

Mr Prabhat Agarwal
Head of Unit for Digital Services CNECT.F.2
European Commission - DG CNECT
Rue de la Loi 51
1040 Brussels

29 August 2023

Re: EC Transparency Database for content moderation decisions

Dear Mr Agarwal,

I am writing to you on behalf of the Computer & Communications Industry Association (CCIA Europe), a trade association representing a broad cross-section of computer, communications, and internet industry firms.

On 21 June 2023, the European Commission launched a [public consultation](#) on the implementation of the Digital Services Act (DSA) Transparency Database. Providers of online platforms are supposed to use this database to comply with their obligations under Article 24(5) DSA. In this context, the Commission also published [documentation](#) on the Application Programming Interface (API), laying out further specifics on how the Commission envisages affected providers to submit information to this database.

CCIA Europe welcomed this consultation and [responded](#) in detail, including suggestions for improvements to the API.

It is our understanding that the Commission held a webinar with stakeholders on 11 July 2023 to provide more information about the Transparency Database and the API, and collect feedback on its proposal in advance of 28 August 2023, when the DSA becomes applicable to designated Very Large Online Platforms (VLOPs).

We also understand that on 27 July the Commission sent a communication informing companies the Commission has designated as VLOPs of a grace period for compliance with database obligations until 25 September 2023.

The Commission also set up a second webinar with stakeholders for 16 August 2023 to present to them an updated version of the API. While the Commission committed to reflect on the feedback of VLOPs from the 11 July webinar, the updated API documentation provided on 16 August in fact contained additional or updated mandatory fields that increased the complexity of disclosures. We would note in this regard that many of the data fields in the API are not required to be included in the statements of reasons online platforms must send to recipients of their service under Article 17 DSA. Providers of online platforms should not – and cannot – legally be required to include that data in the DSA Transparency Database as currently envisaged by the Commission.

While CCIA Europe applauds the decision to give a grace period, as we previously already suggested, we remain concerned that the technical requirements the Commission seeks to impose on providers through the API come at a very late stage and, most importantly, are **incompatible with the corresponding legal requirements under the DSA**. As such they may result in **disproportionate interference** with the fundamental freedoms of the affected providers.

We therefore urge the Commission to reconsider its approach to the DSA Transparency Database specifications by realigning the technical conditions with the actual legal requirements. This should duly take into account and integrate the feedback received from the affected providers and other involved stakeholders during the consultation, and grant an appropriate grace and testing period of at least eight weeks following the 25 September launch in order to allow the affected providers to adapt their systems and processes to the technical conditions.

In this respect, please allow me to share the following observations with regard to incompatibility and disproportionate interference, as well as our constructive proposals for improvement, with you:

1. Incompatibility with DSA requirements

Article 24(5) DSA states that providers of online platforms must submit to the Commission the **statements of reasons** referred to in Article 17(1) DSA for inclusion in a publicly accessible machine-readable database managed by the Commission.

Instead of submitting the data required to be provided in “statements of reasons” as mandated by Article 17 DSA, the API specifications as most recently published by the Commission effectively require providers to fill numerous additional individual data fields. There is no legal basis in the DSA to require the submission of additional data beyond that explicitly required by Article 17 in such granularity. This could create a discrepancy between what co-legislators agreed in the DSA and what is currently foreseen in the API’s technical specifications. On the contrary, providers would fully meet their statutory obligations if they indicated to the Transparency Database which of the four decisions listed in Article 17(1) DSA they have taken, which is simply not possible under the API as documented.

This is the case, for example, where the API requires providers to specify the content type, the statement category, and the source of the content (i.e. whether a trusted flagger was involved). Similarly, the requirement to submit the date that the content subject to the decision was uploaded or posted is not required to be provided in the statement of reasons as prescribed by Article 17 DSA.

2. Disproportionate interference with fundamental freedoms

In addition, the API specifications and the introduction of the database on such short notice **interfere in a disproportionate manner** with the fundamental freedoms of the providers affected, in particular with their freedom to conduct a business as enshrined in Article 16 of the EU Charter of Fundamental Rights.

In particular, should the API require mandatory data fields that are incompatible with what is legally required in the DSA, this would be disproportionately burdensome on providers, especially considering the short time to implement it. As such, it would be extremely challenging for the affected providers to adjust their internal databases on time and processes and map **millions of daily decisions** to the API specifications in such a short timeframe (i.e. until 25 September 2023).

This is especially the case with respect to mandatory fields lacking sufficient basis in the law and for which providers thus could not (and were under no obligation) anticipate as necessary. These attributes also result in a level of detail and complexity that cannot operationally be provided on the requested timeline in light of the volumes of content moderated and the complexity of content moderation systems. We also remain concerned that the API does not provide for a “batched upload” feature or aggregation (allowing to notate multiple duplicate submissions in a single request) while many services issue hundreds or thousands of decisions per minute. Requiring that each decision be individually sent to the database disproportionately and unjustifiably increases operating expenses for providers, without providing clear evidence of an increased value for users and regulators.

3. Proposals for improvement

Against this background, we urge the Commission to reconsider its approach to the Transparency Database and the API specifications with the following proposals for improvement:

a. Realign technical conditions with legal requirements

The fields required to make submissions to the Transparency Database must be fully aligned and confined to the information required for statements of reasons as per Article 17(3) DSA. While there can of course be an option for providers to complete further fields, these must remain optional.

Furthermore, each change to mandatory fields requires providers in many cases to perform an entirely new review to identify all associated decisions, and creates a shifting compliance bar that hinders providers’ good faith compliance efforts and the timeline over which they can implement them.

b. Continue integrating feedback received from affected providers

We welcome the dialogue the European Commission opened with VLOPs to improve the Transparency Database. As providers of online platforms engage in voluntary and mandatory content moderation activities every day and at large volumes, we hope that the Commission will continue to improve the API technical specifications so that they are workable for all parties. It is critical to carefully consider stakeholders’ feedback, especially with respect to the conditions needed to keep larger volumes manageable. In particular, batched or aggregated upload functionality is essential for the success of a database meant to handle millions of entries daily.

c. Grant appropriate grace and testing period

To ensure that the interplay between the Commission’s Transparency Database on the one hand, and the systems of processes of the variety of providers on the other is functioning and secure, an appropriate grace and testing period of at least eight weeks upon launch of the API on 25 September will be necessary. During that time, the providers can not only adjust their own databases, systems, and processes to prevent the inadvertent submission of personal data, but also collaborate with the Commission to ensure a successful operation of the Transparency Database.



We hope that this information proves helpful, and remain at your disposal to discuss these suggestions in a meeting with you and our members. We also take the opportunity to reiterate our full commitment to continued constructive engagement with the Commission on the DSA's implementation.

Sincerely,

Alexandre Roure
Public Policy Director, CCIA Europe

About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

For more information, visit: twitter.com/CCIAEurope or www.ccianet.org

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