

DIGITAL FINANCIAL SERVICES

June 2020

BRUSSELS BULLETIN

IN THIS ISSUE

THIS MONTH'S FOCUS:

Digital Services Act

The Commission begins work on several DSA and related initiatives

Artificial Intelligence

European Parliament sets up special committee

Blockchain

Commission hosts standardisation webinar

Digital Strategy

Council Conclusions highlights effect of COVID-19

Digital Finance

ECON publishes draft own-initiative report

DIGITAL FINANCIAL SERVICES TIMELINE

FOR MORE INFORMATION
PLEASE CONTACT

Kelsey Paulding
kelsey.paulding@kreab.com

CONSULTATIONS

Financial Stability Board:
"Addressing the regulatory, supervisory and oversight challenges raised by "global stablecoin" arrangements"
Closes 15 July

Financial Stability Board:
"Effective Practices for Cyber Incident Response and Recovery"
Closes 20 July

European Commission:
"An Action Plan on preventing money laundering and terrorist financing"
Closes 29 July

ESMA:
"Draft Guidelines on Outsourcing to Cloud Service Providers"
Closes 1 September

IOSCO:
"Principles on Outsourcing"
Closes 1 October

IOSCO:
"The use of Artificial Intelligence and Machine Learning by market Intermediaries and asset managers"
Closes 26 October

The Digital Services Act:

The Commission begins work on several DSA and related initiatives

Mihailo Jovetic, Associate at Kreab, looks at the road ahead

The Digital Services Act (DSA) is one of the most prominent initiatives being undertaken by the current European Commission. The aim of the DSA is to review and update the current regulatory framework which dates back to the 2000 e-Commerce [Directive](#). The need for such an overhaul stems from the fact that the digital services landscape in Europe has changed substantially since the adoption of the e-Commerce Directive, with new types of services and digital products having emerged which were unimaginable two decades ago. While these novelties created new opportunities and efficiencies, they also pose risks with respect to illegal goods or content.

Prior to publishing its legislative proposal, which is expected in Q4 2020, the Commission published a public consultation on 2 June 2020 (open until 8 September 2020). The [public consultation](#) gives a substantial idea of the Commission's ambitions, laying out two work streams: (1) the review of the e-Commerce Directive – *'deepening internal market rules and clarifying responsibilities for digital platforms'*; and (2) the need for a level playing field in European digital markets – *'ex ante regulatory instrument of very large online platforms acting as gatekeepers'*. More specifically, the consultation's questionnaire covers a broad range of issues including: measures on illegal goods, content and other types of activities which might be harmful, responsibilities for online platforms and other digital services, the need of enhanced data sharing between online platforms and authorities, the liability regime of digital services acting as intermediaries, issues deriving from the gatekeeper power of digital platforms and regulation of large online platform companies acting as gatekeepers, issues and opportunities emerging from online advertising and smart contracts, and concerns of self-employed individuals offering services through online platforms and governance of digital services.

Parallel to the Commission's work, the European Parliament designated three Committees ([IMCO](#), [JURI](#), and [LIBE](#)) to draft own-initiative reports outlining the Parliament's position on different aspects of the DSA, which are expected to be approved in October 2020.

In line with the two DSA work streams, the Commission also published two Roadmaps and Inception Impact Assessments on the [review of the e-Commerce Directive](#) and on [ex-ante regulation for gatekeepers](#), both remaining open until 30 June 2020. The first will feed into the intention by the Commission to increase and harmonise the responsibilities of online platforms and information service providers (regardless of their place of establishment) to protect consumer's safety and their fundamental rights. The second will build on the existing Platform-to-Business Regulation (P2B) and address the fact that few, very large online platforms (i.e. gatekeepers) represent the largest share of the digital economy.

Separate from the DSA, but very closely linked, the Commission also launched a consultation on the [new competition tool "NCT"](#), (open until 8 September 2020). This initiative will be part of a holistic approach to ensure contestability and fair functioning of markets on the following three pillars: (1) the continued vigorous enforcement of the existing competition rules; (2) possible ex-ante regulation of digital platforms, including additional requirements for gatekeepers (closely linked to the second work stream of the DSA); and (3) a possible new competition tool to deal with structural competition. A concrete proposal on this new tool is expected in Q1 2021.

At the conclusion of the public consultation in September 2020, which is expected to be quickly followed by the adoption of the own-initiative reports by the European Parliament, the Commission will be in a position to start materially drafting the legislative proposal, with sights on publishing it in Q4 2020. The release of the Commission's legislative proposal will be just the beginning of what is expected to be a lengthy legislative process to final adoption. Following publication of the legislative proposal, the Council and European Parliament will have the chance to insert their desired amendments before interinstitutional negotiations to broker a final text.

