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DIGITAL SINGLE MARKET: CONSUMER PROTECTION RULES IN THE DIGITAL SERVICES ACT*

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Abstract

The Digital Single Market is a legal framework that aims to create a unified and harmonized digital market within the European Union. It addresses various legal issues, from data privacy and copyright to competition law and consumer rights, to promote digital inclusion and economic growth, while protecting the rights and interests of EU citizens and businesses. Legal instruments and regulation play a key role in shaping the DSM and ensuring its success in the evolving digital landscape.

The Digital Single Market has the potential to create a more integrated and efficient digital environment in the EU, but this requires close collaboration between legal and technical experts. With a balanced and collaborative approach, the digital single market can bring significant benefits for both citizens and the EU's digital economy.

Keywords: *digital single market, european consumaer law, digital services act, digital markets act, generative AI, big platforms, consumers rights.*

INTRODUCTION

I. PRELIMINARY CONSIDERATIONS. REGULATORY FRAMEWORK FOR THE DIGITAL SINGLE MARKET

The European Union (EU) Digital Single Market (DSP) is an ambitious concept and plan for EU-wide digital integration. It has been proposed to tackle digital fragmentation and facilitate the free movement of goods, services and data across Europe. This initiative has significant legal implications, as it must ensure compliance with existing EU legislation, as well as address the technological and ethical challenges associated with a digital single market.

The long-awaited regulatory reform has often been mentioned in the context of moderating content and freedom of expression, market power and

competition. However, it is still important to bear in mind the contractual nature of the relationship between users and platforms and the additional contracts concluded on the platform between users, in particular those between traders and consumers (*C. Cauffman, C. Goanta, A New Order: The Digital Services Act and Consumer Protection, European Journal of Risk Regulation, Cambridge University Press, no 12 (2021), pp. 758–774*). In addition, the monetisation offered by digital platforms has led to new economic dynamics and interests, leaving platforms as intermediaries in the provision of digital content, such as media content, which could have harmful effects on consumers without proper moderation. All of this has led in this new on content monitoring and value to new questions about the adequacy of existing regulation, and it is precisely on these issues that the DSA provides the overall regulatory framework.

The Digital Single Market involves a complex and broad legal framework, as it must address a number of cross-disciplinary issues specific to competition law, consumer rights, intellectual property rights, personal data protection, online censorship and jurisdiction. A crucial aspect is the alignment of the digital market with the General Data Protection Regulation (GDPR), which regulates the processing of personal data in the EU. The implementation of the Digital Single Market must comply with GDPR requirements to ensure data protection and privacy of citizens in the digital space. Moreover, jurisdiction is a major challenge. It must be clear who is responsible for regulating and resolving disputes in the digital environment, as it does not always respect traditional geographical boundaries. This requires a sound legal approach to avoid ambiguities and ensure access to justice for all parties. According to the European Commission, these legislative proposals have two objectives: (1) to promote fundamental rights in the area of digital services; and (2) to promote technological innovation by establishing common rules for digital service providers within the European single market system and beyond[1].

Analysing the Digital Single Market (DSM) from a legal perspective involves examining the legal framework, regulations and principles governing the digital economy and the free movement of digital goods, services and data within the European Union (EU), including:

- **General Data Protection Regulation**[2] (GDPR) - It establishes a unified framework for data protection and privacy across the EU, ensuring that data can move freely within the DSM while protecting individual rights.
- **E-commerce Directive**[3]**:** The e-Commerce Directive provides a legal framework for e-commerce in the EU. It sets out rules on the liability of online

[1] European Commission, "Proposal for a Regulation on a Single Market For Digital Services (Digital Services Act)"
COM(2020) 825 final (European Commission, December 2020), p 2 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020PC0825&from=en
[2] https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32016R0679

service providers, transparency and consumer protection. The Directive aims to promote cross-border e-commerce by harmonising legal requirements across Member States.

