



CCPC Response to DSA Levy Order Consultation Process

Response to Consultation on the proposed DSA Levy Order in respect of the levy period 1 June 2025 to 31 December 2025 under the Digital Services Act 2024, as amended.



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1. Introduction and Background

The Digital Services Act 2024, as amended by the Digital Services (Levy) Act 2024 (the 'DSA') gives further effect to EU Regulation 2022/2065 (the Digital Services Regulation) in Ireland. The Competition and Consumer Protection Commission (the Commission) is the competent authority in Ireland for Articles 30, 31 and 32 of the Digital Services Regulation relating to consumer online platform providers (marketplaces), which allow consumers to conclude distance contracts. The Commission has new supervision and enforcement responsibilities in relation to online marketplaces' compliance with rules relating to;

- Article 30 Traceability of traders,
- Article 31 Compliance by design,
- Article 32 Right to information.

To fund its activities as a competent authority, the DSA provides for the Commission to impose a levy on relevant consumer online platform providers. On 5 February 2025 the Commission published a [public consultation](#) on its proposed DSA Levy approach and [proposed Levy Order](#) for imposing a DSA Levy for 2025. The Commission invited submissions from stakeholders and other interested parties on its proposed approach in respect of the proposed 2025 levy period. The consultation ran from 5 February 2025 to 5pm 4 March 2025. The Commission received one submission from Technology Ireland (TI). The observations raised by TI are addressed in turn below.

The Commission is cognisant of the fact that TI is a representative association within IBEC and represents over 200 members located throughout Ireland in the ICT, Digital and Software Technology Sector.

The levy period for 2025 will begin on 1 June and conclude on 31 December 2025. The total amount necessary to meet the Commission's expenses properly incurred and its working capital requirements for the levy period 2025 are projected to be €821,354. The levy fee charged to each marketplace subject to the Commission's levy will be a proportion of this amount based on their number of AMARs.

2. Issues Raised in Consultation Process

2.1 Multiple DSA Levies

TI point out that some marketplaces may be required to pay three separate DSA levies to the European Commission, Coimisiún na Meán (CnaM) and the Commission in respect of one piece of EU legislation.

The Commission is proposing to charge a levy sufficient to meet its expenses properly incurred and its working capital requirements relating to the performance of its functions as the designated competent authority in Ireland in relation to Articles 30, 31 and 32 of the DSA Regulation. The levy imposed by CnaM does not relate to supervisory or enforcement activities in relation to these articles.

Notwithstanding this separation of areas of competence, the Commission and CnaM have entered into a formal cooperation agreement as provided for under section 45 of the DSA. The Commission attends formal quarterly meetings and ad hoc meetings with CnaM as issues arise. This provides a forum for regular engagement on issues relating to the DSA, mitigating against the risk of regulatory overlap.

The functions of the European Commission relate to Very Large Online Platforms (VLOPS) and Very Large Online Search Engines (VLOSES), some of whom are based in Ireland. However, there are inbuilt safeguards in the DSA Regulation as set out below, which mitigate against the risks suggested by TI.

- (a) The Commission is required to supervise and enforce the provisions of this Regulation in close cooperation with the European Commission.

- (b) The Commission and the European Commission are required to cooperate closely and provide each other with mutual assistance in order to apply this Regulation in a consistent and efficient manner.
- (c) The Commission only has powers to supervise and enforce the obligations contained in Articles 30, 31 and 32 of the DSA Regulation in circumstances where the European Commission has not initiated proceedings in relation to the suspected infringements [Article 56(4)].

TI further suggest that the Commission should agree with CnaM and the European Commission on its proposed estimated expenses and the apportionment of fees related to their DSA responsibilities.

The Commission is mindful that undertaking a consultative process of this type would be burdensome and time consuming and would lead to increased levy costs for those marketplaces subject to the proposed levy.

Having regard to the following:

- The inbuilt safeguards in the DSA Regulation,
- The consultation already undertaken,
- The Commission has estimated their expenses solely for the execution of their functions under the DSA Regulation, and therefore no apportionment of costs is required as these costs are only in relation the functions of the Commission in relation to Articles 30-32.

The Commission is of the view that there is no element of double or treble charging in relation to its proposed levy model. Consequently, we do not see merit in engaging in a consultative process, of the type suggested by TI with CnaM and the European Commission.

2.2 Average Monthly Active Recipients (AMAR) Figures as Basis of Levy Fee Calculation

TI have concerns that using AMARs as a basis for calculating the levy fee may result in certain marketplaces bearing a disproportionate share of the Commission's costs and expenses. This is based on TI's assertion that marketplaces may use different methodologies to calculate their AMAR figures.

TI highlight that Article 24(2) of the DSA Regulation is not prescriptive as to how AMAR figures are to be calculated and the absence of a delegated act laying down a methodology for calculating AMAR figures.

