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For immediate release

DSA: Disappointing IMCO vote, but a genuinely safe and trustworthy online environment is still possible

Members of the IMCO committee approved today the committee report on the proposal for a regulation on a Single Market for Digital Services (Digital Services Act - DSA) amending the eCommerce directive from 2000.

Laura Houlgatte, Chair of Creativity Works!, a leading coalition of the cultural and creative sectors in Europe, said: *“The IMCO report is a missed opportunity to translate the declaration “What is illegal offline is also illegal online” into concrete actions. However, we remain hopeful that the plenary vote may rectify the matter by strengthening the due diligence obligations and ensuring all online players act responsibly for the online ecosystem to flourish and benefit everyone – society, consumers and businesses”.*

All eyes are on the plenary vote and we very much hope that the European Parliament will show ambition and address the main shortcomings of the IMCO report.

1. **A broader scope for Know Your Business Customer obligations is essential** to increase transparency and would be tremendously beneficial to EU citizens and consumers. All online intermediaries should also ensure the traceability of their business customers. Such an obligation would deter illegitimate businesses and ensure they no longer enjoy a “licence to operate illegally” online. Know Your Business Customer (KYBC) obligations should not be limited to online marketplaces and should be applicable to all in the interests of a level playing field.
2. **The DSA should not grant new liability privileges.** Enhancing the accountability of search engines can be achieved through the introduction of effective due diligence obligations, not by granting them a broad and unjustified “safe harbour”. Recital 27a suggests the possible qualification of search engines as “caching”. Categorising search

engines as “caching” providers would remove the incentive for search engines to fight against illegal content online.

3. **A notice and stay up would be a step backwards and contradict the ambition of the DSA.** Article 14 (3a) would allow illegal content to stay online for the duration of a “legal assessment”, creating a loophole that could easily be abused for online services not to remove illegal content expeditiously as required by their liability regime. Instead, an expeditious notice and stay down mechanism (i.e., permanent removal) for notified content, with a focus on relevant services should be introduced. This unique legislative opportunity should not be missed.
4. **Trusted flaggers status should be available to all entities with expertise and a track record of accurate notices.** “Trusted flaggers” means the end of bottlenecks for the removal of illegal content, freeing up more time to deal with disputed content. Many right holder organisations and individual companies are currently treated as trusted flaggers, as a result of their expertise and track records of accurate notices. These two qualities should prevail as criteria to award “trusted flagger” status. There is no need for an additional “collective interest” requirement which would restrict individual companies’ access to trusted flaggers status.

Consumers and businesses deserve a safe and trustworthy online environment. Europe can still deliver it.

About Creativity Works!

Like-minded organisations, federations and associations from the European cultural and creative sectors have formed a coalition: *Creativity Works!*. Its objective is to foster an open and informed dialogue with EU policy-makers about the economic and cultural contribution made by creators and the cultural and creative sectors in the digital age. Members are brought together by a sincere belief in creativity, creative content, cultural diversity and freedom of expression.

As a leading European coalition of the cultural and creative sectors, our diverse membership includes broadcasters, writers and screenwriters, book publishers and retailers, cinema operators, sports organisers, picture agencies, music and films/TV producers, publishers and distributors:

Association of Commercial Television and Video on Demand Services in Europe (ACT); Center of the Picture Industry (CEPIC); The European Audiovisual Production Association (CEPI); European and International Booksellers’ Federation (EIBF); European Writers’ Council (EWC); Federation of European Publishers (FEP); International Federation of Film Distributors’ Associations (FIAD) ; International Federation of Film Producers’ Associations (FIAPF); Federation of Screenwriters in Europe (FSE); International Confederation of Music Publishers (ICMP); Independent Music Companies Association (IMPALA); International Video Federation (IVF); International Union of Cinemas (UNIC); La Liga ; La Ligue Française de Football; MEDIAPRO; Motion Picture Association (MPA); The Premier League ; VAUNET Verband Privater Medien e.V.

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