

15 From your perspective, what measures would lead to meaningful transparency in the ad placement process?

3000 character(s) maximum

16 What information about online ads should be made publicly available?

3000 character(s) maximum

17 Based on your expertise, which effective and proportionate auditing systems could bring meaningful accountability in the ad placement system?

3000 character(s) maximum

18 What is, from your perspective, a functional definition of 'political advertising'? Are you aware of any specific obligations attached to 'political advertising' at national level ?

3000 character(s) maximum

19 What information disclosure would meaningfully inform consumers in relation to political advertising? Are there other transparency standards and actions needed, in your opinion, for an accountable use of political advertising and political messaging?

3000 character(s) maximum

20 What impact would have, in your view, enhanced transparency and accountability in the online advertising value chain, on the gatekeeper power of major online platforms and other potential consequences such as media pluralism?

3000 character(s) maximum

21 Are there other emerging issues in the space of online advertising you would like to flag?

3000 character(s) maximum

Smart contracts

1 Is there sufficient legal clarity in the EU for the provision and use of “smart contracts” – e.g. with regard to validity, applicable law and jurisdiction?

Please rate from 1 (lack of clarity) to 5 (sufficient clarity)



2 Please explain the difficulties you perceive.

3000 character(s) maximum

3 In which of the following areas do you find necessary further regulatory clarity?

- Mutual recognition of the validity of smart contracts in the EU as concluded in accordance with the national law
- Minimum standards for the validity of “smart contracts” in the EU
- Measures to ensure that legal obligations and rights flowing from a smart contract and the functioning of the smart contract are clear and unambiguous, in particular for consumers
- Allowing interruption of smart contracts
- Clarity on liability for damage caused in the operation of a smart contract
- Further clarity for payment and currency-related smart contracts.

4 Please explain.

3000 character(s) maximum

5 Are there other points you would like to raise?

3000 character(s) maximum

V. How to address challenges around the situation of self-employed individuals offering services through online platforms?

Individuals providing services through platforms may have different legal status (workers or self-employed). This section aims at gathering first information and views on the situation of self-employed individuals

offering services through platforms (such as ride-hailing, food delivery, domestic work, design work, micro-tasks etc.). Furthermore, it seeks to gather first views on whether any detected problems are specific to the platform economy and what would be the perceived obstacles to the improvement of the situation of individuals providing services through platforms. This consultation is not intended to address the criteria by which persons providing services on such platforms are deemed to have one or the other legal status. The issues explored here do not refer to the selling of goods (e.g. online marketplaces) or the sharing of assets (e.g. sub-renting houses) through platforms.

The following questions are targeting self-employed individuals offering services through online platforms.

Relationship with the platform and the final customer

1 What type of service do you offer through platforms?

- Food-delivery
- Ride-hailing
- Online translations, design, software development or micro-tasks
- On-demand cleaning, plumbing or DIY services
- Other, please specify

2 Please explain.

3 Which requirements were you asked to fulfill in order to be accepted by the platform(s) you offer services through, if any?

4 Do you have a contractual relationship with the final customer?

- Yes
- No

5 Do you receive any guidelines or directions by the platform on how to offer your services?

- Yes
- No

7 Under what conditions can you stop using the platform to provide your services, or can the platform ask you to stop doing so?

8 What is your role in setting the price paid by the customer and how is your remuneration established for the services you provide through the platform(s)?

9 What are the risks and responsibilities you bear in case of non-performance of the service or unsatisfactory performance of the service?

Situation of self-employed individuals providing services through platforms

10 What are the main advantages for you when providing services through platforms?

3000 character(s) maximum

11 What are the main issues or challenges you are facing when providing services through platforms? Is the platform taking any measures to improve these?

3000 character(s) maximum

12 Do you ever have problems getting paid for your service? Does/do the platform have any measures to support you in such situations?

3000 character(s) maximum

13 Do you consider yourself in a vulnerable or dependent situation in your work (economically or otherwise), and if yes, why?

14 Can you collectively negotiate vis-à-vis the platform(s) your remuneration or other contractual conditions?

- Yes
- No

15 Please explain.

The following questions are targeting online platforms.

