

## EUROPEAN CHAMBRES OF COMMERCE CALL POLICY-MAKERS TO SET FAIR AND REALISTIC RULES FOR ENTREPRENEURS

The European Chambers of Commerce and Industry are following with great attention the ongoing debates on the future Digital Services Act which are making good progress in both the European Parliament and the Council of the EU. At this crucial time it is important that the voice of the entrepreneurs who will have to apply the rules of the DSA is weighed in, as it appears that certain aspects of the Regulation brought forward by the European Commission are being put in doubt or are at risk of being watered down.

Based on the latest documents that are circulating in the European Parliament in its various Committees and the Council's Working Party for Competitiveness and Growth, EUROCHAMRBES would like to express its concerns with regard to the following subjects:

### 1. Respect for the Country of Origin principle

Legal certainty and harmonised enforcement are of utmost importance for companies. The country of origin principle as defined in the e-commerce directive needs to be kept intact. We have doubts with regards to the Council Presidency proposals regarding Chapter IV which aim to disproportionately beef up the powers of national authorities in the countries of destination. While closer cooperation among Member States is necessary, the current Council compromise text turns the Country of Origin principle on its head, which will fragment further the Single Market rather than consolidate it, and could be destructive to small businesses. We therefore urgently call to keep articles 44, 45 and other concerned articles in Chapter IV as proposed by the European Commission untouched.

### 2. Fair and balanced liability rules for platforms

The principle of conditional liability exemption is paramount to enable the digital economy to grow in Europe – especially for SMEs. Enabling a general right of recourse against online platforms in a B2C context or when traders are untraceable would create unfair sanctions for platforms, who could be held liable also when they complied with all their obligations under the DSA. Enabling platform liability in cases of non-respect of due-diligence obligations would lead to a double sanction under the DSA, as penalties for a breach of due diligence obligations are already laid out in Chapter IV. The conditions under which platforms can be held liable should be fair and strictly limited to clear cases. In this regard, the original Commission provisions in article 5 are more balanced and preferable.

EUROCHAMBRES considers that strict timeframes for the removal of illegal online-content are not adapted to the great diversity of businesses and contents concerned. In order to avoid considerable sanctions, online-intermediaries would otherwise give priority to a quick removal over a time-consuming careful consideration of the content at stake. As the initial Commission's proposal provides in article 5 (1), a much more flexible approach is required, with the use of a generic term such as "expeditiously" for the removal of illegal content.

### 3. An SME-friendly text

The DSA rules are aiming to fight effectively against illegal content online, a goal which the European Chambers fully support. To achieve this, the DSA however introduces extensive obligations that appear in certain cases disproportional and too burdensome for SMEs. For instance, reporting and

transparency obligations, or internal complaint mechanisms could be simplified for such companies, without jeopardising the objectives of the regulation. Specific exemptions and templates must be introduced to make the DSA a more SME-friendly text.

Also, European Chambers express their concerns with the inflation in obligations that are currently being considered to be introduced. The Commission's idea to promote balanced and proportionate rules should much more be maintained in the final text.

#### **4. Fair rules regarding targeted advertising**

The current discussions regarding a potential ban of targeted advertising seem to disregard that many entrepreneurs have become very dependent on their digital advertisement channels to reach their customer base. This is the new reality of today, which has allowed thousands of online entrepreneurs to target consumers they would otherwise have never found. Some of the proposals on the table would make it extremely burdensome to target consumers effectively. We therefore propose that if consumers prefer not to be targeted that they make their wish expressly known by opting out.

EUROCHAMBRES also stresses that the DSA, which provides for procedures to fight against illegal content, is not an adequate legislation for the definition of what is illegal or not.

#### **5. Trusted flaggers**

Because the so-called trusted flaggers will play an important role in the monitoring of allegedly illegal content they should be subject to a transparent selection process based on strict criteria to carry out this role. The trusted flaggers should be beyond any suspicion of political motives and be financially independent, as reporting of alleged breaches shouldn't turn into a new business model to gain earnings. The rules need to be workable in practice and therefore the acquirement of the status of trusted flagger should only be granted to a limited number of entities.

EUROCHAMBRES represents the interest of the small and medium-sized companies in the EU and hopes that the final outcome of the DSA will be reflective of the needs of these small entrepreneurs that rely on the internet for their business and who might become the next European success story. We have currently too little of those, and only a well-functioning Single Market whose core principles are not unravelled will create the right environment for those to emerge in the future and to safeguard our competitiveness.

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EUROCHAMBRES – The Association of European Chambers of Commerce and Industry represents over 20 million enterprises in Europe – 98% of which are SMEs – through 45 members and a European network of 1700 regional and local Chambers.

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Further information: Mr Erwan Bertrand, Tel. +32 2 282 08 67, [bertrand@eurochambres.eu](mailto:bertrand@eurochambres.eu)  
Press contact: Ms. Karen Albuquerque, Tel. +32 2 282 08 72, [albuquerque@eurochambres.eu](mailto:albuquerque@eurochambres.eu)