

Regulation on a Single Market for Digital Services (Digital Services Act)

I. Executive Summary

The European Data and Marketing industry plays a crucial role in helping marketers to effectively communicate reliable information and services to individuals. Reaching the right audience is particularly important for European small on medium sized enterprises which are trying to survive in a highly competitive environment. Data marketing contributes to a vibrant European business community, by giving them the opportunity to communicate to consumer alternative offers to well established brands and large commonly known online platform.

As the leading voice for the data and marketing industry in Europe, FEDMA welcomes the European Commission's proposal for a Digital Services Act (DSA) and fully supports the objective to set a "modern rulebook across the Single Market" to protect citizens and fundamental rights online as well as foster innovation, growth, and competitiveness in the EU. We encourage constant dialogue with civil society to achieve a harmonized and balanced legal framework.

FEDMA defends a thriving environment for marketers powered by user's trust.

The framework established by the DSA should provide **legal certainty for online services**, thus enabling the industry to easily take on the new responsibilities. FEDMA also believes that the DSA should keep an approach which ensures **coherence with other legal frameworks**, keeping the existing body of EU law in mind and avoiding contradictions with other legislative initiatives currently in the pipeline. In addition, policymakers should **avoid general bans on existing technologies**, but rather ensure their application in full respect of the GDPR. Finally, FEDMA stresses the need to ensure **timely and effective enforcement** of the DSA based also on the experience accumulated under the General Data Protection Regulation (GDPR).

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RECOMMENDATIONS

A. Scope and notice & actions duties

FEDMA welcomes the progressive distribution of responsibilities across distinct categories of intermediary services. It is therefore paramount to provide the necessary legal certainty allowing all information providers, especially SMEs, to identify in advance their respective category and weigh in their respective obligations." However, further clarity is needed to avoid legal uncertainty and any potential "knock-on" effect on EU SMEs potentially falling in the wrong category of intermediary services. Such clarity is also paramount to ensure consistency with other legislations.

Clarify the definition of "active recipient of a service" (Art.25.1):

First, drawing lessons from the proposed Regulation for a Digital Markets Act (DMA), the term "recipient" should be replaced by the two distinct terms "business users" and "end users" in order to enhance clarity and consistency between the two legislations. Second, though Art.25.3 indicates that the *Commission shall adopt delegated acts [...] to lay down a specific methodology for calculating the number of average monthly active recipients of the service in the Union*, the current lack of a clear definition of "active recipient of a service" at this stage of the decision-making process risks creating legal uncertainty for online platforms that might fall within the category of "Very Large Online Platforms" (VLOPs), depending on the methodology. Considering that also the DMA refers to "active end users" and "active business users", we suggest providing a common workable definition of these terms or add a number of indicators in the annex to the future regulation.

Address only hosting services where illegal content can be disseminated to the public (Art.2(f)3)

To be consistent with the objective of the proposed legislation, we suggest clarifying that the DSA applies only to online hosting services which host and disseminate to the public online content, products, and services provided by recipients of the service at their request. We believe this will be more in line with the objective of the DSA to tackle illegal content online and its negative impact on citizens and customers, thus excluding purely B2B services (e.g. advertising servers) where the content is only accessible to the two parties or only the business users or services where hosting is a purely ancillary feature related to the provisions of the main service, e.g. logistics' service providers who - as part of their logistics' services - store information, provided by the recipient of the service, related to the shipment for tracking and tracing purposes or other customer related information.

Include search engines in the scope of the regulation

We believe that the definition of recommender systems in Art.2(o) should clarify whether such recommender systems are also referred to the ones featured within search engines. A more explicit inclusion of search engines in the scope would ensure that the new transparency requirements for recommender systems, and the broader provisions addressing VLOPs, are also consistently applied to search engines.

Provide further clarifications for the definition of online platforms:

Art.2(h) provides an extensive definition of online platforms. Though we understand the Commission's intention to set horizontal rules for broad categories of intermediary services, we believe it will strengthen legal certainty to provide more specific definitions for certain intermediary services based on their active or passive nature as to avoid confusion between different categories, for instance a platform that provides cloud services being seen as a marketplace.

