

EUROPEAN SOFTWARE DEVELOPERS AND USERS RELY ON OPEN SOURCE SOFTWARE DEVELOPMENT PLATFORMS AND CODE REPOSITORIES TO INNOVATE AND COMPETE GLOBALLY

Thank you for the opportunity to contribute to this very important and timely consultation. OpenForum Europe submits these comments as an active advocate of technological openness and our long-standing collaboration with the Open Source software community.

Open source software development is at the heart of Europe's efforts in every digital vertical, such as Artificial Intelligence, supercomputing, and the Internet of Things. The ecosystem consists of European developers from the public sector, industry, universities and SMEs. The Open Source software community relies on online platforms to build and ship software. European companies in all sectors, such as pharmaceuticals, telecoms, banking and manufacturing, rely heavily on Open Source software development platforms and code repositories to innovate and compete globally.

OpenForum Europe appreciates the recognition in section 2 ('Clarifying responsibilities for online platforms and other digital services') that platforms differ in various ways, including size, capabilities, and risk profile for exposure of illegal activity conducted by their users. Many platforms have a more specific user-base or purpose, and thus have a lower risk profile than general purpose platforms. For example, platforms on which software developers rely are often at much lower risk, if not irrelevant, to many issues that policymakers are seeking to address related to online content.

It is thus vital that measures taken to address activity conducted by a platform's users be tailored to the relevant platforms. This is important to keep in mind when drafting the rules so that they achieve their intended outcomes without unintended consequences. This aligns with the design of the consultation, where most of the questions more clearly apply to general-purpose platforms, that use advertising, make recommendations, and/or that have a track record of certain kinds of harms.

Some of the topics do apply regardless of these kinds of differences among platforms. For example, with respect to notice-and-action, it is important for platforms to have an orientation toward giving notice, by default, when removing content, and to provide affected users with a means to appeal decisions to remove their content. Other examples appear in the question regarding protecting users' freedom of expression, such as high standards of transparency on platforms' terms of service and removal decisions, diligence in assessing content notified to them for removal or blocking, and high accuracy and diligent control mechanisms, including human oversight, when automated tools are deployed for detecting, removing or demoting content or suspending users' accounts. While these topics are generally applicable, it is important to recognize that certain reporting requirements may necessitate tooling (for example to be able to adequately track certain categories of removals or suspensions) and thus can be disproportionately burdensome for smaller platforms. Thus, to the extent legislation would propose specific notice or reporting requirements, we recommend focusing on the broader objective of transparency and taking into account differences among platforms' ability to achieve it.

Should you wish to discuss our position and its implications, we would welcome the opportunity to meet with you or to answer questions by email.



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