



December 7th, 2020

Position of the Digital Coalition of Central Eastern Europe and Baltic region countries on the development of Digital Services Act (DSA)

As the Digital Coalition of companies from the countries from Central Eastern Europe and the Baltic region (Bulgaria, the Czech Republic, Hungary, Lithuania, Poland, Romania, Slovakia and Slovenia), represented by the organisations signed below, we would like to present our position on the most recent regulatory options discussed in the context of the upcoming Digital Services Act. As an industry, we strive to strengthen the Digital Single Market in our region and across the European Union and continuously appeal for building a policy environment supporting innovation and digitisation in CEE. Realising that the projected Digital Services Act will directly affect us as an industry, we are obliged to voice our concerns in regard to development of these regulations.

Firstly, the focus of the projected liability framework for intermediaries in terms of transparency should be mostly concerned with illegal content, rather than details regarding advertising or data processing. We would like to remind that increased regulatory oversight over digital platforms, including introduction of new due diligence rules, user redress obligations, transparency obligations or content moderation must be designed in a deeply considerate way, as not to hinder growth of innovative solutions and with respect for their ever-growing diversity in the European Union. We advise the European Commission to design any such obligations and solutions, while keeping in mind a delicate balance between invading trade confidentiality of digital platforms and providing transparency. Liability framework also must provide clear, unambiguous definitions of terms such as “content”, “services” or “products”. While we wholly agree with the pursuit of a truly Single Market and the fight against its fragmentation, as stated in our previous position, we believe

that rights and obligations resulting from the new regulations implemented within the scope of that pursuit should be of a universal nature, uniformly affecting all of the economies across the EU.

Secondly, while we share the aim of ex-ante regulations aiming to provide a fair, level field for competition in the Digital Single Market, we would like to address some of the solutions proposed in regard to the idea of gatekeepers as well as the term itself. Extreme caution must be taken while establishing criteria for defining gatekeepers. The well-established competition policies are better suited than crude regulation.

Moreover, great care must be taken, while developing the regulations to avoid unintended harm to transatlantic trade, resulting in either limited access of European citizens to a wide range of services or inhibited expansion of European digital enterprises. We have highlighted the importance of providing an opportunity for European innovative products and services to enter new markets and dynamically expand in our previous position submitted to the European Commission.

Regulations must also not prevent upcoming SMEs from reaching a position of market leaders. Prevention of *“self-preferencing”* and *“anti-steering practices”* must not lead to limitation of naturally occurring synergism between newly developed services or hinder long-term strategies of introducing new services by a single enterprise. Similar argument must be made for a careful and responsible design of regulations on *“tying and bundling”*.

Thirdly, we would like to voice our concern in regard to blacklisting of practices proposed by the European Commission. Implementing blanket-statement bans on practices such as exclusive use of data or self-preferencing might turn out to be unfit for a greatly diverse environment of digital services. Imposing an obligation to offer choice to users to combine off-site data with on-site data, while possibly generating additional costs for providers of digital services, might also often be technically challenging. Issues of increased regulatory oversight, including a form of extensive auditing of services has already been identified as posing a risk of hindering growth of innovative solutions. Thus, we recommend great caution and restraint while working on blacklisting cases of wide scope.

We want to express our deep concern that novel rules proposed in scope of the liability framework for intermediaries and ex-ante regulations might have an adversarial effect as they could lead to an excessive strain on small and medium enterprises and possibly hinder further growth of some of them. As mentioned previously in our statement, development of the Digital Services Act must progress with respect for the role and capabilities of the sector of SMEs and startups in fueling innovation and any new law must not lead to a burden of costly legal management, especially if the regulations are aimed to level the market for all of its participants regardless of their size.

We call upon the European Commission to accept our invitation to establish a dialogue with the digital and advanced technologies industry, as we declare our willingness and readiness to participate in the upcoming stages of legislative works and offer our substantive support based on our extensive market experience. We believe a productive conversation is required so that we are able to accurately assess the impact of regulations on Central and Eastern European business. As an industry, we hope to meet representatives of the European Commission online in order to present our concerns and comments in detail. We would like to stress that holding a discussion is vital, direly needed and urgent due to a rapid progress of works on the regulations.

Signed by:

- √ APDETIC - Association of Producers and Distributors of IT&C Equipment
- √ ASE - Consumer Electronics Association of the Czech Republic
- √ BAIT - The Bulgarian Association of Information Technologies
- √ Chamber of Commerce and Industry of Slovenia
- √ Digital Poland Association (ZIPSEE)
- √ INFOBALT Lithuania
- √ IVSZ - ICT Association of Hungary
- √ National Digital Alliance (DNA)
- √ SAPIE - Slovak Alliance for Innovation Economy