Role of platforms

17 What is the role of your platform in the provision of the service and the conclusion of the contract with the customer?

18 What are the risks and responsibilities borne by your platform for the non-performance of the service or unsatisfactory provision of the service?

19 What happens when the service is not paid for by the customer/client?

20 Does your platform own any of the assets used by the individual offering the services?

- Yes
- No

22 Out of the total number of service providers offering services through your platform, what is the percentage of self-employed individuals?

- Over 75%
- Between 50% and 75%
- Between 25% and 50%
- Less than 25%

Rights and obligations

23 What is the contractual relationship between the platform and individuals offering services through it?

3000 character(s) maximum

24 Who sets the price paid by the customer for the service offered?

The platform

- The individual offering services through the platform
- Others, please specify

25 Please explain.

3000 character(s) maximum

26 How is the price paid by the customer shared between the platform and the individual offering the services through the platform?

3000 character(s) maximum

27 On average, how many hours per week do individuals spend offering services through your platform?

3000 character(s) maximum

28 Do you have measures in place to enable individuals providing services through your platform to contact each other and organise themselves collectively?

- Yes
- No

29 Please describe the means through which the individuals who provide services on your platform contact each other.

3000 character(s) maximum

30 What measures do you have in place for ensuring that individuals offering services through your platform work legally - e.g. comply with applicable rules on minimum working age, hold a work permit, where applicable - if any?

(If you replied to this question in your answers in the first module of the consultation, there is no need to repeat your answer here.)

3000 character(s) maximum

The following questions are open to all respondents

Situation of self-employed individuals providing services through platforms

32 Are there areas in the situation of individuals providing services through platforms which would need further improvements? Please rate the following issues from 1 (no improvements needed) to 5 (substantial issues need to be addressed).

	1 (no improvements needed)	2	3	4	5 (substantial improvements needed)	I don't know / No answer
Earnings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Flexibility of choosing when and /or where to provide services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transparency on remuneration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Measures to tackle non-payment of remuneration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transparency in online ratings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring that individuals providing services through platforms can contact each other and organise themselves for collective purposes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tackling the issue of work carried out by individuals lacking legal permits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Prevention of discrimination of individuals providing services through platforms, for instance based on gender, racial or ethnic origin	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Allocation of liability in case of damage	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other, please specify	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

33 Please explain the issues that you encounter or perceive.

3000 character(s) maximum

34 Do you think individuals providing services in the 'offline/traditional' economy face similar issues as individuals offering services through platforms?

Yes

No

I don't know

35 Please explain and provide examples.



3000 character(s) maximum

36 In your view, what are the obstacles for improving the situation of individuals providing services

1. through platforms?
2. in the offline/traditional economy?

3000 character(s) maximum

37 To what extent could the possibility to negotiate collectively help improve the situation of individuals offering services:

through online platforms?	
in the offline/traditional economy?	

38 Which are the areas you would consider most important for you to enable such collective negotiations?

3000 character(s) maximum

39 In this regard, do you see any obstacles to such negotiations?

3000 character(s) maximum

40 Are there other points you would like to raise?

3000 character(s) maximum


VI. What governance for reinforcing the Single Market for digital services?

The EU's Single Market offers a rich potential for digital services to scale up, including for innovative European companies. Today there is a certain degree of legal fragmentation in the Single Market . One of the main objectives for the Digital Services Act will be to improve opportunities for innovation and '[deepen the Single Market for Digital Services](#)'.

This section of the consultation seeks to collect evidence and views on the current state of the single market and steps for further improvements for a competitive and vibrant Single market for digital services. This module also inquires about the relative impact of the COVID-19 crisis on digital services in the Union. It then focuses on the appropriate governance and oversight over digital services across the EU and means to enhance the cooperation across authorities for an effective supervision of services and for the equal protection of all citizens across the single market. It also inquires about specific cooperation arrangements such as in the case of consumer protection authorities across the Single Market, or the regulatory oversight and cooperation mechanisms among media regulators. This section is not intended to focus on the enforcement of EU data protection rules (GDPR).