Clarify intermediary services' notice & action duties

FEDMA welcomes the proposed provisions aiming to set clear and common rules on Notice & Action mechanisms which are currently fragmented across the EU. In this context, we call on policymakers to ensure that the new obligations are sufficiently clear and proportionate. For example, we believe that such obligations for hosting services should not go beyond the information requirements set in Article 14: this will avoid situations where hosting services are caught between the individuals/entity notifying the illegal content and the recipient of this notification. In parallel, though we welcome the provisions under Art.21 that clarifies online platforms' duties in respect to national law enforcement or judicial authorities, we stress the need for further clarifications on the definition of "safety of persons" which can be very broad, thus creating legal uncertainty.

B. Alignment with the GDPR and forthcoming Digital Markets Act

There is already an existing body of legislation covering online services at national and EU-level, so it will be crucial that the DSA works coherently with all the rules already in place with special regard to the General Data Protection Regulation (GDPR) and the recently adopted "New Deal for Consumers". In parallel, the DSA will also need to consider the policy objectives set for other legislative proposals currently in the "EU pipeline", notably the initiative on political advertising under the European Democracy Action Plan and the proposal for a Digital Markets Act (DMA).

Avoid overriding interpretations of the GDPR's legal bases for personal data processing (Recital 52)

FEDMA considers paramount to ensure consistency with the GDPR which is one of the main regulations of the entire value chain of the direct-marketing sector. That's why, FEDMA is concerned about the wording of Recital 52 which despite stressing that the DSA is "*without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679*", it seems to offer a unique interpretation of the GDPR by highlighting "*the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising*". Though consent remains one of the legal grounds used to process users' data in the context of targeting advertising, the GDPR does not provide Specific or hierarchical lawful bases for such processing. Conversely, the GDPR supports a flexible risk-based approach which aligns the level of safeguards and obligation to the level of risks inherent to the processing. FEDMA thus calls on the Commission to rectify Recital 52 to better align it with the GDPR.

Ensure competition-neutral mitigation measures (Art.27)

FEDMA voices concerns about the risk of certain mitigation measures overlooking potential trade-offs between different values which, while potentially tackling the identified systemic risk, could negatively affect VLOPs' business users. This could be exemplified by Google's phase out of third-party cookies: a response to privacy concerns which is expected to increase marketers' dependence on Google's walled garden platform, likely resulting in a decrease of market contestability¹. In this regard, Recital 58 underlines that mitigation measures "should be proportionate

¹ We already see gatekeeping platforms using privacy and data protection rules to justify restriction of access to other players. In July 2020, FEDMA, together with other trade associations, [alerted on the upcoming changes that Apple has announced for the Apple Identifier for Advertiser \(IDFA\)](#) and the substantial impact such changes would have on the entire mobile app industry, and on advertising revenue for online publisher. Similarly, the announce by Google in January 2020 with respect to their browser Chrome's handling of third-party cookie will have significant impact on an entire industry. These moves by gatekeeper platforms restrict the ability for players in the online advertising ecosystem to directly access users on their devices and request granular consent while providing users with transparency. Such platform de facto imposes their definition of

in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service", but it only refers to the "potential negative effects on the fundamental rights of the recipients of the service". In parallel, Recital 59 leaves up to the VLOPs the possibility to involve other interested parties when conducting their impact assessments and adopting mitigation measures. Therefore, in order to ensure synergies with current proposal for a Digital Markets Act, FEDMA calls on policymakers to:

- require VLOPs to take also into account competition criteria and Platform-to-Business relationships when designing mitigation measures.
- Clarify the conditions for the involvement of other interested parties in the VLOPs' impact assessments and mitigation measures.

