

Workshop

“MEDIA EXEMPTION” IN THE DSA: PROTECTING EDITORIAL INDEPENDENCE OR A LOOPHOLE FOR DISINFORMATION?

Organised by the [European Digital Media Observatory](#) (EDMO) – Policy Research and Analysis, which is coordinated by the [Centre for Media Pluralism and Media Freedom](#) (CMPF).

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22 November 2021, 14:30-16:30 CET (online)

Introduction

The Digital Services Act (DSA) is the key and long-awaited legislative proposal expected to establish a transparency and accountability framework in particular for very large online platforms. Recital 105 indicates that the DSA respects fundamental rights and that it “should be interpreted and applied in accordance with those fundamental rights, including the freedom of expression and information, as well as the freedom and pluralism of the media.”

One of the most contested aspects of the DSA proposal is its notice-and-action mechanism, which empowers platforms to make decisions about the legality of content upon receipt of a substantiated notice of alleged illegality. This discussion is further complicated by the fact that, while the DSA seeks to distinguish between illegal content and content that is harmful, but not illegal and as such should not be subject to removal obligations, different EU member states vary in their definitions of what content is considered illegal, with some criminalizing disinformation in certain conditions.

The amendments to the DSA proposal put forward by the European Parliament’s Committee on Culture and Education (CULT), and Committee on Legal Affairs (JURI) have sparked a lively debate on the need to protect media freedom from platform supervision and the potential consequences of such an exemption, also considering our inability to define “media” in the digital age.

[CULT](#) argues that “commercial online platforms should not be allowed to exercise a supervisory function over legally distributed online content originating from service providers who exercise editorial responsibility and consistently adhere to Union and national law as well as journalistic and editorial principles”. Similarly, [JURI](#) proposes that when “editorial media are published in compliance with applicable Union and national law under the editorial responsibility and control of a press publisher, audiovisual or other media service provider, who can be held liable under the laws of a Member State, the platforms shall be prohibited from removing, disabling access to, suspending or otherwise interfering with such content or services”.

In this workshop we seek to discuss this proposal and different positions towards it: on one side the concern around platforms supervising media or deciding what counts as media considering the power disbalance between platforms and the media; on the other, the recognition of the role that media – intentionally or unintentionally – play in the spread of disinformation and potentially illegal content.

As a result of the workshop, we will prepare an outcome report that summarizes the key points and arguments discussed.

Programme

14:30 - 15:50 CET **Part I: The “media exemption” proposal & different positions towards it**

Moderator:

Maja Cappello | European Audiovisual Observatory and EDMO Advisory Board

Speakers:

Lubos Kuklis | ERGA and EPRA

Wouter Gekiere | European Broadcasting Union

Siada El Ramly | DOT Europe

Renate Schroeder | European Federation of Journalists

Wout van Wijk | News Media Europe

Tommaso Canetta | Pagella Politica

Manfred Protze | German Press Council

15:50 - 16:00 CET Coffee break

16:00 - 16:30 CET **Part II: Risks, opportunities & operationalisation of the “media exemption” in DSA**

Moderator:

Iva Nenadic | European University Institute, EDMO Policy Research and Analysis

Speakers:

Adeline Hulin | UNESCO

Martin Husovec | London School of Economics and Political Science

Beata Klimkiewicz | Jagiellonian University

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