

Concerns on the roles and responsibilities of Economic Operators

Trilogue on the Compliance and Enforcement regulation COM(2017) 795

Brussels, 5 December 2018

In view of the upcoming Trilogue negotiations on the “Goods Package” DIGITALEUROPE urges the European Commission and co-legislators to delete Article 4 in Chapter II of the proposed Compliance and Enforcement regulation COM(2017) 795 and to include in its place a provision to conduct a proper Impact Assessment in due time.

DIGITALEUROPE has repeatedly expressed its concerns about the roles and responsibilities of Economic Operators in Article 4, as it clearly overlaps with existing provisions of the overarching New Legislative Framework (NLF), namely the so-called “reference provisions” in Annex I, chapter R1 (definitions) and R2 (obligations of Economic Operators) of Decision 768/2008/EC. This shortcoming of the original proposal may be due to the fact that Chapter II has not been thoroughly assessed in the Impact Assessment accompanying the Goods Package proposal.

Recently discussed proposals for Article 4 blur the differences between Economic Operators by attributing the same obligations and tasks to all of them regardless of their distinct roles in the supply chain. Adoption of any such proposals will definitely be a step back compared to the well-functioning, existing NLF provisions agreed in 2008 and the subsequent NLF alignment of 20 sectorial directives.

While DIGITALEUROPE welcomes the good work that has been done by the co-legislators to progress and approve the package in time, we believe that the latest amendments on article 4 further aggravate the problem and if approved would most lead to legal uncertainty and disruption in the Single Market for goods.

Furthermore, DIGITALEUROPE continues to question the urgent need for such substantial changes that risk creating misalignment with the NLF through inclusion of Article 4 in the future regulation.

Following the objectives of better regulation and in order to swiftly adopt the long-awaited regulation DIGITALEUROPE urges for deletion of Article 4 and conduct an Impact Assessment that will determine on whether and how the roles, responsibilities and obligations of Economic Operators would have to be updated for the evolved business environment with a view to take this into consideration in a future revision of the NLF.

For any information, please contact:

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ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total over 35,000 ICT Companies in Europe represented by 66 Corporate Members and 40 National Trade Associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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