Online platforms and the digital single market

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PURPOSE: to present a targeted approach in order to respond to questions related to online platforms.

BACKGROUND: in its communication setting out a strategy for the digital single market, the Commission committed itself to undertaking a comprehensive assessment of the role of platforms, including in the sharing economy, and of online intermediaries.

Online platforms play a **key role in innovation and growth** in the Digital Single Market. They have revolutionised access to information and have connected buyers and sellers in a better and more efficient way. The growing importance of the digital economy linked with the diversity and fast changing nature of platform ecosystems also raise **new policy and regulatory challenges.**

A number of globally competitive platforms originated in Europe, for example *Skyscanner* and *BlaBlaCar* . However, on the whole, the **EU currently represents only 4% of the total market capitalisation** of the largest online platforms: the vast majority of platforms originate in the US and Asia.

Creating the right framework conditions and the **right environment** is essential to retain, grow and foster the emergence of new online platforms in Europe.

CONTENT: based on the results of a wide-ranging public consultation, the Commission Communication: (i) outlines the **key issues identified** in the assessment of online platforms; (ii) presents the Commission's position on both the **innovation opportunities and the regulatory challenges** presented by online platforms, and sets out its approach to supporting their further development in Europe.

This communication underlines the need to adopt policy and regulatory approaches that respond directly to the challenges, and which are flexible and future-proof. Where appropriate, **self-regulation and co-regulation** can often achieve better outcomes for enabling the development of strong platform ecosystems in Europe and can complement or reinforce the existing legislation that already governs certain activities of online platforms.

As a general rule, when elaborating responses to issues related to online platforms, the Commission will take the following **principles** into account:

1) A level playing field for comparable digital services: many online platforms have challenged conventional business models. Yet these new services are not subject to the same rules as traditional telecommunications services.

As a general principle**, comparable digital services should be subject to the same or similar rules,** duly considering opportunities for reducing the scope and extent of existing regulation. To achieve a level playing field, there may be a need to simplify, modernise and lighten existing regulation, but avoid imposing a disproportionate burden on new as well as traditional business models.

The Commission will apply these principles to the current reviews of the **EU telecoms rules** and as part of the review of the ePrivacy Directive in 2016, for example when it reviews rules relating to confidentiality regarding OTT online communications services.

(2) Responsible behaviour of online platforms: compared with 2010, children aged 11 to 16 are now up to 20% more likely to be exposed to hate messages. Children are also more easily exposed to adult

material online, often with unrestricted access. As of July 2015, more than 400 hours of video content was uploaded to YouTube every minute. Rights holders across several content sectors claimed that their content is used by some online platforms without authorisation.

The dialogue with IT companies towards a code of conduct on illegal hate speech online, the EU Internet Forum on terrorism content and the CEO Coalition to make the internet a better place for children are important examples of multi-stakeholder engagement processes aimed at finding common solutions to voluntarily detect and fight illegal or harmful material online.

The Commission will **maintain the existing intermediary liability regime**. It intends to:

- suggest, in its proposal for an updated Audio-visual Media Services Directive, that video sharing platforms put in place measures to **protect minors** from harmful content and to protect everyone from incitement to hatred;
- achieve, in the next **copyright** package, a fairer allocation of value generated by the online distribution of copyright protected content;
- encourage coordinated **EU-wide self regulatory efforts** by online platforms;
- explore the need **for guidance on the liability of online platforms** when putting in place voluntary, good-faith measures to fight illegal content online;
- review the need for **formal notice-and-action procedures.**

3) Confidence, transparency and fairness: a 2016 Eurobarometer survey on online platforms showed that 72% of responding consumers were concerned about the data collected about them or their activities. Over 75% of respondents among the general public consider that more transparency is needed, in particular on how platform remuneration influences the listing of search engine results, on identification of the actual supplier of services or products, and on possible misleading practices including fake reviews.

Commission action will focus on:

- a legislative proposal revising the Regulation on Consumer Protection Cooperation, to facilitate more efficient enforcement of EU consumer law in cross-border situations;
- the review of the guidance on the Unfair Commercial Practices Directive, an update of existing consumer protection rules in relation to platforms, and monitoring the implementation of the principles for comparison tools ;
- encouraging online platforms to recognise other **electronic identification (eID)** means that offer the same reassurance as their own.

4) Safeguarding a fair and innovation-friendly business environment: the Commission will carry out a **targeted fact-finding exercise on B2B practices** in the online platforms environment, e.g. (voluntary) dispute resolution mechanisms, transparency and better information measures or guidance. In particular, the Commission will engage closely with stakeholders and public authorities. By spring 2017, the Commission will determine whether additional EU action is needed.

5) Keeping markets open and non-discriminatory to foster a data-driven economy: as part of the **'free flow of data' initiative** scheduled for the end of 2016, the Commission will consider options for effective approaches, including technical standards, to facilitate switching and portability of data among different online platform and **cloud computing services,** both for business and private users.

The Commission considers it important to ensure that future developments of digital technologies remain open.