- Copyright reform: DSM strategy addresses copyright issues in the digital age through the Digital Single Market Copyright Directive[4]. This Directive aims to balance the rights of content creators and online platforms while promoting cross-border access to copyright-protected content within the EU.
- **Geo-blocking regulation:** To eliminate unjustified geo-blocking practices, the EU has adopted a regulation prohibiting discrimination based on nationality or location of customers in the DSM. This regulation ensures that consumers can access and purchase goods and services from other EU Member States without artificial barriers.
- **Competition law:** DSM promotes healthy competition through the enforcement of EU competition law, in particular antitrust and anti-competitive practices. Authorities, such as the European Commission, monitor market behaviour to ensure a level playing field for businesses operating within DSM.
- **Digital Markets Act**[5] (DMA): The DMA, proposed as part of the DSM initiative, aims to regulate the large online platforms that are considered gatekeepers. It sets rules for these platforms to prevent unfair practices and protect competition, ensuring that digital markets remain open and competitive.
- **Digital Single Markets Act**[6] **-** By setting clear and proportionate rules, the DSA protects consumers and their fundamental rights online, while encouraging innovation, growth and competitiveness and facilitating the expansion of smaller platforms, SMEs and start-ups. The responsibilities of users, platforms and public authorities are rebalanced in line with European values, putting citizens at the centre.
- **Cybersecurity: DSM also addresses cybersecurity concerns as EU implements Network and Information Security Directive**[7] (Directiva NIS). It requires critical infrastructure operators and digital service providers to take appropriate security measures and report security incidents to the relevant authorities.
- **Regulation on cross-border electronic identification and trust services**[8]**:** This regulation facilitates cross-border electronic identification and trust

[3] https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32000L0031
[4] https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=CELEX%3A32019L0790
[5] https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32022R1925
[6] REGULATION (EU) 2022/2065 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 October 2022 on a single market for digital services and amending Directive 2000/31/EC (Digital Services Act)
[7] https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32016L1148
[8] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.257.01.0073.01.ENG

services, supporting secure electronic transactions within the DSM by ensuring trust and security in digital interactions.

- **Consumer rights**[9]**:** Consumer protection is a crucial aspect of the DSM, with legal instruments such as the Consumer Rights Directive providing consumers with clear information, cancellation rights and protection against unfair commercial practices when shopping online.

II. THE PRINCIPLE OF LEGISLATIVE HARMONISATION IN THE FIELD OF CONSUMER PROTECTION. BETWEEN MINIMUM HARMONISATION AND FULL HARMONISATION

In the early days of the single market, the only legal basis for introducing EU consumer protection rules was the internal market provisions of the TFEU. Article 114 TFEU provides for the adoption of "measures for the approximation of the laws, regulations and administrative provisions of the Member States which have as their object the establishment and functioning of the internal market", this article is the basis for most EU consumer protection legislation. Article 114(3) requires these measures to be based on a high level of consumer protection. Article 169 TFEU has a specific provision on consumer protection which states that "In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests." However, when it comes to the legislative means to achieve these aims, it is content to refer to Article 114 TFEU or limit its scope to "measures which support, supplement and monitor the policy pursued by the Member States." Few EU provisions therefore rely on Article 169 TFEU as a legal basis, and it should also be noted that consumer protection also features in Article 38 of the Charter of Fundamental Rights.

Traditionally, EU consumer protection legislation has been based on directives and applies to both cross-border and domestic trade, but recently Regulations are increasingly common and preferred as a legislative tool. In fact, EU law offers little scope for enforcement and ends up becoming the only source of law due to the use of maximum harmonisation. This can be beneficial for consumers as regulations become directly applicable and therefore immediately available for consumers to invoke (*C. Barnard, Peers, European Union Law, 3rd edition, Oxford University Press, 2020, p. 706*). Experience has shown us that consumers find it difficult to benefit from the protection of their rights under directives that are not implemented or not properly enforced because most of their transactions are with private entities rather than state authorities and directives do not have "direct horizontal effect" against private entities (However, in a famous case, German consumers, relying on the principle of liability of Member States for damages for their breach of EU law, obtained compensation from the German state

[9] https://eur-lex.europa.eu/eli/dir/2011/83/oj

for losses caused by the failure to set up a compensation fund for the insolvency of package holidays as required by EU law - Case C-91/92 Paola Faccini Dori v Recreb Srl [1994] ECR 1-3325).

