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CLASSIFIEDS MARKETPLACES EUROPE'S VIEWS ON THE GENERAL PRODUCT SAFETY REGULATION

With this paper, Classifieds Marketplaces Europe (CME) aims to provide a constructive contribution to the debate about the General Product Safety Regulation proposal, as we believe it has the potential to become a global standard in regulating online intermediaries in the area of illegal content.

Introduction Online Classifieds – Local, Personal, Second-hand

The Coalition Classifieds Marketplaces Europe (“**Coalition**”) is a group of EU headquartered companies operating online classifieds platforms that connect buyers and sellers to safely, easily, and conveniently exchange goods and services **in their local communities**. From furniture to fashion, from cars to collectibles, from real estate to jobs.



The origin of online classifieds lies in the **resale and reuse of goods** and still today the **majority of trade via our platforms is in second-hand goods between private individuals**. Circular consumption and extending the lifespan of products are our DNA. While at its core we connect consumers to consumers (C2C) to trade with each other, our platforms are also used by (small) businesses to reach (new) customers (B2C). Despite the online nature of classifieds platforms, most of the exchanges occur at local level.

As online classifieds platforms, we provide a service that allows people to connect in a safe and successful manner. **Sellers are fully in control** of the listing they post (including pricing and product information) and the subsequent transaction (including relationship with the buyer). They are free to choose how they close the deal, including payment and delivery method ranging from in-person trading to using an online mechanism of third-party services. **We do not sell or hold products ourselves nor do we have any control over the goods and services listed by our sellers**. The platforms are operated in the local language under (mostly) local laws and regulations.

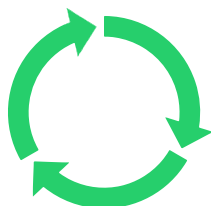
It is our key focus to provide a **safe online environment, trusted by our users**. Because of our local nature, we have been able to establish **successful collaborations with local authorities** – from law enforcement to regulators – in order to fight illegal content and unlawful activities via our platforms.

The **business model of online classifieds** is generally based on insertion fees to post the listing (mostly free for consumer sellers), feature fees to give more exposure to a listing, subscription fees in e.g. the automotive category, and advertising (display banners).

Online Classifieds contributes to EU Public Policy Objectives

The online classifieds industry, by its nature and size, contributes to key EU Public Policy Objectives:

We contribute to the Green Transition



When trading on our platforms, European consumers and businesses are empowered to buy or sell a used item, thus extending the lifespan of the product and giving it a new purpose. This is what we call the '**second-hand effect**'. As a result, our users contribute to the circular economy in enabling savings in energy and natural resources, lower CO₂ emissions, and waste prevention and reduction.¹ Our local dimension enables the transition to circular consumption in local communities throughout Europe.

We contribute to the Digital Transformation



Online classifieds promote **economic inclusion for all**, empowering both consumer and (small) business sellers. Private individuals can earn money of unused goods and declutter their houses while certain products become achievable for others, finding unique items and great deals. For small businesses and entrepreneurs, we provide the opportunity to easily get online in the way they choose and we give them the platform and national reach to become successful, fostering economic growth in local communities.

Our Views on the General Product Safety Regulation

The Coalition welcomes the proposal to review the General Product Safety Directive (GPSD) put forward by the Commission. The Coalition believes that the proposal **rightly aims to better protect consumers** and provides more **legal certainty**. We also support a risk-based approach, as we fear that a horizontal approach to all marketplaces will result in unintended consequences for low-risk platforms like online classifieds that have an almost exclusively local/national scope and where the majority of trade is between consumers (C2C) acting in individual (non-commercial) capacity in second-hand products. We believe the reuse and resale of (safe) products that are already on the EU market should be maximised and consumers should not be discouraged from buying and selling second-hand products which ultimately benefit circular consumption.

