

Mr. Roberto Viola
Director-General, DG Connect, European Commission

CC:

Ms. Rita Wezenbeek
Director, Platforms Policy and Enforcement, DG Connect, European Commission

Mr. Prabhat Agarwal
Head of Unit, Digital Services, DG Connect, European Commission

Brussels, 29 April 2024

Re: Small and medium-sized enterprise developer request for European Commission clarifications on trader registrations under the Digital Services Act

We represent a variety of micro, small, and medium-sized enterprises (MSMEs) that compete and innovate in both consumer and business sectors, often using online platforms regulated by the Digital Services Act (DSA).

We support the European Commission's (EC's) goals of helping the European market for intermediary services work better and to make sure online services are safe, reliable, and trustworthy for users. However, MSMEs continue to seek clarity as to the scope of the DSA as it applies to 'traders' and are concerned that, as a side effect of DSA compliance, our businesses will end up being frequently targeted by automated marketing campaigns, scams, and attacks that misuse our private information.

To address these issues as the DSA is implemented, we are asking the Commission to:

- 1. Provide much needed clarification of what 'trader' means under the DSA.** We remain uncertain about how broad the definition of a 'trader' is and what falls outside of its scope. Since Article 30 DSA requires traders to give their contact details to their online platforms, we ask you to clarify that the scope of a trader under the DSA extends only to commercial activities consistent with similar definitions in [Directive 2011/83/EU](#) and [Directive 2005/29/EC](#). We believe that the requirements within Article 30 DSA were not intended to extend in scope to developers who operate as not-for-profits or may choose to develop free offerings for the public benefit.
- 2. Prevent the misuse of trader registration information.** We operate small companies that commonly only communicate with customers electronically, and some of us only have a home address and personal phone number. We are worried that if we use an online platform covered by the DSA, we might have to register and provide these personal details to the public, therefore risking our privacy and safety. We ask the Commission to ensure that the rights guaranteed

by the General Data Protection Regulation (GDPR) are upheld in the implementation of the DSA (as provided in Recital 10 of the DSA). We hope that the Commission will follow a balanced approach in the interpretation and implementation of the DSA, which safeguards small developers, while achieving the intended goals of consumer protection. Specifically, we hope that traders operating on a personal scale are either excluded from the DSA's scope or provided with specific safety requirements and guarantees. This could include a mechanism allowing such traders to declare their use of personal information to the platform, prompting extra steps before granting consumer access, or ensuring the information is shared in a protected manner. Moreover, online platforms could introduce technical barriers to stop automated systems (bots) from systematically collecting and using trader registration information for reasons not related to the DSA's aims, such as by adding a verification step to check the reason for each request to access a trader's information to ensure it matches the DSA's objectives.

- 3. Exempt MSMEs from DSA Article 30 trader obligations.** We appreciate the recognition in Recital 49 of the disproportionate burdens of transparency reporting obligations for MSME platforms and underscore that transparency reporting obligations similarly burden MSME traders on platforms. Consistent with this acknowledgement, we ask that the Commission clarify that the exclusion for MSME online platforms in Article 29 DSA extends to traders within Article 30 DSA.

We respectfully ask the Commission to issue comprehensive guidance or clarifications on these critical issues, as certainty in regulatory compliance is vital for small businesses facing significant compliance costs.

We welcome the opportunity to convene a dialogue between the EC and the developer community to elaborate on our views, share leading use cases prompting our call for clarifications, and explore ways our community can assist in realizing the goals of the DSA.

Sincerely,

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