



Transforming the Future, Releasing Digital Innovation!

8th BEREC Stakeholder Forum

Panel discussion on the regulation of digital platforms

LUC HINDRYCKX
DIRECTOR GENERAL
19 October 2020

Together We Fight the Pandemic

People

Family

Enterprise

Digital Services

Network
resilience

Network
redundancy

Service
continuity

Telecom Infrastructure



ASSOCIATION DES OPÉRATEURS
TÉLÉCOMS ALTERNATIFS



Bird & Bird



colt



Specialists in air transport communications and IT solutions



Tehnologije prihodnosti danes.

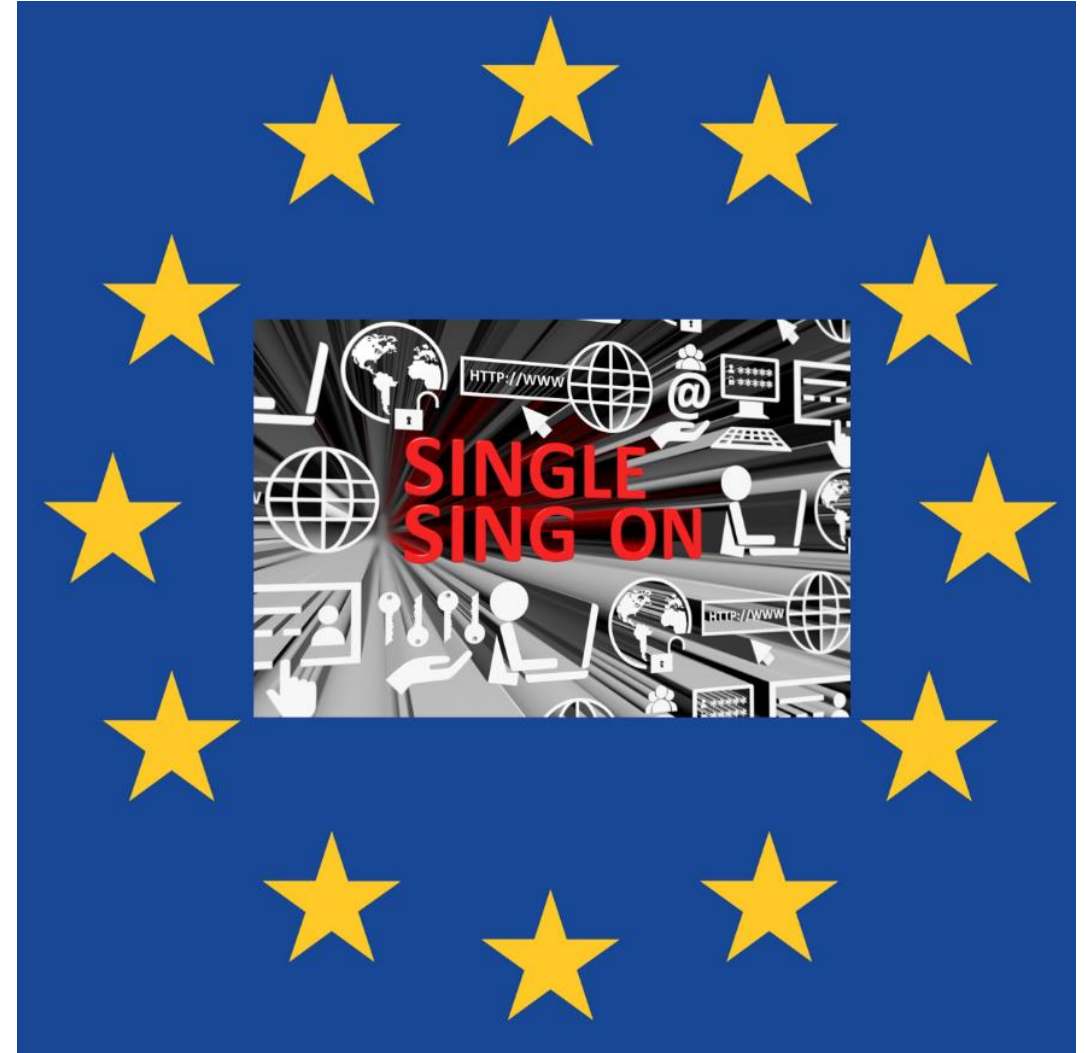


Reforming the e-commerce directive under the DSA

- Liability regulations: Graduated liability rules, as provided for in the e-commerce Directive, must be maintained;
- Future regulations must ensure that they do not create new incentives for market-strong platforms to deliberately choose their headquarters according to the scope and enforcement of the obligations;
- Binding criteria should be defined for the platforms subject to regulation. A clearly defined and pre-established list of obligations and prohibited commercial practices. Platform interoperability and data transferability are fundamental;
- Algorithm transparency for gatekeeper platforms acting as active hosting service provider.

European Single Sign-On (SSO)

- Introduction of a mandatory European Single Sign-On (SSO): The Digital Services Act offers the opportunity to create a European identity system as a uniform counterbalance to the dominant and proprietary US providers of login services.



Ex-ante dedicated rules

- Ex-ante measures on powerful platforms that benefit from significant network effects and act as gatekeepers are welcome
- Ex-ante regulatory framework has proven to be efficient to foster competition and contestability
- The experience with the ex-ante approach and expertise gained with the European SMP framework for electronic communications could serve as a good basis, but some questions remain such as:
 - Market definition and application of the Hypothetical Monopolist Test which examines whether or not a small but significant non-transitory increase in price (SSNIP) by a monopolist would be profitable;
 - Challenge in two-sided transaction platform markets: how much of the price rise is passed through from one side of the platform to the other and what effect would that have on consumer switching?
 - Significant Intermediation Power (SIP)?
- To avoid legal uncertainty, binding criteria should be defined for the platforms subject to regulation.

Specific regulatory authority?

- Maybe but let's first have clarity on new regulatory powers and instruments;
- Regulatory oversight both at EU and national level: An enforcement mechanism should be established at EU level to ensure the necessary coherence and harmonisation in the internal market and to avoid possible inconsistencies in application in the MS and to ensure legal certainty and a level playing field throughout the EU.
- It is necessary to avoid throwing the ball back and forth between EU and the national levels;
- But, let's learn some lesson for the ECS regulatory framework:
 - Improve transparency and organise stakeholders input in current art 7 procedures at EC and Berec level;
 - What if the regulatory authority is not performing as it should? As the list of relevant markets shrinks, the problem is increasing;
 - Where is the accountability?

Specific regulatory authority?

- Maybe but let's first have clarity on new regulatory powers and instruments;
- Regulatory oversight both at EU and national level: An enforcement mechanism should be established at EU level to ensure the necessary coherence and harmonisation in the internal market and to avoid possible inconsistencies in application in the MS and to ensure legal certainty and a level playing field throughout the EU.
- It is necessary to avoid throwing the ball back and forth between EU and the national levels;
- But, let's learn some lesson for the ECS regulatory framework:
 - Improve transparency and organise stakeholders input in current art 7 procedures at EC and Berec level;
 - What if the regulatory authority is not performing as it should? As the list of relevant markets shrinks, the problem is increasing;
 - Where is the accountability?

The accountability of the regulatory authority must be strong and clearly defined.



**Enabling
the
Gigabit Society**



ecta

**european
competitive
telecommunications
association**