



**MINISTER FOR INDUSTRY,
BUSINESS AND FINANCIAL
AFFAIRS**

Denmark's response to the Roadmap for the Digital Services Act package – Deepening the Internal Market and clarifying responsibilities for digital services

The Danish Government welcomes the Commission's decision to launch a Digital Services Act and appreciates the opportunity to comment on the Commission's roadmap. We support the Commission's outlined objectives of creating a modern legal framework for digital services, strengthening the Digital Single Market and ensuring that digital service providers act responsibly to mitigate risks deriving from their services, while at the same time safeguard fundamental rights.

The platform economy has been a significant contribution to the Single Market. Digital platforms provide a direct link between European companies and consumers across borders, thus enabling trade and contributing to the growth of European SME's, as well as increase consumer choice and competitive prices. Further, internet intermediaries serve an important role as gateways to information and facilitators of the right to freedom of expression and assembly. The core principles established with the E-Commerce Directive have been instrumental in the development of a strong European platform economy, and accordingly a wide range of business models has emerged since the E-Commerce Directive entered into force. While this development is a success for the Single Market, it has also entailed new challenges, which the E-Commerce Directive does not address. In particular, we find that there is a need to reconsider the scope of online intermediaries' duties and responsibilities with regard to illegal content online. Furthermore, there is a need to explore how to create an effective cross border cooperation and strengthen the enforcement of rules applying for digital platforms.

Harmful content should not be equated with illegal content

The Danish Government recognizes the necessity of addressing the spread of harmful content and disinformation and welcome that the Commission explores the option of addressing this challenge in the Digital Services Act Package. However, we would emphasise that harmful content should never be equated with illegal content, and accordingly an important distinction should be made between the measures taken to address the two challenges. It is important to ensure fundamental rights such as freedom of speech and to ensure that platforms are not incentivised to remove legal content.

Address fragmentation stemming from both national and EU-legislation

We support that the Impact Assessment will analyse the challenge of fragmentation in the Single Market in relation to the introduction of national

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legislation imposing different obligations on digital services and the need for cross-border enforcement. We recommend that the Commission additionally analyse the fragmentation of Union law, where sector-specific legislation over the years have introduced diverging rules for tackling illegal content. Any harmonised and coherent approach would need to address the legal uncertainty and administrative burdens stemming from the fragmentation of both national and Union legislation.

Important to identify ways to improve enforcement

Enforcement of rules on illegal content is essential to protect users and to ensure a level playing field for the businesses complying with the rules. When users experience that their rights have been violated, as for instance when private videos or photos have been shared on a platform without their consent, there should be a clear and effective mechanism to enforce the law. Thus, we encourage the Commission to explore different enforcement options for protecting citizens' and businesses' rights.

It is important to analyse the challenges arising in enforcing the EU consumer protection rules such as misleading marketing or product safety - both regarding platforms established within the EU and platforms from third countries. We urge the Commission to analyse the options for revising and clarifying the exemptions of the principle of origin, with a view to enable national authorities to effectively enforce consumer protection.

Further, the Commission should look into how the rules on commercial communication in article 6 of the E-Commerce Directive could be revised in order to address the challenges arising for especially children and young adults in recognising whether they are exposed to marketing on platforms and especially social media.

Important to assess all possible policy options and measures

With regard to the outlined policy options we would recommend that the Commission does not in advance commit to one set direction for a future legislative proposal but considers and assesses all the possible measures and tools at its disposal. In particular, we would emphasise the importance of ensuring that the different policy measures do not hinder innovation or the application of new technologies or business models. Given that the digital services industry develops rapidly, it is important that the policy measures considered are future-proof and is not limited to regulate or protect technology or business models that might later become obsolete.

Finally, The Danish Government will elaborate more in detail on our position on the coming DSA-package in the public consultation.