C. Transparency requirements for online advertising

FEDMA supports the Commission's approach towards online advertising through a technology neutral legislation, including targeting advertising. Recital 4 confirms indeed the technology neutral character of the proposed DSA in light of the broader objective to stimulate innovation through legal certainty, harmonized rules and proportionate obligations rather than through one-size-fits-all models labelling specific technologies as "inadequate". Transparency is essential in building trust in the advertising industry, and in the data economy in general. The [2018 GDMA Global data privacy report](#) showed that 88% of consumers cite transparency as the key to trusting organisations. In this context, FEDMA wishes to leverage the "AdChoices Icon"

Ensure policy coherence with existing legislation and self-regulatory initiatives for commercial advertising (Art.24 & Art.30)

- Though in line with the aspiring horizontal nature of the draft DSA, the lack of a clear distinction between commercial and political advertising in the definition of "advertisement" in Art.2(n) results in a 'one-size fits all approach' for two forms of advertising which should be treated differently. Firstly, FEDMA believes that this is reflected in some transparency obligations on online advertising which are more associated to political advertising. For instance, while the requirement of Article 24(1)b to clarify on whose behalf the advertisement is displayed is fundamental for political advertising as the nature of the ad might not be clear, applying such requirement on commercial advertising seems questionable as a commercial advertiser aims to market his own products or services, thus including this information in the ad itself.
- Secondly, the lack of a distinction between commercial and political advertising seems to ignore that commercial advertising is already subject, as also underlined in the DSA Impact Assessment, to several existing rules, such as the Unfair Commercial Practices Directive (UCPD), the GDPR, the Audiovisual Media Services Directive (AVMSD) as well as a comprehensive self-regulatory legal framework under which self-regulatory bodies have devoted time and resources to develop codes of conduct related to advertising. By contrast, subject to regulatory fragmentation across the EU, political advertising is expected to be regulated under the European Democracy Action Plan.
- In light of this "legislative asymmetry" between commercial and political advertising and the different associated risks, FEDMA calls for
 - (i) providing a clear distinction between these two concepts, in line with existing definitions of commercial advertising in the UCPD and AVMSD.

privacy, and their interpretation of the GDPR to an entire ecosystem, limiting the ability for publisher to derive revenue from online advertising, and limit the ability for user to make meaningful choice with regard to the services they which to access, and their privacy.

- (ii) ensuring the DSA advertising requirements are coherent with the existing framework, without overriding sector-specific legislation and the work of national advertising self-regulatory organisations (SROs) across the EU.

Clarify advertising transparency requirements for online platforms (Art.24)

Article 24 aims to reinforce the transparency requirements for digital advertising under the current E-Commerce Directive (ECD) though the provision of relevant information in relation to the specific advertisement shown to the individual user at the time when the advertisement is displayed. However, FEDMA is concerned about the unclear wording of the transparency requirement in Art.24(c), i.e. "meaningful information" and "main parameters". This wording creates legal and technical uncertainty on the extent of information to provide in order to comply with the requirement, thus potentially leading to an uneven implementation across online platforms and different levels of transparency provided to the users. Accordingly, FEDMA urges policymakers to provide further clarity on this requirement also based on existing industry's initiatives, including the AdChoices Icon.

Set the right balance for transparency while protecting personal data and commercially sensitive information (Art.30)

Art.30.1 clearly states that the VLOPs' repositories shall "not contain any personal data of the recipient of the service" while Art.30.2(d) requires VLOPs to include in these "publicly available" repositories information on the parameters used to target "one or more particular groups of recipients". However, as these parameters unveil specific characteristics of one or more users (e.g. gender, location, interests etc.), they constitute personal data according to Art.4(1) of the GDPR. The public nature of these repositories also risks exposing commercially sensitive information through the analysis of the data VLOPs will be required to provide. This includes, for example, the advertisers and marketers relying on a specific VLOP (Art.30(2)b) as well as the inferred amount of marketing money spent for each advertisement (Art.30(2)e). Though FEDMA believes in the benefits of increasing transparency in the advertising ecosystem, the future regulation should strike the right balance between (i) increasing transparency, (ii) strengthening users' control over their data and (iii) protecting commercially sensitive information.

