

## Online platforms: Economic and societal effects

Online platforms such as Google, Amazon, and Facebook play an increasingly central role in the economy and society. They operate as digital intermediaries across interconnected sectors and markets subject to network effects. They have grown to an unprecedented scale, propelled by data-driven business models. Online platforms have a massive impact on individual users and businesses, and are recasting the relationships between customers, advertisers, workers and employers. This has triggered a public debate on online platforms' economic dominance and patterns of pervasive data collection. This briefing summarises a study prepared for the Panel for the Future of Science and Technology (STOA), which provides evidence of the positive impact of online platforms and documents a set of important issues not fully addressed by existing European regulation and enforcement. The general consensus is that there is a need to strengthen the current law enforcement and regulation of the platform economy.

The study welcomes the European Commission's proposals on a digital markets act (DMA) and digital services act (DSA), which aim at ensuring optimum European Union (EU) policy and regulation for people and businesses. It offers policy options for competition and innovation, working conditions and labour markets, consumer and societal risks, and environmental sustainability. These policy options are based on key principles: freedom of competition; fairness of intermediation; the sovereignty of decision-making; access to fair social protection for all workers; access to dignified work and minimum living standards; and support of workers' voices in the organisation of their work. The study differs from the DMA and the DSA proposals in calling for (1) a stronger merger control regime for gatekeeper platforms; (2) an enforceable code of conduct tailored to each gatekeeper platform; (3) greater scope for national authorities to intervene where there are country-specific issues; (4) a new users' right to reasonable inferences, to curtail the generation of 'high-risk inferences', those that are privacy-invasive, reputation-damaging, and have low verifiability.

### Policy options on competition and innovation

#### Establish a new ex-ante pro-competitive regulatory framework with an enforceable code of conduct for gatekeeper platforms

The study broadly supports the proposal of the DMA, the proposed ex-ante regulatory framework that should ensure that online platform ecosystems controlled by large online platforms benefitting from significant network effects remain fair and contestable, particularly in situations where such platforms act as 'gatekeepers'. The proposals seek to prevent harm, rather than rely exclusively on the current enforcement approach (which has so far focused only on punishing harm after the fact). Online platform operators with a high degree of market power should also not be permitted to abuse the power they derive from their monopolistic or dominant position to compete. They should be prevented from using exclusionary practices, foreclosing markets or exploiting customers to a degree they would not achieve under competitive positions. The study recommends that the European Parliament legislate to introduce a new regulatory ex-ante regime for platforms, comprising both pro-competitive interventions and the development of an enforceable code of conduct for gatekeeper platforms. However, in contrast with the European Commission's approach, the report proposes that each 'gatekeeper' platform should have its own tailored code of conduct.

#### Ensure freedom of competition

Companies that have acquired privileged access to data obtain a significant competitive advantage. These platforms often become a bottleneck, leading to economic dependency and limited choice for users. This

imbalance of power raises risks of reduced choice and innovation. The study welcomes the proposed DMA measures for ensuring openness, neutrality, interoperability, and on-platform competition. For openness, platforms should not impose undue restrictions on users' ability (individual consumers or businesses) to use other platforms or service providers that compete with the platform. For neutrality, platforms should not mislead users or unduly influence competitive processes or outcomes by self-preferencing their own services or products over competitors' services or products. Regulations should impose interoperability of systems and greater personal data mobility to increase competition and consumer choice, for example, through a common application programming interface (API). Stringent data portability rules should apply to dominant platforms to facilitate consumer switching.

### Strengthen competition rules for merger control for gatekeeper platforms

Regarding merger control, the study finds that the DMA proposal does not go far enough to address merger control for gatekeeper platforms, given that it only asks for merger notification. The study recommends strengthening the current competition framework that assesses mergers. It proposes that the competition authorities should assess whether, on balance, a merger is expected to be beneficial or harmful, accounting for the scale of the impacts and their likelihood. The criteria used to assess impact should go beyond impacts on prices, and instead include aspects such as data monopolies, privacy risks, and impacts on innovation. The study proposes a new set of questions to assess acquisitions that involve a dominant platform or ecosystem.

### Ensure fairness of intermediation

In broad agreement with the DMA and DSA proposals, the study recommends strengthening the rules of fairness vis-à-vis consumers. It suggests rules: Non-discrimination – platforms must not discriminate against individual suppliers or users seeking access to the platform; Fair terms – platforms must trade on fair and reasonable contractual terms, without exploitative pricing or behaviour; Controllability of algorithmic decisions, artificial intelligence (AI), and reviews – platforms must be transparent and fair about the working of their algorithms, and this needs to be controllable. Access to justice – platforms must be answerable to an independent arbitration mechanism. Platforms should bind themselves to an arbitration system for disputes between the platform and individual consumers or business users.