Main issues

1 How important are - in your daily life or for your professional transactions - digital services such as accessing websites, social networks, downloading apps, reading news online, shopping online, selling products online?

Overall	
Those offered from outside of your Member State of establishment	

The following questions are targeted at digital service providers

3 Approximately, what share of your EU turnover is generated by the provision of your service outside of your main country of establishment in the EU?

- Less than 10%
- Between 10% and 50%
- Over 50%
- I cannot compute this information

4 To what extent are the following obligations a burden for your company in providing its digital services, when expanding to one or more EU Member State(s)? Please rate the following obligations from 1 (not at all burdensome) to 5 (very burdensome).

	1 (not at all burdensome)	2	3 (neutral)	4	5 (very burdensome)	I don't know / No answer
Different processes and obligations imposed by Member States for notifying, detecting and removing illegal content/goods/services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Requirements to have a legal representative or an establishment in more than one Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Different procedures and points of contact for obligations to cooperate with authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other types of legal requirements. Please specify below	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

6 Have your services been subject to enforcement measures by an EU Member State other than your country of establishment?

- Yes
- No
- I don't know

8 Were you requested to comply with any 'prior authorisation' or equivalent requirement for providing your digital service in an EU Member State?

- Yes
- No
- I don't know

10 Are there other issues you would consider necessary to facilitate the provision of cross-border digital services in the European Union?

3000 character(s) maximum

11 What has been the impact of COVID-19 outbreak and crisis management measures on your business' turnover

- Significant reduction of turnover
- Limited reduction of turnover
- No significant change
- Modest increase in turnover
- Significant increase of turnover
- Other

13 Do you consider that deepening of the Single Market for digital services could help the economic recovery of your business?

- Yes
- No
- I don't know

14 Please explain

3000 character(s) maximum

The following questions are targeted at all respondents.

Governance of digital services and aspects of enforcement

The ‘country of origin’ principle is the cornerstone of the Single Market for digital services. It ensures that digital innovators, including start-ups and SMEs, have a single set of rules to follow (that of their home country), rather than 27 different rules.

This is an important precondition for services to be able to scale up quickly and offer their services across borders. In the aftermath of the COVID-19 outbreak and effective recovery strategy, more than ever, a strong Single Market is needed to boost the European economy and to restart economic activity in the EU.

At the same time, enforcement of rules is key; the protection of all EU citizens regardless of their place of residence, will be in the centre of the Digital Services Act.

The current system of cooperation between Member States foresees that the Member State where a provider of a digital service is established has the duty to supervise the services provided and to ensure that all EU citizens are protected. A cooperation mechanism for cross-border cases is established in the E-Commerce Directive.

1 Based on your experience, how would you assess the cooperation in the Single Market between authorities entrusted to supervise digital services?

5000 character(s) maximum

There is a need for an EU supervisory authority, namely DG COMP, to further ensure enforcement and cooperation between national authorities.

2 What governance arrangements would lead to an effective system for supervising and enforcing rules on online platforms in the EU in particular as regards the intermediation of third party goods, services and content (See also Chapter 1 of the consultation)?

Please rate each of the following aspects, on a scale of 1 (not at all important) to 5 (very important).

	1 (not at all important)	2	3 (neutral)	4	5 (very important)	I don't know / No answer
Clearly assigned competent national authorities or bodies as established by Member States for supervising the systems put in place by online platforms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Cooperation mechanism within Member States across different competent authorities responsible for the systematic supervision of online						

platforms and sectorial issues (e.g. consumer protection, market surveillance, data protection, media regulators, anti-discrimination agencies, equality bodies, law enforcement authorities etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cooperation mechanism with swift procedures and assistance across national competent authorities across Member States	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Coordination and technical assistance at EU level	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
An EU-level authority	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Cooperation schemes with third parties such as civil society organisations and academics for specific inquiries and oversight	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other: please specify in the text box below	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3 Please explain

5000 character(s) maximum

4 What information should competent authorities make publicly available about their supervisory and enforcement activity?

3000 character(s) maximum

5 What capabilities – type of internal expertise, resources etc. - are needed within competent authorities, in order to effectively supervise online platforms?

