

From: [REDACTED]
To: [CHIRICO Filomena \(CAB-BRETON\)](#); [SKONIECZNA Agnieszka \(CAB-BRETON\)](#)
Cc: [KOSINSKI Isabelle \(CAB-BRETON\)](#) [REDACTED]
Subject: RE: Meeting request - European Broadcasting union - DSA package
Date: lundi 2 novembre 2020 19:12:18
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[30.10.2020_DRAFT Briefing Paper Respect for editorial freedom and media independence.pdf](#)

Dear Ms Chirico,

Many thanks for agreeing to have an online meeting with myself and colleagues from the European Broadcasting Union next Tuesday on the DSA and DMA proposals. We very much appreciate this.

Ahead of the meeting and in addition to EBU position papers I sent you earlier, I wanted to share with you one additional recent informal draft that focuses one of the EBU key demands which is to ensure that online platforms that actively engage with content shall not interfere with or exercise control over media services that are already subject to specific standards and oversight in Europe. We hope you find it useful for your preparatory work.

Below, you'll find a short summary of the EBU key points on the upcoming Digital Services Act and Digital Markets Act. It reflects the latest discussions we had with the EBU membership.

- *We support the inclusion of a **vigorous new due diligence regime** in the Digital Services Act (DSA) proposal, particularly in relation to online platforms that actively engage with content. We'd applaud the inclusion of clear provisions to commit active online platforms to being responsive towards users' requests, to providing appropriate explanations about the follow-up given to flagged/reported content, to offering transparency on platform users (know your business user principle) and to explaining how their recommendation systems work. Users and audiences need to understand how an algorithm uses their data and impacts what they get to see and hear.*
- *Broadcasters across Europe are confronted with the **taking down of their own content items and services by global online platforms without prior information and based on unilaterally imposed terms and conditions**. To secure trust in media services, it is key to ensure that the DSA package safeguards editorial independence and freedom and includes a **positive obligation for active online platforms to abstain from any interference or control in case services are provided by media service providers that are already subject to specific regulation and oversight**. Attached, you'll find a **draft briefing paper with a model provision showing how such a positive obligation can be included in the DSA proposal**.*
- *We strongly support the Commission's ambition to propose a new EU ex ante regime with strong rules for gatekeeping platforms to address **problems arising from the dependence on these platforms** and to promote fairness, competition, innovation, plurality and choice for European citizens. This includes problems with*

Smart TV operating systems and voice assistants, for example. We'd welcome it if the following key points were addressed in the ongoing reflection on the **Digital Markets Act**.

- The key factor to **establish whether an online platform qualifies as a “gatekeeping” platform** is whether a given platform controls access to a particular user group or market. The notion should cover any platform that is an unavoidable trading partner to reach a particular audience, group or market. It should not be limited to a platform operator that holds a large market share. We believe this assessment should be based on quantitative and qualitative criteria (e.g. control over a specific user base or the extent to which users rely on a platform to have access to specific content/services) that do not apply cumulatively.
- We take note of the ongoing reflection on a list of **prohibited practices**. We believe it is essential to act against unfair practices in the field of **access to data, self-preferencing, transparency requirements regarding ranking and bundling practices**. To be an effective instrument, EU policy-makers should consider complementing the list of prohibited practices with an umbrella provision prohibiting the abuse of economic dependency. Digital markets are moving at a fast pace and we need to provide regulators with the right tools to act quickly and efficiently when and as soon as new harmful practices occur. This approach is aligned with national regimes in various Member states (e.g. France) which **prohibit the abuse of economic dependency** and set out in a non-exhaustive manner practices that are unfair.
- We understand that the Commission currently considers including ‘**prevent unfair bundling and tying practices**’ into a list of prohibited practices. While it is important to prevent gatekeeper platforms from requiring a user to sign up/register with an email service of the platform when using another of its products and from automatically signing a user in to more than one of the gatekeeper’s products without giving users the possibility to opt into such a system, it is equally important that the proposed EU solution also allows for **addressing other unfair bundling practices**. Our member organisations raised the particular instance **where certain platforms bundle subscription-based and free services**. If members do not agree to the distribution of their content through the subscription-based channel, they are not allowed to distribute their content for free. This is a ‘**take-it-or-leave-it offer**’, which requires members to either refrain from reaching the young audiences that such platforms control or acquire the relevant rights in order to be able to distribute their content through the subscription-based channel, which raises questions for universal and publicly funded public service media organisations. Though the Commission’s grey list includes an obligation prohibiting bundling practices, it is currently not clear to us what is the purpose and scope of the grey list – we would normally see this as an important part of the blacklist.

I look forward to our conversation next Tuesday and remain at your disposal in case you have any questions or remarks.

Best regards,

[Redacted]

[Redacted]

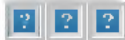
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From [Redacted]

Sent: Wednesday, October 21, 2020 10:55 AM

To: [Redacted] @ec.europa.eu; [Redacted] @ec.europa.eu

Cc: [Redacted] @ec.europa.eu [Redacted]@ebu.ch>

Subject: Meeting request - European Broadcasting Union - DSA package

Dear Ms Chirico,
Dear Ms Skonieczna,

I'm contacting you on behalf of the European Broadcasting Union (EBU), the European alliance of public service media, regarding the upcoming Digital Services Package (DSA) proposals.

Over the past months, we collected a range of examples from our membership – public service media organisations from across Europe - with experiences and issues related to online platforms that deserve to be addressed by the DSA proposals. We submitted an EBU [response](#) to the DSA package consultation and another [one](#) to the EU Democracy Action Plan and recently engaged with the relevant services in DG Connect.

I'd be delighted to have a short informal exchange of views with you to learn about the Commissioner's vision and plans on this and I'd be happy to explain you more about our key asks and concrete examples. Attached, you'll find a short paper providing an overview of the EBU key points for the DSA package.

I understand that these are very busy times for you and I sincerely thank you in advance for your time.

Best wishes,

[Redacted]

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