It is also key to ensure **consistency between the different legislative instruments** impacting marketplaces. The GPSR comes after previous legislation on market surveillance and product harmonization and is also closely linked to the Digital Services Act (DSA). For purposes of legal certainty, providing a **consistent regulatory framework between the GPSR and the DSA** will be essential, including on the definition of online marketplaces and trader traceability obligations.

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Second-hand trade reduces waste, lowers carbon dioxide emissions, and preserves precious raw materials. The Coalition members each have done research into the environmental impact we have when it comes to e.g. CO₂ emission reduction and the extension of the lifespan of products. You can find our reports and impact here:

<https://schibsted.com/secondhandeffect/>, <https://www.adevinta.com/sustainability/>,
<https://drive.google.com/file/d/1j09giuOhI59aAF6su1YR4pnojyFUMl4G/view>,
https://drive.google.com/file/d/1UsDijVdSJTda8LSfn7j7svW_L410MZgV/view, <https://marktplaatsperskamer.nl/wp-content/uploads/2019/10/191009-CE-Delft-Impact-study-environmental-benefit-Marktplaatstrading.pdf>,
<https://guide.dba.dk/publikationer/genbrugsindekset/2021/>.

In that respect, we believe the following considerations require particular attention from policy-makers:

1. Clarify the definition of online marketplaces to ensure that C2C transactions are not included (Art. 3.14)

We believe that updating rules on product safety to include online marketplaces is a **positive step towards ensuring a safe environment for consumers**. As the GPSR seeks to protect consumers from illegal products (from mostly non-EU countries) sold on e-commerce marketplaces, the definition of online marketplaces **rightly seeks to solely focus on commercial activities**, meaning transactions from business traders to consumers. However, the proposed **definition of “online marketplace”** (Art. 3.14) would seemingly include consumer-to-consumer (C2C) transactions, which would be problematic.

Consumers in existing EU legislation and in the DSA proposal are defined as “any natural person who is acting for purposes which are outside of his or her trade, business or profession”, meaning that they **do not conduct commercial activities**. The proposal should therefore **clarify the definition of online marketplaces** to ensure that **C2C transactions are not included** in the definition, as obligations in the GPSR are directly linked to commercial activities. This would also contribute to further legal certainty with other legislation such as the DSA, which is directly linked to the GPSR (see Article 20.5 of the GPSR proposal), and which should exclude C2C in its definition of marketplaces according to recent compromises in the Council.

On top of this, including transactions between individual, occasional sellers, and buyers within the definition of online marketplaces may **push such sellers away from classifieds platforms** to other marketplaces, ultimately undermining circular consumption benefits. This is also why we recommend **excluding consumer-to-consumer (C2C) transactions from the scope**.

2. Ensure that obligations account for the diversity of business models of marketplaces

The GPSR proposal rightly seeks to ensure that marketplaces also play a role in protecting consumers and ensuring product safety. However, we believe that the text should be **proportionate and balanced with the various types of marketplaces that exist today**. Indeed, while other types of marketplaces might have a product catalog with chosen products (including detailed product information), we, as classifieds marketplaces, do not sell any products ourselves and give full autonomy to sellers to create their own listings and trade in the way they choose. While we welcome efforts to increase consumer protection, our very nature as classifieds marketplaces means that **some of the proposed obligations in the GPSR are not suitable for our business model**:

- **Deadlines to remove illegal content (20.2):** Our services seek to provide the highest standards in consumer protection and remove listings for illegal products/services as soon as they are informed of their illegality.
 - While a two-day deadline is very strict, it is in line with our current response time, on the basis of a specific order allowing us to detect and identify the illegal content. However, setting fixed deadlines to respond to notices would require marketplaces to implement stricter content removal policies, which would harm small sellers on our services. Indeed, such requirements risk leading to over-removal of listings for legitimate products, as marketplaces would fear being held liable for illegal third-party products. This is especially true in the case of second-hand goods, as we have limited information about these products. Such fixed deadlines would ultimately reduce the benefits of our services for small sellers and the circular economy.
 - The text would also benefit from clarifications on what constitutes “necessary measures” to deal with orders from authorities: would our services receive guidelines from authorities regarding which measure would be appropriate (content removal, making content unavailable, placing warnings, etc)? In practice, our services have limited measures available (e.g. remove content, block user). In this sense, any future guidelines

should allow for flexibility, to adapt to the reality of technical and operational capabilities of the various types of marketplaces.