To make a brief inventory of the main consumer rights contained in the Directives, we mention: consumer information rights and the right of withdrawal (cooling-off period) which are regulated in the Consumer Rights Directive[10]; the seller's liability for non-conformity of the object sold, as well as guarantees, are regulated in the Directive on sales of consumer goods [11]; the legality of terms printed in a sales contract falls within the scope of the Unfair Terms Directive [12]; and the e-Commerce Directive [13] provides the legal conditions for the legal framework for online consumer transactions. In addition, the Unfair Commercial Practices Directive protects consumers from rogue traders, including those operating in the e-commerce, digital environment[14].

However, it should be borne in mind that many of these legal instruments were adopted long before the advent of online digital sales. The Unfair Terms Directive, for example, dates back to 1993, when the internet was still a rare phenomenon; and the Unfair Terms Directive dates back to 1993. The Consumer Sales Directive from 1999, when online sales were just starting to emerge. The advent of the Digital Services Act is therefore a turning point in the protection of consumer rights and in the evolution of European consumer law.

The Digital Services Act is the world's most important and ambitious regulation in the field of protecting the digital space against the spread of illegal content and protecting users' fundamental rights. There is no other piece of legislation in the world as ambitious in regulating social networks, online marketplaces, very large online platforms (VLOPs) and very large online search engines (VLOSE). The rules are asymmetrically designed: large-scale intermediary services with significant impact on society (VLOP and VLOSE) are subject to stricter rules. The DSA is structured as follows: Chapter I sets out the scope and defines the key concepts used. Chapter II deals with the liability of intermediary service providers, building on previous standards set by the e-commerce Directive.

[10] Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European (OJ L 304, 22.11.2011, p. 64–88).

[11] Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (OJ L 171, 7.7.1999, p. 12–16).

[12] Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29–34).

[13] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1–16).

[14] Manko R (2015) Contract law and the Digital Single Market: Towards a new EU online consumer sales law? In-Depth Analysis, European Parliamentary Research Service

Chapter III sets out the due diligence obligations for a safe and transparent online environment, distinguishing between intermediary service providers in general, online platforms and very large online platforms. Chapter IV deals with DSA national and supranational implementation and cooperation, as well as sanctions and enforcement, by establishing new public administration bodies such as the Digital Services Coordinators Digital Authority.

In the preamble of the Digital Services Regulation (DSA), in paragraph 115, the choice of the method of legislating by means of a Regulation is justified, mentioning the respect of the two principles of proportionality and subsidiarity - since the objectives of this Regulation, namely "to contribute to the smooth functioning of the internal market and to ensure a secure, predictable and trustworthy online environment, in which the fundamental rights enshrined in the Charter are adequately protected, cannot be sufficiently achieved by the Member States because they cannot achieve the necessary harmonisation and cooperation by acting alone but, given the territorial and personal scope, can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives". In fact, due to the complexity that the trajectory of the digital single market imposes through the elements of internationality that govern the online environment, no other way of legislating could have effectively and uniformly protected consumer rights (*Twigg-Flesner, Ch. '"Good-Bye Harmonisation by Directives, Hello Cross-Border only Regulation?" A way forward for EU Consumer Contract Law', European Review of Contract Law 7.2 (2011): 235-256*). However, it should be noted that the AVMSD is based on a horizontal approach that is complementary to a number of existing EU legislative instruments that it would not affect and would be consistent with, such as Directive (EU) 2018/1808 (Audiovisual Media Services Directive) or Directive (EU) 2019/2161 (Omnibus Directive).