3000 character(s) maximum

6 In your view, is there a need to ensure similar supervision of digital services established outside of the EU that provide their services to EU users?

- Yes, if they intermediate a certain volume of content, goods and services provided in the EU
- Yes, if they have a significant number of users in the EU
- No

- Other
- I don't know

7 Please explain

3000 character(s) maximum

8 How should the supervision of services established outside of the EU be set up in an efficient and coherent manner, in your view?

3000 character(s) maximum

9 In your view, what governance structure could ensure that multiple national authorities, in their respective areas of competence, supervise digital services coherently and consistently across borders?

3000 character(s) maximum

10 As regards specific areas of competence, such as on consumer protection or product safety, please share your experience related to the cross-border cooperation of the competent authorities in the different Member States.

3000 character(s) maximum






11 In the specific field of audiovisual, the Audiovisual Media Services Directive established a regulatory oversight and cooperation mechanism in cross border cases between media regulators, coordinated at EU level within European Regulators' Group for Audiovisual Media Services (ERGA). In your view is this sufficient to ensure that users remain protected against illegal and harmful audiovisual content (for instance if services are offered to users from a different Member State)? Please explain your answer and provide practical examples if you consider the arrangements may not suffice.

3000 character(s) maximum

12 Would the current system need to be strengthened? If yes, which additional tasks be useful to ensure a more effective enforcement of audiovisual content

rules?

Please assess from 1 (least beneficial) – 5 (most beneficial). You can assign the same number to the same actions should you consider them as being equally important.

Coordinating the handling of cross-border cases, including jurisdiction matters	
Agreeing on guidance for consistent implementation of rules under the AVMSD	
Ensuring consistency in cross-border application of the rules on the promotion of European works	
Facilitating coordination in the area of disinformation	
Other areas of cooperation	

13 Other areas of cooperation - (please, indicate which ones)

3000 character(s) maximum

14 Are there other points you would like to raise?

3000 character(s) maximum

Final remarks

If you wish to upload a position paper, article, report, or other evidence and data for the attention of the European Commission, please do so.

1 Upload file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

2 Other final comments

3000 character(s) maximum

You can find EIBF's Book Charter, which highlights our long-term political priorities and the main areas of our policy work: <https://europeanbooksellers.eu/book-charter>.

Although Amazon is not the only tech giant from the United States with an ever increasing power in the digital world, it is the only company worldwide with such an impact on the book sector. From authors to libraries and from publishers to booksellers and readers, Amazon's growing monopoly is affecting the whole book ecosystem, hence our strong emphasis on Amazon's activities in our contribution to the consultation.

We have used some cases and examples from Amazon's activity in the United States as they remain issues and sources of concern, given that they might be replicated in Europe.

As for cases of Amazon's operations in the EU, it has proven to be more difficult to gather comprehensive data on how Amazon operates, given that it does so across several different markets.

On a final note, EIBF supports the contribution of the Federation of European Publishers (FEP) to this consultation.

Useful links

[Digital Services Act package \(https://ec.europa.eu/digital-single-market/en/digital-services-act-package \)](https://ec.europa.eu/digital-single-market/en/digital-services-act-package)

Background Documents

[\(BG\) Речник на термините](#)

[\(CS\) Glosř](#)

[\(DA\) Ordliste](#)

[\(DE\) Glossar](#)

[\(EL\) ά](#)

[\(EN\) Glossary](#)

[\(ES\) Glosario](#)

[\(ET\) Snastik](#)

[\(FI\) Sanasto](#)

[\(FR\) Glossaire](#)

[\(HR\) Pojmovnik](#)

[\(HU\) Glosszrium](#)

[\(IT\) Glossario](#)

[\(LT\) Źodynėlis](#)

[\(LV\) Glosārijs](#)

[\(MT\) Glossarju](#)

[\(NL\) Verklarende woordenlijst](#)

[\(PL\) Słowniczek](#)

[\(PT\) Glossrio](#)

[\(RO\) Glosar](#)

[\(SK\) Slovnk](#)

[\(SL\) Glosar](#)

[\(SV\) Ordlista](#)

Contact

CNECT-consultation-DSA@ec.europa.eu