### Ensure sovereignty of user decision-making

Platforms should not design interfaces and services that aim to manipulate users into restricting their choices, mislead them, or elicit addictive behaviour. Users' privacy should also be respected. In line with the proposed DSA, the study recommends that platforms must offer users a real choice on using data, including which data for which application, from which sources, and related to the combination of data. The study recommends to extend the DSA proposals, suggesting that this should also extend to inferred data and that platforms should offer users the right to reasonable inferences, to curtail or eliminate the generation of 'high-risk inferences' that are privacy-invasive, reputation-damaging, and have low verifiability.

### Institutionalise a robust and adaptive set of enforcement mechanisms

To be flexible and robust, appropriate enforcement by the European Commission and the Member States will require an institutional redesign. This should aim to combine the advantages of regulation with the power to hold to account and to enforce, as well as some degree of self-regulation. The study supports suggestions that the European Commission establish: (1) a Platform Compliance Unit in the Commission Directorate-General for Communications Networks, Content and Technology (DG CONNECT) for new and platform-specific regulatory obligations; (2) an Early Alert Unit within Commission Directorate-General for Competition (DG COMP), whose mission would be to investigate cases where the a market is suspected to be tipping; and (3) a Platform Complaint Panel within DG COMP, to act as an arbitration mechanism. The Platform Compliance Unit (PCU) would be competent in the ex-ante regulation of platforms, monitoring platforms and issuing compliance orders. The Early Alert Unit (EAU) would monitor markets where it is likely that a platform may change the market structure in the near future.

There would appear to be an inconsistency between the DMA and the DSA proposals in the role afforded to national regulatory bodies. Member States' involvement in the DMA regime looks set to be significantly less than the one proposed under the DSA, which provides for direct enforcement at the national level. This could become a significant issue, as some Member States, including Germany, have more advanced national regulatory frameworks. These Member States must not be disadvantaged by these potential discrepancies. Greater scope for national authorities should be granted to intervene where there are country-specific issues, while ensuring complementarity between the supranational and national levels.

## Policy options on working conditions and labour market dynamics

### Redefine the category of 'employee'

Platforms have overused non-standard employment relationships (typically, self-employed status) blocking access to social protections that come with full-time indefinite employment. The study recommends a redefinition of the category of worker to encompass the new forms of platform and non-standard work. At a stroke, those currently excluded from standard social protections would be brought back within their ambit. Possible definitions include the concept of a 'personal workrelation', the 'ABC' test used in California (USA), or that of the European United Left/Nordic Green Left Group (GUE/NGL) in the European Parliament.

### Set minimum wages

A minimum wage accompanied by a redefinition of 'employee' would do much to help rectify the issue of worker categorisation, but the nature of platform work – often infrequent, piecemeal, involving high overhead costs, and spread amongst multiple clients – can make setting a minimum wage more challenging. The study recommends a variety of options, depending on the nature of the work – ranging from the prohibition of piecework wages, to allowances that recognise the additional expenses of platform work, payment for time spent being available to work, and the hiring of crowdworkers as more permanent employees. The risk of non-payment is also an important consideration for the latter category. New rules should be placed around the transparency of such decisions, as well as the right of workers to contest non-payments.

### Extend workers' rights over data

Given pervasive workplace surveillance in the platform economy, data rights should be established for (all) workers. A key component of data rights is to make data collection and algorithmic systems accountable – and to ban them where appropriate. In those cases where data on workers is collected, a second step is to make that data transparent and accessible to those workers. Transparency should also be applied to the algorithms and systems that make use of the data. Lastly, workers' ratings should be portable across platforms.

### Support platform cooperatives

The study recommends that governments support the creation and expansion of platform cooperatives. These are platforms that are owned and democratically operated by the workers (and often users and communities) promising better working conditions, more secure employment, and local economic growth. Existing platforms often lead to low-pay low-quality work, little autonomy, extensive surveillance, platform cooperatives could build a more equitable digital world.

## Policy options on consumer and societal risks and environmental sustainability

### Support transitions to greener mobility platforms

In responding to congestion, air pollution, and carbon emissions, the study suggests that governments should support the uptake and transformation of existing vehicle stock into electric vehicles. There needs to be a shift away from vehicles that pollute and occupy urban space. Rectifying this involves investment

in infrastructure for cycling and walking as well as the expansion of public transport, combined with limits on the number of ride-hailing vehicles.

### Maintain Covid-19 support measures for platform workers

In response to the global pandemic, platforms have introduced minimal responses, such as 'contact-free' options to keep workers and consumers safe. More significantly, a number of these companies have begun to offer sick pay – although typically at very low replacement levels and often complicated by bureaucratic obstacles. The study recommends the emergency efforts put in place to support platform workers should continue and that more effort is put into supporting the health and safety of these workers.

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