



DIGITAL SERVICES ACT

PRIORITIES FOR THE TRILOGUES

The EBU finds that the Digital Services Act (DSA) has the potential to establish a consistent rulebook for global online platforms with strong safeguards for media freedom and pluralism. [EBU research](#) shows that 100% of the 50 public service media organizations surveyed find use of social media platforms either important or very important, highlighting the crucial role that platforms play towards media. As trilogue negotiations have started, the EBU underlines the necessary steps to ensure that the DSA achieves its objective of creating a safer, more transparent and accountable online environment.

1. Make platforms accountable to media freedom and media standards

Allowing global online platforms to moderate editorial content and services based on their unilaterally imposed terms and conditions creates a serious blockage to the editorial reach of public service media. More so, it defies EU and national content standards and undermines EU media rules, which establish legal requirements for the content and services public service media create and disseminate both offline and online.

The EBU therefore welcomes the efforts made by the European Parliament to insert a binding principle in Article 12 paragraph 1 of the DSA proposal to make platforms respect fundamental rights, including media freedom, and rules applicable to the media in the Union. By requiring platforms to adhere to these rights and laws in their terms and conditions, the DSA can stop online platforms from playing the role of quasi-editors and from taking unjustified and arbitrary decisions over already regulated editorial content.

We invite all policymakers to enshrine this general principle in the final DSA text and provide further guidance in the accompanying Recital 38 on how intermediary service providers should implement this legal requirement. We would advocate for specific procedures and direct communication channels to be established allowing media organizations to swiftly react to the arbitrary removal of content.

2. Increase online safety and transparency

If the DSA is to become the next global gold standard for platform regulation, it should set high and wide-ranging transparency standards for the online world.

- **Recommender systems**

Given the critical impact online platforms have on the display of content and services, and thus on user exposure to content, it is essential that they adhere to basic transparency requirements. This is even more necessary where the recommender system pre-selects content upon a user demand (for example, through voice assistants) and answers with a single search result to the user query. We therefore welcome the European Parliament's efforts to enlarge the scope of the transparency obligation for recommender systems to all online platforms (Article 24a).

- **Brand attribution**

To reinforce the DSA's aim to build a transparent and safe online environment, users should be empowered to easily identify the providers of content, goods and services online. Failure by platforms to attribute content to its source or incorrect attribution of logos and branding currently deprives audiences of an essential element to evaluate the information they see and hear. While we welcome the European Parliament's intention to shed more transparency on the identity of traders by inserting a brand attribution rule in Article 22 paragraph 3b new, we regret that this new provision's scope is limited to online marketplaces. Other intermediary service providers, such as social networks and video-sharing platforms, which host audio and audiovisual content should equally be covered, enabling audiences to easily identify the provider with editorial responsibility.

- **'Know your business customer' principle**

To be effective, the principle of identification should not be limited to traders and its application not restricted to online marketplaces. Instead, all businesses on all online platforms should be required to provide information about themselves, allowing citizens to easily identify those providing dubious and illegal goods, content or services. Only a broad obligation for online platforms to verify the identity of their business users will contribute to combatting fraudulent activities online, such as the proliferation of disinformation and the dissemination of illegal content including copyright infringement.

3. Secure sector-specific laws and Member States' prerogative

The DSA sets harmonized and horizontal standards for a wide range of online platforms. This could result in overlaps with certain sector-specific EU and national laws and limit Member States' competence to regulate cultural issues in relation to intermediary service providers.

To safeguard the EU's current achievements in diverse sectors, notably the media sector, and prevent them from being undermined, it is paramount to clarify that the DSA's horizontal rules do not affect sector-specific Union law. Sector-specific law best reflects the dual nature of the media, being cultural as well as economic goods. Similarly, to what was done in the eCommerce Directive¹, it should be specified that the DSA does not affect Member States' competence to regulate issues related to cultural diversity and media pluralism and that Member States are free to adopt such measures, especially given that the DSA is a Regulation.

4. Ensure the effectiveness of the DSA's rules

To ensure that the DSA is effective, it should be clarified that intermediary service providers cannot deviate from its rules by imposing or agreeing different contractual arrangements with business users. Similar to the Portability Regulation² and the Commission's DMA proposal³, the DSA should explicitly prohibit providers in scope to circumvent the coordinated rules through contractual arrangements. Public service media call on all parties to close this possible loophole by introducing clear wording preventing intermediary service providers from circumventing the rules of the DSA through contractual arrangements with their (business) users.

The European Broadcasting Union (EBU) is the world's leading alliance of public service media. The EBU has 115 member organisations in 56 countries who operate nearly 2 000 television, radio and online channels/services, reaching an audience of more than one billion people in 160 languages.

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¹ Article 1 paragraph 6 of [Directive 2000/31/EC on electronic commerce](#) states: "This Directive does not affect measures taken at Community or national level, in the respect of Community law, in order to promote cultural and linguistic diversity and to ensure the defence of pluralism."

² [Regulation \(EU\) 2017/1128 on cross-border portability of online content services in the internal market](#) contains a non-circumvention clause in Article 7 paragraph 1.

³ Article 11 paragraph 1 of the [Proposal for a Regulation on contestable and fair markets in the digital sector \(Digital Markets Act\)](#) prohibits gatekeepers to circumvent the obligations imposed on such actors.