Ensure a fair environment for all actors in the advertising supply chain

Art.34 points out that the development of advertising-related Codes of Conduct should occur "in full respect for the rights and interests of all parties involved, and a competitive, transparent and fair environment in online advertising". FEDMA supports the Commission's approach to ensure a fair online environment for all actors in the advertising ecosystem. We therefore believe that this point should also be emphasised in regard to the transparency requirements in Art.24 and Art.30. Taking into account that the provision of specific information relating to each advertisement will likely require the involvement of other parties in the advertising supply (e.g. marketers, adtech companies), it is paramount to ensure that online platforms and VLOPs do not pass on them all costs of compliance or technical requirements.

Focus on abusive data practices while avoiding knock-on effects on SMEs relying on online advertising

- FEDMA is concerned about some policymakers' proposals to ban or impose unnecessary restrictions to targeting advertising. We strongly believe that policymakers should make a clear distinction between the technology itself and the data practices of certain players in monopolistic

situation. As also underlined by the Observatory of the Online Platform Economy², the lack of transparency and accountability in the online advertising ecosystem is associated to issues of dominance which adversely affect both users and businesses. We therefore believe that the proposed transparency requirements for online advertising should go hand in hand with the forthcoming Digital Markets Act (DMA) in order to tackle many of the issues around consumer harms related to online advertising, especially targeting advertising.

- Thousands of local and regional SMEs rely on targeting advertising to reach customers and prospects with relevant offers, raise brand awareness and scale at a global level. Taking into account the economy's increasing shift to the digital level, especially in a post-COVID era, it is even more fundamental for these smaller players, which are facing significant economic hurdles (in contrast to the gatekeeper platforms³), to exceed their physical boundaries and proactively connect with potential customers in a digital environment. During the coronavirus pandemic, SMEs increased their use of targeted advertising on social media across sectors like telecoms and tech (34%), as well as less digitally focused SMEs like agriculture (30%) and manufacturers and sellers of intermediate products (more than 25%)⁴.
- In this context, banning targeting advertising would negatively affect the competitiveness of SMEs and start-ups vis-à-vis large platforms with their strong network effects and systemic data practices which can be addressed under the existing EU legal framework for data protection and privacy. Furthermore, as this framework already provides users with the possibility to express their preferences regarding personalized services, the proposal to set an opt-in system for targeting advertising at the platform level not only overlaps with the existing framework, but it would also reinforce the gatekeeper role of web browsers whose settings determine access to individual websites⁵. We therefore believe that the future regulation should strike the right balance between the protection of the rights of individual and the rights of businesses to promote their operations through advertising.

Incentivize the GDPR's risk-based approach to further trust in the online advertising ecosystem

- As targeting advertising is based on users' personal data, the processing of information from end-user is without doubt subject to the GDPR's principles set out in Art.5 which are binding on all processing of personal data. FEDMA believes that a general ban on targeting advertising creates a one-size-fits-all solution which overlooks the GDPR's risk-based approach, thus undermining EU's efforts to uptake the data economy and ensuring fair and open digital markets. The concept of pseudonymization developed in the GDPR reflects such approach. While the GDPR clarifies that pseudonymized data is personal data, it also recognizes that data which have been pseudonymized present less risk to the data subject (GDPR recital 28).
- As an example, the concept of pseudonymization can apply to cookies/online identifiers, used for targeting advertising activities: when personal information about an individual is pseudonymized, advertisers could serve online advertisement on the basis of general characteristics (e.g. preference for food and wine) without having access to specific personal information about them. Differential privacy is another example of a risk-based technique

² Observatory on the Online Platform Economy, [Market power and transparency in open display advertising – a case study](#), March 2021

³ [Big Tech Companies Reap Gains as Covid-19 Fuels Shift in Demand](#), WST, October 2020

⁴ [Digital Tools in Crisis and Recovery, Small and Medium Business Report](#), Deloitte LLP, October 2020, p13.

⁵ The proposal to require providers of intermediary services to obtain consent from the recipients of their service, in order to provide them with targeted advertising seems to mirror the provision under Article 10 of the proposed ePrivacy Regulation which would impose an obligation on providers of software permitting electronic communications to ask end-users for consent to allow third parties to store and process information from their terminal equipment. In doing so, both proposals would further strengthen the gatekeeper position of web browsers by allowing their software settings to override user consent for specific websites.

increasingly used by companies which allows them to process users' data to improve their products and services without hindering users' privacy by means of algorithmically injecting "noise and inaccuracies" into data, thus preventing re-identification and ID linkage.

