

EDiMA statement on data access and usage for online platforms

EDiMA, the European trade association representing online platforms and other innovative tech companies, continues to be an active participant in the Commission's information-gathering exercises on P2B relations and appreciates VVA's work on this issue. As this exercise continues, we submit that there are three fundamental issues that must be kept in mind throughout, namely that data has many different uses, the balance between B2B and B2C obligations must be maintained, and compliance with data protection legislation is essential.

Data is collected for many different reasons

A full understanding of how online platforms vary in functionality is inherent to the success of any foreseen proposal in the area of platform-business relations. Without understanding that each platform is fundamentally different and use data for many different purposes, a future EU-wide initiative runs the risk of restricting various and innovative business models in a rapidly evolving ecosystem.

The raw data collected by the platforms is often not valuable as it is collected but rather the aggregation of the data can lead to interesting conclusions and information. Naturally, the aggregation process is where major investments are made by the online platforms and thus the expertise built and the resources dedicated to this process is proprietary to the platform.

The balance between B2B and B2C obligations must be safeguarded

Current discussions around the P2B initiative are focusing on the platform's stronger position over the business user or seller. However, often platforms are forced to act against sellers that carry out illegal practices in order to defend their business models and ensure a high level of consumer protection on their services, which must be kept in mind throughout these discussions.

An example of such a problematic result - as recently as last June, a number of platforms signed a Memorandum of Understanding on a follow-the-money approach to online advertising and counterfeit goods, demonstrating a high level of goodwill in ongoing efforts to fight the spread of counterfeit items online and provide consumers with quality goods. In a situation in which a platform is made liable for removing a business' offer which contains an offer for counterfeit goods, how is the platform to balance its duties towards the business user, the consumer and its voluntary undertakings in the above-mentioned Memorandum of Understanding? Having to provide assurances to infringing business users will act as an impediment to the platform's ability to do right by the consumer and to do right by the law.

Ensuring compliance with data-protection legislation

Another major issue to bear in mind is the legislative framework. Online platforms' obligation to comply with data protection legislation must also be taken into account in these discussions. For example, a list of the feedback provided by third party business users of online platforms revolved around accessibility to personal data which is actually not possible for the online platform to provide under the current Data Protection Directive, or the GDPR once transposed.