In the context of consumer protection, the DSA contains several provisions that are of particular relevance and have been informed by numerous reports on how the development of the digital environment and artificial intelligence impacts consumer protection law, including the **Report on Safety and Liability Implications of Artificial Intelligence, the Internet of Things and Robotics in 2020**[15]. However, one cannot help but notice the lack of systematisation at the level

[15] AI, IoT and robotics share many common features. They can combine connectivity, autonomy and data dependence to perform tasks in the partial or total absence of human control and supervision. AI-enabled systems can also improve their own performance by learning from experience. The complexity of these systems is due both to the multiplicity of economic operators involved in the supply chain and to the multiplicity of components, parts, software components, systems and services that together make up the new technological ecosystems. In addition, they are open to updates and upgrades after their introduction on the market. Because of the large amounts

of EU legislation - thus legislative instruments such as Directive 93/13/EEC (Unfair Contract Terms Directive), Directive 2005/29/EC (Unfair Commercial Terms Directive) on unfair commercial practices; or Regulation (EU) No 524/2013 (on online litigation contain equally cross-sectoral and/or procedural provisions, rules which remain fully applicable to the unlawful content. These are just a few examples of the unsystematised legislative arial that remains applicable to infringing content, even after the advent of the DSA.

In the area of consumer protection, the EUSD imposes new regulations to systematise and increase consumer protection:

- **Transparency requirements:** the DSA imposes transparency obligations on digital service providers, including online platforms, regarding their terms and conditions. Providers are obliged to provide users with clear and easily accessible information about how their services work, including algorithms and content moderation policies. This improves consumers' understanding of the platforms they use.
- **User complaint mechanisms:** Under the DSA, platforms are required to establish effective complaint handling mechanisms, ensuring that users have a means to report harmful content or actions. This mechanism is essential for consumer protection as it gives users the possibility to seek redress when they encounter problems on online platforms.
- **Prohibition of certain practices:** the DSA includes provisions prohibiting certain harmful practices, such as the dissemination of illegal content and goods. This is to protect consumers from potentially harmful or fraudulent online activities.
- **Risk assessment and mitigation:** The DSA requires certain online platforms, known as Very Large Online Platforms (VLOPs), to conduct risk assessments to identify and mitigate systemic risks to users' rights. This is a key element of consumer protection as it helps prevent the widespread dissemination of harmful content or practices[16].

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of data involved, the reliance on algorithms and the opacity of the decision-making process of AI systems, it is more difficult to predict the behaviour of a product containing AI and the potential causes of harm are harder to understand. Finally, connectivity and openness may also make AI and IoT-related products more vulnerable to cyber threats.https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:52020DC0064#footnote48

[16] The new database will collect these statements of reasons in accordance with Article 24(5) of the EUSD. Thus, this database becomes a one-of-a-kind regulatory repository where data on content moderation decisions taken by online platform providers active in the EU are publicly accessible at an unprecedented scale and granularity, allowing for greater online accountability.

Only very large online platforms (VLOPs) are required to submit data to the database as part of their DSA compliance now. From 17 February 2024, all online platform providers, with the exception of micro, small and medium enterprises, will have to submit data on their content moderation decisions.

- **Ensuring redress for consumers:** The ASD addresses the issue of unfair commercial practices and requires online marketplaces to provide clear information on the main parameters influencing product classification. This promotes fair competition and ensures that consumers can make informed choices.
- **Supervision and enforcement:** National regulatory authorities are given enhanced supervisory and enforcement powers under the EUSD. They can impose sanctions on non-compliant service providers, including fines. This ensures that the provisions of the DSA are effectively enforced to protect consumers[17].

In conclusion, the Digital Services Act is an important piece of EU legislation aimed at strengthening consumer protection in the digital environment (*Ernst Karner Bernhard A. Koch Mark A. Geistfeld, Comparative Law Study on Civil Liability for Artificial Intelligence, november 2020 - EUROPEAN COMMISSION Directorate-General for Justice and Consumers Directorate A — Civil and commercial justice Unit A2 — Contract Law*). It does this by imposing transparency requirements, strengthening user complaint mechanisms, prohibiting harmful practices and providing surveillance and enforcement mechanisms to protect consumer rights. These provisions are based on EU law and are in line with wider consumer protection principles as enshrined in the EU legal framework.