- The GDPR's risk-based approach therefore enables marketers to take into consideration all the relevant factors that impact personal data processing (e.g. whether in a B2B or B2C environment) and to apply the necessary safeguards in order to protect individuals, while furthering innovation and the technology neutral aspects of the instrument. As such, FEDMA believes that the DSA's transparency requirements coupled with a better application and enforcement of the GDPR risk-based approach can significantly contribute to address the shortcomings of the targeting advertising ecosystem.

D. Advertising self-regulation & Codes of Conduct

Promote existing self-regulatory solutions for online advertising transparency

FEDMA stresses that the current system of targeting ads is already evolving, spearheaded by a number of industry's initiatives which aim to increase transparency. The current approach is to empower consumers "by giving them transparency, such as via the "AdChoices Icon". The AdChoices Icon is the result of a pan-European self-regulatory program launched in 2012, the [European Interactive Digital Advertising Alliance](#) (EDAA) of which FEDMA is a founder. On the right corner of many advertisements, the AdChoices Icon aims to guide end-users to real time information about which company delivered a specific ad and based on what information, including (i) the Third Party's identity and contact details, (ii) the types of data collected and used for the purpose of providing interest-based advertising, including an indication of whether any data is 'personal data' or 'sensitive personal data', (iii) the purpose(s) for which interest-based advertising data is processed and the recipients or categories of recipient to whom such data may be disclosed as well as (iv) a clear link to the consumer choice platform at [YourOnlineChoices.eu](#). The latter represents a pan-European portal which provides further information about digital data-driven advertising, a preference management tool to turn on/off interest-based ads in one-click. The website also encourages consumers to address any queries or complaints independently to the well-established network of national advertising self-regulatory organizations under the umbrella of [EASA – the European Advertising Standards Alliance](#). In the process of integrating new functionalities, FEDMA thus believes that the AdChoices Icon can significantly contribute to set the right balance between innovation and consumer's empowerment.

Ensure coherence with existing national codes of conduct for commercial (online) advertising (Art.36)

FEDMA welcomes that Article 36 of the proposal recognises the value of codes of conduct to further harmonisation at the EU level and responsible behaviour in the online advertising ecosystem. However, commercial online advertising is already subject to self- and co-regulatory best practices developed by both governments and industry organisations such as the European Advertising Standards Alliance (EASA) and its network of national self-regulatory bodies. Regularly updated to address emerging trends and risks, national advertising codes are significant contextual instruments reflecting cultural and societal norms. Against this background, FEDMA believes that the DSA should make reference (at least in its Recital) to such codes of conducts while ensuring no overlaps between the proposed code of conduct in Art.36 and existing self- and co-regulatory best practices. We therefore recommend renaming this article from "Codes of conduct for online advertising" to "Codes of conduct for online advertising transparency", since it specifically aims to address issues connected with further transparency of online advertising.

E. DSA interpretation & enforcement

Except for some differences, the proposed governance structure shares many commonalities with the governance mechanisms under the GDPR, including the Data Protection Authorities (DPAs), the European Data Protection Board (EDPB) and to a lesser extent, the Commission⁶. As a member of the Commission's GDPR Multi-stakeholder expert group, FEDMA wishes to leverage its accumulated experience under the GDPR to provide the following recommendations concerning the enforcement and implementation of the future DSA.