The Commission acknowledges the points raised by TI in relation to the counting of AMARs. A delegated act from the European Commission would be helpful in bringing certainty and consistency in relation to counting AMARs.

For the Commission to unilaterally develop and provide a comprehensive methodology to counting AMARs which would satisfy all marketplaces subject to its levy would be a complex and expensive undertaking. In light of the expected overall cost of the Commission's levy this would be a disproportionate undertaking which could result in a significant increase in the levy fee charged to the relevant marketplaces.

For the avoidance of doubt, the Commission will rely upon the DSA Regulation and related guidance issued by the European Commission in relation to counting AMARs. The Commission, in determining the Levy fee will rely upon figures published in accordance with Article 24(2) of the Digital Services Regulation, where published. In the event that figures have not been published the Commission may seek information under the DSA Levy Order to determine the appropriate levy fee.

Mitigation:

In order to mitigate the risks posed by marketplaces using different methodologies to calculate their AMAR figures the Commission has inserted a provision [Article 8(1)(b)] in the proposed Levy Order requiring those marketplaces to retain "*a statement showing the*

average monthly active recipients within a specified period, the methodology used for the purposes of determining those average monthly active recipients and any related supporting data...” for a period of 6 years from the end of the levy period. This will allow the Commission to request the methodology of calculation from each marketplace.

In the absence of a delegated act by the European Commission, the Commission will proceed with its proposed levy model guided by the principles of fairness and proportionality. The Commission will keep the method of calculation under review for future Orders.

2.3 Transparency of Levy Calculation and Provision of Provisional Marketplace List

TI suggests that from a transparency perspective it is important that the Commission provides a detailed breakdown of the Commission’s estimated costs for the applicable levy period.

The Commission welcomes these comments as it is committed to the principles of openness and transparency. It is the intention of the Commission to provide details of our projected costs in relation to the proposed levy period.

TI requests that the Commission make available a list of marketplaces subject to the Commission’s levy. TI point to the absence of a requirement for online consumer platforms to be designated or registered.

In the absence of any statutory notification obligation for marketplaces, the Commission is cognisant of the risk that it will not be able to identify all marketplaces. The Commission has made significant efforts to ensure that it has identified all relevant marketplaces. The Commission is aware of CnaM’s endeavours to compile a register of all relevant intermediary service providers, and the Commission is working closely with CnaM in this regard. The Commission will continue to gather information necessary to ensure the veracity of its marketplace list and to provide a high degree of confidence in its list.

It is the intention of the Commission to make the list of levied marketplaces available during the relevant levy period. As this is the first levy period it is likely that the list will be available towards the end of the year. In future levy periods it is expected that the list would be made available earlier in the year.

2.4 Surplus Levy Income

TI has sought more specific details as to the process the Commission will follow to verify whether surplus income has been collected, and how that surplus income will be treated.

The Commission is required to use projected costs in respect of its levy fee. In such circumstances the Commission is aware that it may collect a surplus income for the levy period. In order to reduce regulatory burden and avoid unnecessary costs, any such surplus will be retained by the Commission to be offset proportionately against subsequent levy obligations of the marketplaces on whom the levy was imposed in accordance with section 45A(8)(a) of the DSA.

The Commission will undertake a reconciliation process in the year following the levy period in question. The results of this process will be incorporated into its levy fee calculations for the subsequent levy fee being calculated.

2.5 Levy Fee Cap

TI raise a concern in relation to the potential for a disproportionate impact to occur to marketplaces of varying sizes subject to the Commission's levy.

The Commission notes that marketplaces which fall into the category of small or micro enterprises are exempt from the provisions of Articles 30-32. Having regard to this exemption and the total costs involved, the Commission is of the view that the scope for the levy to disproportionately impact providers of varying sizes is very limited.

TI also request that should such circumstances materialise, the Commission would consider introducing a fee cap. The levy period under consideration is for the period 01/06/2025 to 31/12/2025. The Commission will keep the consideration of a levy fee cap

under review. As this is the first (partial) year of the levy there is no data at present to indicate a cap is needed. The Commission will analyse multi-annual trends as it progresses with the DSA Levy. In circumstances where the data robustly indicates a levy fee cap is warranted, the Commission will have regard to consideration of such an order.

3. Next Steps

The Commission will now proceed with the following steps:

- Lay the DSA Levy Order 2025 before the Houses of the Oireachtas.
- Issue notification letters to those marketplaces subject to the levy in that levy period.
- Allow a period of time for notified marketplaces to respond to the notification letters.
- Issue a levy fee notice on each entity liable to the levy setting out the amount of the levy they must pay, the account into which it must be paid, whether it is to be paid in one sum or in instalments, and the date, or dates, on which payment is due.



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
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Commission

