



EUROPEAN COMMISSION

*Brussels, 19.2.2021
C(2021) 1255 final*

Dear President,

The Commission would like to thank the Bundesrat for its own-initiative Opinion of 27 November 2020 on the Digital Services Act. As you will be well aware, the Commission has since adopted its proposals for the Digital Services Act {COM(2020) 825 final} and the Digital Markets Act {COM(2020) 842 final} on 15 December 2020.

These proposals are part of the European Digital Strategy, a broad package of targeted measures designed to foster technology that works for people, a fair and competitive digital economy, and an open, democratic and sustainable society.

In proposing these measures, the Commission is making good on its promise in the Communication Shaping Europe's Digital Future {COM(2020) 67 final} to propose new and revised rules to deepen the internal market for digital services and ensure that markets remain fair and contestable.

Updating the EU rules for digital services and making them fit for the digital age has become highly important and timely due to the rapid digital transformation of our societies and economies. The Digital Services Act and Digital Markets Act have two main goals: to create a safer digital space in which the fundamental rights of all users of digital services are protected; and to establish a level playing field to foster innovation, growth, and competitiveness, both in the European Single Market and globally.

The Digital Services Act proposes a common set of rules on intermediaries' obligations and accountability across the internal market to open up new opportunities across borders, while ensuring a high level of protection for all users in the EU. The Digital Markets Act aims to ensure that digital markets dominated by very large online platforms that act as "gatekeepers" are fair and contestable for businesses and new market entrants. These ambitious proposals would create a modern legislative framework based on our European values.

The Commission welcomes the Bundesrat's view that action at the EU level is required to tackle the challenges of digital services, in particular online platforms. The Commission

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also welcomes the support expressed by the Bundesrat for the ‘country of origin’ principle and the call for improved cooperation for simple and effective enforcement. The Digital Services Act would strengthen both the internal market principle and the cooperation mechanism between Member States.

The Commission takes good note of the opinion expressed by the Bundesrat as regards the competences of Member States in the field of cultural and media policy, and as regards the freedom of expression and of the press.

The Digital Services Act and the Digital Markets Act are not intended to interfere with Member States’ competences in the field of culture and media. The Digital Services Act will be a horizontal framework complementing sector-specific initiatives, while the Digital Markets Act is a targeted instrument concerned with economic imbalances and unfair business practices by gatekeepers. In this respect, the proposed Regulations do not define illegal or harmful content and are fully complementary to the Audiovisual Media Services Directive.

One of the aims of the Digital Services Act is to protect freedom of expression and the proposal would complement sectoral rules and actions by providing further safeguards, due process and multi-layered dispute resolution to avoid and remedy unwarranted content moderation.

Freedom of press and media pluralism are important political objectives of the Commission. The Digital Services Act and the Digital Markets Act should also be seen together with various targeted actions under the recently adopted European Democracy Action Plan¹ and the Media and Audiovisual Action Plan². For example, the European Democracy Action Plan includes various measures to support media freedom and pluralism, while the Media and Audiovisual Action Plan will support the recovery and transformation of the media sector and ensure the functioning of the European media market.

The Commission consulted a wide range of stakeholders in preparation of this legislative package, including Member States and national authorities, and took into account the approximately 3.000 submissions to the Open Public Consultation³ as well as all the position papers received from stakeholders.

The Bundesrat’s Opinion has been made available to the relevant Commission’s services and representatives, and will inform the discussions with the European Parliament and the Council.

¹ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2250

² <https://ec.europa.eu/digital-single-market/en/news/europes-media-digital-decade-action-plan-support-recovery-and-transformation>

³ <https://ec.europa.eu/digital-single-market/en/news/summary-report-open-public-consultation-digital-services-act-package>

The Commission hopes that these clarifications address the important issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

Maroš Šefčovič
Vice-President

Thierry Breton
Member of the Commission