Promote a harmonised European interpretation of the DSA

Drawing lessons from the GDPR, the implementation of the DSA should avoid or minimise fragmentation among Member States in application of the law. As also underlined in the Commission's first [report](#) on the evaluation and review of the GDPR, legal fragmentation has come from three main areas: (i) provisions in the GDPR that allow for Member States to legislate or provide their own specifications, (ii) Member States' different approach towards derogations permitted under the GDPR, as well as (iii) significant inconsistencies between guidelines provided by the European Data Protection Board (EDPB) and by the Data Protection Authorities (DPA), often resulting in national legislation going beyond the margins set by the GDPR. From our perspective, legal fragmentation poses unnecessary burden on companies, especially SMEs, and jeopardises the effective functioning of the internal market, thus going against the objective of the proposed DSA to introduce a set of uniform rules at Union level. In this context, FEDMA recommends policymakers to limit, to the extent possible, Member States' discretion and derogations in the application of the proposed DSA as well as to establish a "consistency assessment procedure" within the EBDS for guidance issued nationally by the DSCs in order to ensure that the DSA is always interpreted in a European manner.

Provide adequate enforcement capacity

FEDMA welcomes the proposed provisions for enhanced supervision of VLOPs under Section 3 of the DSA. As highlighted by the implementation of the GDPR, the management of cross-border cases has proved to be challenging due to, amongst others, the lack of sufficient resources allocated to DPAs across the EU as well as the concentration of many cases on a few Member States (i.e. Ireland and Luxembourg) which have found themselves overwhelmed. By contrast, consolidating regulatory powers against VLOPs within the Commission may foster efficiency and speediness in oversight procedures, thus overcoming some of the drawbacks identified under the GDPR's enforcement. In this context, FEDMA calls on policymakers to allocate adequate resources to the Commission enabling it to provide the necessary support to national DSCs and fill in the gaps of their limited national capacities.

Distribute clear roles and responsibilities among different regulatory authorities

FEDMA welcomes the provision under Art.38.2 requiring Member States to clearly define the tasks of other regulatory authorities designated in addition to the DSC. However, we believe that a clear and public allocation of responsibilities should take place also when a Member States appoint a sole DSC to avoid overlaps between questions relating to different, though related, areas, notably consumer law, antitrust, illegal content, and data protection. In order to operate properly, businesses require

⁶ Chapter IV of the proposed DSA lays down the provisions concerning the implementation and enforcement of the Regulation. In doing so, it provides for the setting of a new governance structure comprising newly established regulatory authorities at national level called Digital Services Coordinators (DSC), a new advisory body at the EU level named the European Board for Digital Services (EBDS) and the Commission.

legal stability and certainty supported by a harmonised and coherent legal framework and efficient coordination among different regulatory authorities. As such, FEDMA calls on policymakers to

- clearly define the area(s) of competence of the Digital Services Coordinators in respect to other areas under the responsibilities of existing regulatory authorities, especially Data Protection Authorities.
- set the ground for formal consultation/cooperation procedures among such authorities in order to avoid conflict of interpretation, and in particular to preserve the one stop shop mechanism under the GDPR.

PROPOSED AMENDMENTS

| European Commission's text | FEDMA's proposed amendments |
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| A clear legal framework | |
| <p>Article 2: [...]</p> <p>(b) 'recipient of the service' means any natural or legal person who uses the relevant intermediary service;</p> | <p>Art. 2: [...]</p> <p>(b) 'recipient of the service' means any natural or legal person who uses the relevant intermediary service;</p> <p>(b1) 'End user' means any natural or legal person using the relevant intermediary service;</p> <p>(b2) 'Business user' means any natural or legal person acting in a commercial or professional capacity using the relevant intermediary service;</p> |
| <p>Article 2(f)3</p> <p>– a 'hosting' service that consists of the storage of information provided by, and at the request of, a recipient of the service;</p> | <p>Article 2(f)3</p> <p>a 'hosting' service that consists of the storage of information provided by, and at the request of, a recipient of the service, unless</p> <p>(i) the recipient of the service is a legal person and the information stored by the hosting service provider cannot or is not meant to be disseminated to the public for technical reasons or based on the contractual agreement between the hosting service provider and the recipient of the service;</p> <p>(ii) or that activity is a minor and purely ancillary feature of another service and, for objective and technical reasons cannot be used without that other service, and the integration of the feature into the other service is not a means to circumvent the applicability of this Regulation.</p> |
| <p>Recital 40</p> <p>The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.</p> | <p>Recital 40</p> <p>The obligation to put in place notice and action mechanisms should apply, for instance, to file storage and sharing services, web hosting services, advertising servers and paste bins, in as far as they qualify as providers of hosting services covered by this Regulation.</p> |