- Lastly, it will be key to ensure that content removal following notices from the relevant authority cannot trigger the liability of marketplaces and that our services do not face legal risks from traders whose content has been removed at the request of a competent authority.
- **Take into account information about dangerous products (20.3):** This obligation is essential to provide the best consumer protection possible to our users and consumers.
 - First of all, the text would benefit from clarification on what exactly “take into account information about dangerous products” means.
 - 100% of the content available on our services is user-generated content where sellers are fully in control of their listing. The vast majority of products offered for sale on our services are second-hand goods, meaning that many products are sold without their original packaging or labeling, while some can also be handmade products - meaning that there can be an infinite variety of different products.
 - While CME members are already committed to protecting consumers to the best of their abilities, the fact that all listings are unique and do not link to a product catalogue makes checking ad listings against a database operationally difficult in many cases today.
 - While we are not against taking into account the Safety Gate for notices about dangerous products, this system would have concrete limitations for our services. Indeed, because our marketplaces operate without product catalogues, checking notices on the Safety Gate can only be done manually today on the basis of the information provided by individual sellers, which strongly restricts its effectiveness. Even for platforms that do operate with catalogues, at this stage, the absence of a technical solution allowing marketplaces to “plug into” the Safety Gate would make it impossible to check notices in a speedy manner, especially for second-hand products with no packaging or labelling.
 - We would therefore recommend seeking to find a technical solution for marketplaces to automatically rely on notices within the Safety Gate, beyond manual verification. This could include ways for marketplaces to directly connect to the Safety Gate, bearing in mind that such automated tools should take into account the different languages and wording discrepancies about products across Europe. Such a solution could also allow the marketplaces to report back on any action taken which is too time- and cost-consuming if this were to be done manually as proposed in the current text. The focus and attention of the marketplaces should be on processing notices.
- **Deadlines to respond to notices on product safety and dangerous products (20.4):** We understand that protecting consumers goes beyond illegal content itself, and also covers dangerous products.
 - All of our marketplaces have set up strong mechanisms to ensure our platforms remain safe. For instance, our platforms use notice-and-action systems, supervised by dedicated, local moderation teams. These teams are supported by automated systems, which allow our platforms to detect illegal content through specific keywords or to ban repeat infringers from our services. Taking down clearly-identified illegal content in a speedy manner is therefore in line with our current practices.
 - However, due to the mostly second-hand nature of products offered for sale on our services, we have very limited information about the products themselves, meaning that our ability to detect and remove dangerous products within a set deadline would be limited. We, therefore, suggest that second-hand goods and C2C transactions should not be covered by this deadline, as we cannot be held responsible for products which

