Online platforms

We need an updated and modern framework for digital services in Europe. The work on an update of the eCommerce Directive is continuing as a matter of priority, to ensure safe and responsible Internet services. Importantly, my services are also examining options for a legal intervention on the economic power of the very largest “structuring” platforms to address competition and innovation concerns.

Sub-topic 1: Economic power of online platforms – competition law and regulation

Defensives

*Will a limited reform of the existing competition rules not fall short of addressing systemic issues, as shown by the limited effectiveness of remedies in cases such as Google Shopping?*

- Competition enforcement will remain vital for effectively functioning digital markets. The Commission has demonstrated in a range of cases in the digital sector over the years that it is able to reach decisions in a timely and effective manner. The remedies in Google Shopping are also increasing in terms of their positive effects.
• Notwithstanding, ex ante regulation of the largest platform ecosystems is indeed likely needed as a complement. The P2B Regulation is a first example of this interplay, and will already provide increased transparency including on the parameters used by news aggregators to rank editorial content. Current concentration levels (70% of platform value held by five companies) could have impacts beyond competition and innovation – structurally skewing the playing field in favour of systemic platform ecosystems and possibly even impacting entrepreneurial dynamism. My services are investigating as a matter of priority whether a regulatory follow-up to the P2B Regulation is therefore needed.

• In designing possible remedies, the single market should however continue to be one of the cornerstones, and it should be prevented that the position of the largest platforms is reinforced. Some of the measures proposed by EMMA-ENPA, such as a blanket access right for publishers, seem to be solution- rather than problem-driven and risk having unforeseen negative effects. In this regard, effective oversight is a first important step to enable tailor-made remedies for specific, systemic issues. Your suggestion for a quantitative threshold to ring-fence the intervention is interesting.

Background
Position of EMMA-ENPA on
Sub-topic 2: Update of the eCommerce Directive

**Main messages**

- Will the new Digital Services Act maintain the country of origin principle of the eCommerce Directive?
  - By subjecting players to only one set of national rules, the country of origin principle of the eCommerce Directive has helped digital businesses operate, scale up, and compete in the European Union. At the same time, the cross border nature of these services brings new challenges to the practical application of the country of origin principle: Member States are increasingly looking into regulating online platforms available in their territories.
  - The Commission has retained the country of origin principle as the cornerstone of many of its initiatives. This is the case, for instance, for the new rules on video-sharing platforms under the revised Audiovisual Media Services Directive (AVMSD).

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Meeting with European press publishers from EMMA-ENPA
Brussels, 24 February 2020

- Our services are carrying out an in-depth assessment of the current state of play in order to ensure that any new regulation based on the country of origin principle remains effective in practice. In particular, the Digital Services Act will aim at providing an appropriate and effective system of cooperation among national regulatory authorities of the relevant Member States when enforcing the rules.

**Will platforms take more responsibility for the content they host? How will this be enforced?**

- Our current thinking is to provide for a harmonised set of rules, codifying notice and action measures, as well as responsibilities for making sure legal content is not removed and redress is available to all users. This will provide legal certainty while incentivising platforms to act against illegal content they might host.

- It is key to strengthen the enforcement mechanism: for this to remain effective, the home state control needs to be reinforced with a smooth cooperation mechanism across national authorities so that all issues are resolved consistently across the single market, in the fastest way possible and with the smallest legal complexity and burden on online services and authorities.

**Background**

**Position of EMMA-ENPA on**

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About EMMA

EMMA is the unique and complete representation of Europe’s magazine media on various platforms, encompassing both paper and digital formats.

EMMA represents a wide spectrum of titles published by the European magazine media sector. They deliver expert-driven policy advice shaped by top experts of the magazine media sector from across Europe. The EMMA Expert Groups as well as the qualitative research conducted by EMMA form the basis of their policy work at EU level.

EMMA helps its members’ businesses succeed through their work identifying opportunities and threats at EU-level and engaging in a constructive dialogue with EU decision-makers. This in turn helps economic growth.

About ENPA

As the main the advocate of European newspaper publishers, ENPA has several objectives:

- to enable European newspaper publishers to speak with one voice towards the European institutions and influence policy in publishers’ common interests;
- to represent and defend the interests of the press as far as any legislative or policy issue might have an influence on the freedom or the economic role of newspapers in Europe;
- to preserve and promote fundamental rights and in particular press freedom as a cornerstone of democracy, as well as commercial freedom as the precondition for economic viability;
- to act as an early warning system for pending legislation or regulation, primarily from the European Union and Council of Europe, for the newspaper publishing industry;
- to provide services to members and their publishers, which are closely aligned to its lobbying mandate such as the transmission of information on the current state of legislative initiatives and its likely impact, and
- to favour pluralism and diversity of media content.

Given the rapidly changing media and business model landscape, ENPA works on behalf of its members and their publishers, who embrace new media opportunities in the ongoing development of successful multimedia businesses, and who hope to receive increasing proportions of their profit from the successful exploitation of their information and data through non-traditional media formats.

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