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| <p>Recital 52</p> <p>The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising.</p> | <p>Recital 52</p> <p>The requirements of this Regulation on the provision of information relating to advertisement is without prejudice to the application of the relevant provisions of Regulation (EU) 2016/679, in particular those regarding the right to object, automated individual decision-making, including profiling and specifically the need to obtain consent of the data subject prior to the processing of personal data for targeted advertising.</p> |
| <p>Article 30</p> <p>Very large online platforms that display advertising on their online interfaces shall compile and make publicly available through application programming interfaces a repository containing the information referred to in paragraph 2, until one year after the advertisement was displayed for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed.</p> <p>2. The repository shall include at least all of the following information:</p> <ul style="list-style-type: none"> (a) the content of the advertisement; (b) the natural or legal person on whose behalf the advertisement is displayed; (c) the period during which the advertisement was displayed; (d) whether the advertisement was intended to be displayed specifically to one or more particular groups of recipients of the service and if so, the main parameters used for that purpose; (e) the total number of recipients of the service reached and, where applicable, aggregate numbers for the group or groups of recipients to whom the advertisement was targeted specifically. | <p>Article 30</p> <p>Very large online platforms that display advertising on their online interfaces shall compile and make publicly available through application programming interfaces a repository containing the information referred to in paragraph 2, until one year after the advertisement was displayed for the last time on their online interfaces. They shall ensure that the repository does not only contain any pseudonymized or anonymized data of the recipients of the service to whom the advertisement was or could have been displayed.</p> <p>2. The repository shall include at least all of the following information:</p> <ul style="list-style-type: none"> (a) the content of the advertisement; (b) the natural or legal person on whose behalf the advertisement is displayed; (c) the period during which the advertisement was displayed; (d) whether the advertisement was intended to be displayed specifically to one or more particular groups of recipients of the service and if so, the main parameters used for that purpose; (e) the total number of recipients of the service reached and, where applicable, aggregate numbers for the group or groups of recipients to whom the advertisement was targeted specifically. |

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| <p>Article 36(1) Codes of conduct for online advertising</p> <p>The Commission shall encourage and facilitate the drawing up of codes of conduct at Union level between, online platforms and other relevant service providers, such as providers of online advertising intermediary services or organisations representing recipients of the service and civil society organisations or relevant authorities to contribute to further transparency in online advertising beyond the requirements of Articles 24 and 30.</p> | <p>Article 36(1) Codes of conduct for online advertising transparency</p> <p>The Commission shall encourage and facilitate the drawing up of codes of conduct at Union level between, online platforms and other relevant service providers, such as providers of online advertising intermediary services or organisations representing recipients of the service and civil society organisations or relevant authorities to contribute to further transparency in online advertising beyond the requirements of Articles 24 and 30. Codes of conduct for online advertising are without prejudice to existing national self and co-regulatory practices and codes.</p> |
| <p>Coherence with other legislations</p> | |
| <p>Article 26(1)</p> <p>Very large online platforms shall identify, analyse and assess, [...], at least once a year thereafter, any significant systemic risks stemming from the functioning and use made of their services in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks:</p> <p>(a) the dissemination of illegal content through their services;</p> <p>(b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter respectively;</p> <p>[...]</p> | <p>Article 26(1)</p> <p>Very large online platforms shall identify, analyse and assess, [...], at least once a year thereafter, any significant systemic risks stemming from the functioning and use made of their services in the Union. This risk assessment shall be specific to their services and shall include the following systemic risks:</p> <p>(a) the dissemination of illegal content through their services;</p> <p>(b) any negative effects for the exercise of the fundamental rights to respect for private and family life, freedom of expression and information, the prohibition of discrimination and the rights of the child, as enshrined in Articles 7, 11, 21 and 24 of the Charter respectively;</p> <p>[...]</p> |
| <p>Article 26.3:</p> | <p>Article 26.3</p> <p>When conducting risk assessments, very large online platforms shall involve representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations. Their involvement shall be tailored to the specific systemic risks that the very large online platform aim to assess.</p> |