In the context of the emergence of the EUSD, at the legislative level we see an increasing trend for the Commission to amend and adapt the main consumer protection directives. In March 2023, the European Parliament approved revised rules on the safety of non-food consumer products, designed to address the safety risks associated with new technologies and the growth of online sales. They replace the current General Product Safety Directive, which dates back to 2001. The new rules, which entered into force on 25 April 2023 through Regulation (EU)

Thanks to the transparency database, users can view summary statistics (currently in beta), search for specific motivational statements and download data. The Commission will be adding new analysis and visualisation features in the coming months and, in the meantime, welcomes any feedback on its current set-up.

The source code of the database is publicly available. Together with the Code of Practice on Misinformation, as well as additional measures to increase transparency within the DSA, the new database enables all users to take informed action against the spread of illegal and harmful content online.

[17] On 26 September 2023 - the European Commission launched the DSA Transparency Database. Under the DSA, all hosting providers are obliged to provide users with clear and specific information, so-called statements of reasons, whenever they remove or restrict access to certain content. Article 17 of the DSA requires hosting providers to provide affected recipients of the service with clear and specific reasons for restrictions on content that is alleged to be illegal or incompatible with the provider's terms and conditions. In other words, hosting providers must inform their users of the content moderation decisions they make and explain the reasons behind these decisions. A statement of reasons is an important tool to enable users to understand and possibly challenge content moderation decisions made by hosting providers.

2023/988[18], aim to ensure that all products placed on the market are safe for consumers. Vulnerable consumers, including children and people with disabilities, will be protected by stricter safety requirements for products marketed to them. Among the most important provisions, we note that these new product safety rules improve recall rules that extend the obligations of economic operators, give more power to market surveillance authorities (as was also foreseen in the DSA), oblige online marketplaces to cooperate with authorities to prevent risks associated with product sales; allow market authorities to order the recall of dangerous products within two working days; ensure that products can only be sold by an EU-based manufacturer, importer or distributor who takes responsibility for the safety of products placed on the market; and give customers the right to repair, replacement or refund in the event of a product recall.

With regard to the liability of service providers, we can make a comparative analysis between the provisions of the EUSD and those laid down in the text of the E-Commerce Directive. Thus, while the ASD deletes Articles 12-15 of the E-Commerce Directive as regards the liability of intermediary service providers, the rules it introduces instead (Articles 3-9) do not radically change the provisions of the E-Commerce Directive. They essentially codify the Court of Justice's interpretation of these rules[19]. In this respect, similarly to the E-Commerce Directive, the DSA distinguishes between intermediaries providing simple transport and caching services and intermediary providers offering hosting. According to the DSA, online platforms are a subcategory of hosting providers, which are in turn a subcategory of intermediary service providers as defined in the first chapter. It follows that, in general, intermediary online platforms benefit from the exemption from liability provided for in Article 5(1) of the DSA, which corresponds to the so-called "hosting exemption" in the e-commerce Directive. Unless the DSA provides otherwise, online platforms will not be liable for information stored at the request of a recipient of the service, provided that the provider: (a) has no actual knowledge of the illegal activity or illegal content and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or illegal content is apparent; or (b) after obtaining such knowledge or becoming aware, acts expeditiously to remove or disable access to the illegal content.

[18] REGULATION (EU) 2023/988 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and of the Council and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC, available at https://eur-lex.europa.eu/eli/reg/2023/988

[19] See, ECJ din decizia C-236/08 Google France SARL and Google Inc [2010] ECLI:EU:C:2010:159; C&x2011;324/09 L'Oréal [2011], ECLI:EU:C:2011:474.

