Digital Services Act and fundamental rights issues posed

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The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report by (Kris PEETERS, EPP, BE) on the Digital Services Act and fundamental rights issues posed.

Members stressed that fundamental rights, such as the protection of privacy and personal data, the principle of non-discrimination, as well as freedom of expression and information, need

to be ingrained at the core of a successful and durable EU policy on digital services. The types of digital services and the roles of digital service providers have drastically changed since the adoption of the e-Commerce Directive 20 years ago.

Data protection rules applicable to all providers offering digital services in the EU's territory, on the other hand, were recently updated and harmonised across the EU with the General Data Protection Regulation.

Tailored approach

In this regard, Members urged the Commission to adopt a tailored regulatory approach in order to address the differences that still persist between online and offline worlds and the challenges raised by the diversity of actors and services offered online. The considered it essential to apply different regulatory approaches to illegal and legal content. Illegal content online and cyber-enabled crimes should be tackled with the same rigour and on the basis of the same legal principles as illegal content and criminal behaviour offline, and with the same guarantees for citizens.

Illegal content

The report deemed it necessary that illegal content be removed swiftly and consistently in order to address crimes and fundamental rights violations. Illegal content online should not only be removed by online platforms, but should also be followed up by law enforcement and the judiciary where criminal acts are concerned.

Special attention should be paid to harmful content in the context of minors using the internet, especially as regards to their exposure to cyberbullying, sexual harassment, pornography, violence and self-harm.

Members called on the Commission to consider obliging online platforms to report serious crime to the competent authority when they have received knowledge of such a crime.

Improved cooperation

Given the borderless nature of the internet and the fast dissemination of illegal content online, Members considered that cooperation between service providers and national competent authorities, as well as cross-border cooperation between national competent authorities, should be improved and based on the principles of necessity and proportionality.

Member States are called on to equip their law enforcement and judicial authorities with the necessary expertise, resources and tools to allow them to effectively and efficiently deal with the increasing number of cases involving illegal content online and with dispute resolution concerning the taking offline of content, and to improve access to justice in the area of digital services.

The report highlighted the fact that a specific piece of content may be deemed illegal in one Member State but is covered by the right to freedom of expression in another. Members suggested that the current EU legal framework governing digital services should be updated with a view to addressing the challenges posed by the fragmentation between the Member States and new technologies, as well as ensuring legal clarity and respect for fundamental rights, in particular the freedom of expression.

Harmonisation on liability

Members deemed it indispensable to have the full harmonisation and clarification of rules on liability at EU level to guarantee the respect of fundamental rights and the freedoms of users across the EU. Legislative proposals should be proposed that keep the digital single market open and competitive by providing harmonised requirements for digital service providers to apply effective, coherent, transparent and fair procedures and procedural safeguards to address illegal content in line with national and European law, including via a harmonised notice-and-action procedure.

In order to guarantee proper enforcement of the Digital Services Act, the oversight of compliance with procedures, procedural safeguards and transparency obligations laid down in this act should be harmonised within the digital single market. A strong and rigorous enforcement by an independent EU oversight structure is supported.