Artificial Intelligence

EP sets up AI special Committee

During the June Plenary session, the European Parliament [approved](#) the creation of several new special committees. Notably, MEPs approved the creation of a new committee on Artificial Intelligence (AI) in the Digital Age. The committee will be comprised of 33 MEPs and will sit for a term of 12 months. Specifically, the committee's mandate is to analyse the impact of AI on the European economy, including on skills, employment, education, health, the environment, and defence among other aspects. MEPs will also investigate challenges of AI deployment, its contribution to business valuation and economic growth, as well as the approach of third countries to the use of AI technology. Overall, the committee will produce a final report addressed to the Parliament's standing committees outlining a common set of EU objectives for the medium to long term and the major steps which need to be taken to achieve each specific goal. The committee's report is non-binding and serves as recommendations to the permanent standing committees.

Next steps: The members of new committees are expected to be announced in upcoming plenary sessions, after which meetings will begin.

Blockchain

Commission hosts standardisation webinar

On 17 June, the European Commission hosted an online conference on "Joining Forces for Blockchain Standardisation." The full day event focused on a variety of relevant topics including identity, interoperability, governance, and smart contracts. Panels included speakers from DG CONNECT, and several blockchain standard setting stakeholders including from organisations such as INATBA, ISO TC307, IEEE, OASIS and others. With respect to governance, panellists explored the various aspects of blockchain governance and stressed the importance for a pan-European, harmonised ledger governance framework. The group stressed that governance should be most focused on building long-term user trust across chains and initiatives. Stakeholders also discussed smart contracts, where it was noted that significant legal uncertainty remains around the use and enforceability of smart contracts. Many standard setting organisations are working on recommendations for privacy, identity, governance and use of smart contracts.

Next steps: The Commission's Blockchain Strategy is expected in Q3 2020.

KREAB

Digital Strategy

Council Conclusions highlights effect of COVID-19

Following the Commission's release of the [Digital Strategy](#) in February 2020, the Council recently adopted [Conclusions](#) informing the EU's future digital agenda. Overall, the Conclusions stress that the protection and reinforcement of EU digital sovereignty and leadership in strategic digital value chains is key, and thereby encourages Member States to substantively boost investments under the EU Recovery Fund. The Conclusions also highlight the importance of the Digital Europe [Programme](#) in building and deploying digital capacities, particularly in Artificial Intelligence, HPC and cybersecurity. In line with the Commission's priorities, specific policy priorities for the Council include data and cloud, cybersecurity, the Digital Services Act (DSA), and trusted digital identity. Considering COVID-19, the Council also underlines the importance of the digital transformation of the health care sector and of strengthening the resilience of health systems. Accordingly, it calls for the creation of a common European health data space and the deployment of a system providing secure and trusted access to health data. Finally, the Council notably welcomes the Commission's intention to publish a Blockchain Strategy and to adapt EU taxation systems to the digital era.

Next steps: The Commission is expected to present its new autonomous list by the end of the year; legislative actions are expected by Q1 2021.

Digital Finance

ECON's draft own-initiative report

On 5 June, the European Parliament's ECON committee published its draft own-initiative [report](#) with recommendations to the Commission on Digital Finance. Rapporteur Ondřej Kovařík MEP (Renew, CZ) published the draft report for amendment covering emerging risks in crypto-assets, digital operational resilience, and data. Overall, the report takes a strong stance on cybersecurity and operational resilience, suggesting bolstered regulatory treatment in the financial sector. The rapporteur takes the view that the current regulatory approach to operational resilience is piecemeal and requires a stronger framework to address increasingly prevalent systemic risk in the sector. Notably, the rapporteur appears to differ most prominently from the Commission's approach in terms of the creation of a taxonomy for crypto-assets and the focus on the specific risks of stablecoins.

Next steps: the report will now be subject to amendment

KREAB FINANCIAL SERVICES AND TECHNOLOGY FORUM

Kreab's Financial Services and Technology Forum (FSTF) allows stakeholders to engage in high-level discussions on the most pertinent technological and regulatory topics. Launched in 2014, the Forum has addressed a broad spectrum of topics, such as security tokens, crowdfunding, blockchain, payments, data protection, and Artificial Intelligence. This year the FSTF will host quarterly events on issues likely to take centre-stage in 2020, including crypto-assets, Artificial Intelligence in FS, Instant payments, and cybersecurity in FS.

DIGITAL FINANCIAL SERVICES TIMELINE 2020