Over the years, consumer protection in the EU has undergone significant changes: the move from minimum to full harmonisation, the emergence of public enforcement cooperation and the promotion of alternative dispute resolution (ADR) in the private sector, and the extension of consumer protection measures. The DSA's twin piece of legislation - i.e. the DMS - is in line with this, as it gives the European Commission extended investigative and enforcement powers over gatekeepers. In order to protect consumers, the European Commission has established clear operating rules for platforms, through methods to prevent *ex ante* anti-competitive practices (*Jasper van den Boom (2023) What does the Digital Markets Act harmonize? – exploring interactions between the DMA and national competition laws, European Competition Journal, 19:1, 57-85*). The DMA is based on the EU legislators' belief that unfair practices in the digital sector are particularly common in core platform services due to certain characteristics, including extreme economies of scale, strong network effects, the ability to connect many business users with many end-users through the multilateral nature of the services, lock-in effects, lack of multi-homing, data-driven advantages and vertical integration (*Konstantina Bania (2023) Fitting the Digital Markets Act in the existing legal framework: the myth of the "without prejudice" clause, European Competition Journal, 19:1, 116-149*). However, a digital service which qualifies as a core platform service does not in itself give rise to sufficiently serious concerns about or unfair practices, Such concerns arise only where a core platform service constitutes an important gateway and is operated by an undertaking with a significant impact on the internal market and with an entrenched and durable position or by an undertaking which is likely to enjoy such a position in the foreseeable future (art 15 DMA). In order to safeguard the fairness of core platform services, the DMA introduces a set of specific harmonised rules that apply only to those undertakings that meet these criteria, which are described by detailed quantitative thresholds in Article 3 of the WFD (designation of gatekeepers) (*Anna Moskal, Digital Markets Act (DMA): A Consumer Protection Perspective, European Papers, Vol. 7, 2022, No 3, European Forum, Highlight of 31 January 2023, pp. 1113-1119*).

At first glance, the DMA appears to address competition law issues by introducing a list of obligations for gatekeepers, but its provisions remain equally important from the perspective of consumers, who are considered "end-users" in DMA terminology. According to Art. (20) of the DMA, "end-user" means any natural or legal person using the services of the underlying platform, excluding commercial users. Commercial users are defined in Art. 2 (21) DMA as any natural or legal person acting in a commercial or professional capacity who uses the services of the underlying platform for the purpose or in the course of providing goods or services to end-users.

End-users are deemed to benefit from the following provisions listed in Art. 5: i) prohibition of processing, combination and cross-use of personal data without

a specific choice offered or appropriate consent (Art. 5(1)(a), 5(1)(b) and 5(1)(c)); ii) prohibition of end-users signing up for other gatekeeper services without a specific choice offered or appropriate consent (Art. 5(1)(d)]; iii) prohibiting other commercial users from offering the same products or services to end-users (Art. 5(1)(d)); iv) allowing other commercial users, free of charge, to communicate and promote their offerings and to enter into contracts with end-users (Art. 5(4)]; v) prohibition of tying [Art. 5(5) and 5(7)]; vi) prohibition of preventing referral of non-compliance issues to a public authority [Art. 5(6)]; vii) easy and unconditional subscription [Art. 5(8)].

Moreover, Article 6 introduces the following set of obligations, relevant for consumer protection, which may need further clarification in the dialogue with gatekeepers: i) prohibition of the use of data not publicly available in competition with commercial users (Art. 6(2)); ii) allowing easy uninstallation of software applications on a gatekeeper's operating system (Art. 6(2)). 6(3)) and easy installation and effective use of third-party software applications or app stores (Art. 6(4)); iii) prohibiting self-referral practices (Art. 6(5)]; iv) ensuring easy switching between and subscriptions to different software applications and services [Art. 6(6)]; v) ensuring, free of charge, effective interoperability [Art. 6(7)]; vi) allowing, free of charge, easy data portability [Art. 6(9)].

These provisions provide additional protection for consumers' rights, giving them a real choice when selecting and using digital services and ensuring their ability to make autonomous decisions. However, these provisions need to be linked to those found in other legislation, as under the DMA consumers are passive beneficiaries in the market, not independent market players with active roles.

CONCLUSIONS

The Digital Single Market is a legal framework that aims to create a unified and harmonised digital market within the European Union. It addresses various legal issues, from data privacy and copyright to competition law and consumer rights, to promote digital inclusion and economic growth, while protecting the rights and interests of EU citizens and businesses. Legal instruments and regulation play a key role in shaping the DSM and ensuring its success in the evolving digital landscape.

The Digital Single Market has the potential to create a more integrated and efficient digital environment in the EU, but this requires close collaboration between legal and technical experts. With a balanced and collaborative approach, the UDP can bring significant benefits for both citizens and the EU's digital economy.

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