

Report on videoconference with Google, 9 March 2021

Attendees:

- [REDACTED] Google
- [REDACTED] Google
- [REDACTED] Google
- Penelope Papandropoulos (CAB Vestager)
- Werner Stengg (CAB Vestager)
- [REDACTED] (CAB Vestager)
- [REDACTED] (SG)

Google discussed the issues it identifies in the implementation of the Digital Services Act (DSA) and the Digital Markets Act (DMA), as well as the upcoming legislative initiative on Artificial Intelligence (AI).

On the **DSA**, Google mentioned the following issues:

- **Definitions:** Google raised concerns on some definitions and what is the exact scope that is covered by some of the terms. Uncertainty with concepts of “online marketplace” and “cloud services” can be interpreted more or less extensively and affect the scope of the DSA.
- **Appeals:** the arbitration procedures can give rise to inconsistencies between Member States.
- **Lawful vs. harmful content:** the Commission should provide some guarantees to ensure freedom of speech is not left completely in the hands of national governments.

W. Stengg explained that some definition such as “online marketplaces” are aligned with other legislation, in particular in the field of consumer protection. The DSA provides for a gradation in responsibilities depending on the role of the intermediaries and the reach of the content made available on their services. Finally, the Commission does not dictate what platforms should do about content posted on their platforms but imposes more transparency and a procedure guaranteeing safeguards on both sides.

On the **DMA**, Google noted that the fact that there is a presumption that some acts are illegal under Article 6 discourages companies from developing some activities that may be pro-competitive and pro-consumer in certain ways, thereby also defeating the purpose of Article 7.7 of having a constructive discussions with the Commission on possible measures that would remain in line with Article 6.

P. Papandropoulos explained that the DMA is built on the experience gained in antitrust and other procedures over the years. The objective is to have an ex ante clear line on what practices are acceptable or problematic.

On **AI**, Google is confident that the final product follows the same direction that they have engaged in but warns that it should remain proportionate on liability and that concepts such as “immaterial damages” should be clarified for implementation.

W. Stengg recalled that the initiative on liability will come at a later stage and the Commission is currently focusing on high risk applications. Definition of immaterial damage will be clarified.