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Brussels, 24 October 2021

Dear Members of the European Parliament,
Dear Ambassadors to the EU,

We, the undersigned startup organisations, encourage you to ensure the DSA becomes more proportionate and balanced so that startups can scale-up their innovations to businesses and consumers across the EU. Our members would like to request a meeting or roundtable with you at your earliest convenience to discuss our ambitions and concerns on the DSA.

Startups have the potential to lead the green and digital transition that EU leaders strive for. They support the DSA reform because it can update and clarify the regulatory framework for startups, but are concerned that the regulation will end up being so hard to comply with that it ring-fences big players.

The DSA can bring the E-Commerce Directive into the 21st Century by:

- 1) Acknowledging the diversity of the online platform economy with a proportionate approach. We are concerned that what has started as a mission to tackle big platforms will end up making life difficult for smaller platforms. Proposals like a **24h takedown notice**, **staydown obligations** and **mandatory random checks** are technically very hard or even impossible to implement. Staydown orders, in particular, will not be feasible without infringing on the no-monitoring obligation we strongly support. Ultimately this will make it harder for startups to challenge bigger sharing platforms.
- 2) Narrowing the definition of an **online marketplace** (Art.5(3) and Art.22). The current definition of online marketplaces as “allowing consumers to conclude a distance

contract with traders” might include advertisement or even platforms that redirect consumers to third party traders. To ensure legal certainty for our members, we propose clarifying that this only applies to online platforms that allow the consumer to conclude a distance contract with the trader on the online platform.

- 3) **Ensuring online marketplaces do not become *de facto* sellers by making them liable** for goods sold on their platform. Clear due diligence provisions and Know Your Business Customer provisions (KYBC) should not be linked to liability, upending the way marketplaces work. Our startups all have a vested interest in ensuring their sellers are legitimate and their consumers safe. Moreover, for our members the interplay between all of these different conditions and existing legal regimes (EU Omnibus Directive, Market Surveillance Regulation) is difficult to understand. The upcoming General Product Safety Regulation (GPSR) is a fitting regulation to address opportunities and challenges for online marketplaces, where unintended negative consequences can be avoided.
- 4) **Giving startups the opportunity to compete with big players with targeted advertising.** Many startups run ads, almost all startups use ads to identify their niche and launch a new product or service. Consumers benefit from services powered by targeted ads, including review platforms. Our members constantly work hard to go above and beyond the GDPR requirements, which lays out clear requirements for collecting and processing personal data. Requiring all users to opt-in would effectively cut off a market which has leveled the playing field for small businesses and make it significantly harder for innovative businesses to challenge incumbents.
- 5) **Designing an out-of-court dispute settlement mechanism that avoids unintended negative consequences.** As it stands, the right of content uploaders to such a mechanism for decisions taken by all platforms leaves vulnerabilities for abuse and fragmentation, and could significantly increase costs for startups. If the mechanism is too challenging to implement consumers will not be able to benefit from the many platforms the EU has.
- 6) **Safeguarding the integrity of the Digital Single Market with a Country of Origin** system that will allow our startups to continue scaling up in the EU once, not 27 times. This includes ensuring that a Country of Destination approach is not applied with the enforcement of the DSA. For a small platform, receiving takedown orders from any EU authority based on what is illegal in that Member State is troubling. Consider if Vivino, the successful Danish wine platform, gets a takedown order from one country because a wine label displays a rainbow, a Catalan flag or a homosexual couple. Without a common EU definition of illegal content moving away from the Country of Origin system will tear apart the Digital Single Market.

We hope that you will find time to discuss these pressing issues with us in October. We fully acknowledge that your time is limited at this critical juncture with the DSA, but also feel that getting a DSA that works for startups is an ambition we share and can build on.

We are looking forward to hearing from you and are available if you have any questions.

Sincerely,

Peter Kofler, Danish Entrepreneurs and The Frontrunners Alliance

Benedikt Blomeyer, Allied for Startups

Travis Todd, Silicon Allee

Csongor Bias, Startup Hungary

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