- we cannot appropriately evaluate and for which giving a complete answer to authorities within the deadline would be impossible.
- We would also welcome further clarifications on what consists of “an appropriate answer” from marketplaces to notices on product safety. Indeed, classifieds marketplaces will often not know what consumers bought a product – since transactions take place between buyer and seller directly. So for example, sending warning messages to concrete buyers will not be feasible unlike providing general warning information.
- **Enabling traders to provide information about products (20.5):** Although this obligation would contribute to consumer protection, it would not be feasible for private C2C sellers.
 - The success of circular consumption and trade in second-hand goods in Europe relies on the simple interface and the ease of use of classifieds services. For instance, a consumer selling a couch or a chair expects to be able to sell his/her product by listing in only a few minutes on our services. If we were required to ask for extensive information from users, this would affect the market in two ways:
 - ✦ Our experience has shown that each additional (mandatory) data field in the listing flow often results in a drop-off resulting in sellers deciding not to sell their product at all anymore, which would reduce the circular economy benefits created by our services. Also because consumer sellers typically do not know or have any detailed information on the products they offer (anymore).
 - ✦ In addition, a change to our interfaces would lead to an inherent change to our business model and the very nature of our services (simple, inclusive), and would also directly impact our users’ freedom to sell off their used products.
 - In addition, in line with the spirit that “what is illegal offline must be illegal online”, these requirements for marketplaces should be designed to be similar to existing rules applying to the offline world where it is not required to collect as much data about customers and products as it would be expected from online marketplaces. We, therefore, call for a more balanced approach, keeping in mind the objective of creating a level-playing field for all stakeholders.
 - It will also be key to ensure that these obligations are aligned with Article 22 of the DSA, which suggests creating Know-Your-Business-Customer measures for marketplaces through interface requirements.
 - **Cooperation with market surveillance authorities (20.6):** Furthering cooperation between marketplaces and market surveillance authorities is a welcome step towards improved consumer protection.
 - However, this obligation is not possible to comply with in certain cases for platforms that offer users the freedom that we offer in how they trade. For instance, sellers are totally free to choose the payment and delivery methods. Products are more often sold face-to-face than shipped, meaning that our services are usually not even aware if a transaction has occurred. Similarly, our platforms never hold the products sold by third-party sellers, and therefore have no information about the location of the product and if it has been sold. We do not organise products that are offered for sale on the basis of a product catalogue. Hence, while additional cooperation with market surveillance authorities is essential to ensure consumers are protected, there are inherent limits to the information that we can provide and share. This significantly reduces our ability to detect unsafe products, cross-check products offered against public databases, and makes it impossible for us to prevent the reappearance of unsafe product listings. However, as mentioned, in practice the actual risk of unsafe products being listed via our platform is very limited.

- We would welcome clarifications on the provisions allowing authorities to access interfaces from marketplaces, especially to guarantee that personal data from our users and business secrecy will both be respected in the process. In any case, the scope, purpose, and proportionality of the access/scraping should be clearly defined.

3. Facilitate the circular economy transition by considering the specificities of second-hand goods

The suggested scope of the GPSR raises concerns as it would include “new, used, repaired or reconditioned” products (Article 2.3). However, **some obligations in the GPSR would be unsuited to second-hand goods sold on classifieds marketplaces, especially those sold from one consumer to another.**

Most of the products sold on classifieds platforms are second-hand goods sold locally that have already entered the Single Market. As consumer sellers themselves have limited information about their products (no longer manufactured or labelled, handmade products, etc.), classifieds platforms have even less information about these second-hand or antique goods. Certain requirements proposed in the GPSR, such as checking information about products in a database, would therefore be **unachievable in practice for second-hand goods.**

In line with the spirit that “what is illegal offline must be illegal online”, these requirements for second-hand goods should be designed to be **similar to the existing rules applying to the offline world** where it is not required to collect as much data about second-hand products as it would be expected under the GPSR proposal.

It is therefore important to apply the obligations in Article 20 of the GPSR in a proportionate manner to online marketplaces which allow traders to sell second-hand products or antique goods, taking into account the particularity of classifieds marketplaces: in addition to hindering our growth as classifieds, **second-hand products typically pose fewer risks to consumers than new goods**, and consumers cannot reasonably expect them to fulfil state-of-the-art safety standards.

About Classifieds Marketplaces Europe

Classifieds Marketplaces Europe is a coalition of industry-leading EU headquartered companies operating online classifieds platforms, throughout global markets and **proudly representing national tech champions in 17 European countries.** There are two types of online classifieds marketplaces: horizontal or generalist marketplaces where there is a wide variety of trade in different goods and services categories, and vertical or specialist marketplaces where the trade happens in only one product category (e.g. automotive, real estate, or jobs).

For more information about our companies, local brands, and countries we operate in, please visit our websites:

<https://www.adevinta.com/>

<https://www.olxgroup.com/>

<https://schibsted.com/about/who-we-are/nordic-marketplaces/>