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| <p>Recital 57</p> <p>Three categories of systemic risks should be assessed in-depth. [...] A second category concerns the impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. [...] A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices.</p> | <p>Recital 57</p> <p>Three categories of systemic risks should be assessed in-depth. [...] A second category concerns the impact of the service on the exercise of the fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, the right to private life, the right to non-discrimination and the rights of the child. [...] A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform's service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices.</p> |
| <p>Article 27(1)</p> <p>Very large online platforms shall put in place reasonable, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 26. [...]</p> | <p>Article 27(1)</p> <p>Very large online platforms shall put in place reasonable, proportionate and effective mitigation measures, with the involvement of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations, tailored to the specific systemic risks identified pursuant to Article 26. [...]</p> |
| <p>Recital 58</p> <p>[...]Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service.</p> | <p>Recital 58</p> <p>[...]Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform's economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service, and on market contestability without prejudice to Regulation 2020/0374.</p> |

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| <p style="text-align: center;">Recital 59</p> <p>Very large online platforms should, where appropriate, conduct their risk assessments and design their risk mitigation measures with the involvement of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations.</p> | <p style="text-align: center;">Recital 59</p> <p>Very large online platforms should shall, where appropriate, conduct their risk assessments and design their risk mitigation measures with the tailored involvement of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations.</p> |
| Timely & effective enforcement | |
| <p style="text-align: center;">Article 38.2</p> <p>Where a Member State designates more than one competent authority in addition to the Digital Services Coordinator, it shall ensure that the respective tasks of those authorities and of the Digital Services Coordinator are clearly defined and that they cooperate closely and effectively when performing their tasks. The Member State concerned shall communicate the name of the other competent authorities as well as their respective tasks to the Commission and the Board.</p> | <p style="text-align: center;">Article 38.2</p> <p>Where a Member State designates a Digital Services Coordinator or more than one competent authority in addition to the Digital Services Coordinator, it shall ensure that the respective tasks of those authorities and of the Digital Services Coordinator are clearly defined in respect to other national competent authorities and that they cooperate closely and effectively when performing their tasks. The Member State concerned shall communicate the name of the other competent authorities as well as their respective tasks to the Commission and the Board.</p> |
| <p style="text-align: center;">Article 49</p> <p>Where necessary to meet the objectives set out in Article 47(2), the Board shall in particular:</p> <ul style="list-style-type: none"> (a) support the coordination of joint investigations; (b) support the competent authorities in the analysis of reports and results of audits of very large online platforms to be transmitted pursuant to this Regulation; (c) issue opinions, recommendations or advice to Digital Services Coordinators in accordance with this Regulation; (d) advise the Commission to take the measures referred to in Article 51 and, where requested by the Commission, adopt opinions on draft Commission measures concerning very large online platforms in accordance with this Regulation; (e) support and promote the development and implementation of European standards, guidelines, reports, templates and code of conducts as provided for in this Regulation, as | <p style="text-align: center;">Article 49</p> <p>Where necessary to meet the objectives set out in Article 47(2), the Board shall in particular:</p> <ul style="list-style-type: none"> (a) support the coordination of joint investigations; (b) support the competent authorities in the analysis of reports and results of audits of very large online platforms to be transmitted pursuant to this Regulation; (c) issue opinions, recommendations or advice to Digital Services Coordinators in accordance with this Regulation; (d) assess that the consistency of opinions and guidance issued nationally by Digital Services Coordinators is in accordance with this Regulation; (e) advise the Commission to take the measures referred to in Article 51 and, where requested by the Commission, adopt opinions on draft Commission measures concerning very large online platforms in accordance with this Regulation; |

well as the identification of emerging issues, with regard to matters covered by this Regulation.

(d~~e~~) support and promote the development and implementation of European standards, guidelines, reports, templates and code of conducts as provided for in this Regulation, as well as the identification of emerging issues, with regard to matters covered by this Regulation.